

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 355 Postsecondary Education Textbook and Instructional Materials Affordability
SPONSOR(S): Education Committee, Higher Education and Workforce Subcommittee, Porter
TIED BILLS: **IDEN./SIM. BILLS:** SB 530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	12 Y, 0 N, As CS	Ammel	Sherry
2) Education Appropriations Subcommittee	12 Y, 0 N	Butler	Heflin
3) Education Committee	16 Y, 0 N, As CS	Ammel	Mizereck

SUMMARY ANALYSIS

The bill provides additional information to students regarding costs for textbooks and instructional materials by:

- Applying provisions of the textbook affordability law to instructional materials and providing a definition for instructional materials.
- Requiring Florida College System (FCS) institutions and state universities to post prominently in the course registration system and on their websites a hyperlink to lists of required and recommended textbooks and other instructional materials for each course and course section at least 14 days prior to the first day of class registration for each term and providing reporting requirements for institutions who cannot meet the posting deadline.
- Clarifying what information is required to be posted for textbooks and materials that do and do not have an International Standard Book Number (ISBN).
- Requiring additional provisions to be included in the public colleges and universities textbook and instructional materials affordability policies, procedures, and guidelines including: using textbooks for a minimum of three years in undergraduate courses; consulting with school districts to identify practices that impact the cost of dual enrollment textbooks on school districts; and conducting cost benefit analyses regularly in comparing options to ensure high quality products at the lowest available prices.
- Requiring each FCS institution and university to annually report to its chancellor the cost of undergraduate textbooks and instructional materials by course and course section, adoption cycles for high-enrollment courses, any institution specific initiatives that reduce the cost of textbooks and instructional materials, the number of courses and course sections that did not meet the posting deadline, and additional information as determined by the chancellors. The chancellors must then compile the reports and submit a comprehensive report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 each year.
- Requiring FCS and SUS institutions to annually provide electronic copies of their textbook and instructional materials affordability policies and procedures to the State Board of Education (SBE), or BOG, as applicable. SBE and BOG will provide a link to this information on their respective websites.
- Requiring the Governor to appoint a task force to research options that will reduce the cost of textbooks and instructional materials; specifying membership; outlining specific duties of the task force; and requiring the task force to submit recommendations to the Governor and the Legislature no later than July 1, 2015.
- The fiscal impact to FCS and SUS institutions are indeterminate. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2008, the Legislature created a new section in law to address textbook affordability by: prohibiting employees of a Florida College System (FCS) institution or state university from receiving anything of value in exchange for requiring a student to purchase a specific textbook; requiring the FCS institutions and universities to provide specific information for textbooks to students prior to the first day of classes; and requiring the State Board of Education (SBE) and the Board of Governors (BOG) to adopt policies, procedures, and guidelines that would further efforts to minimize the cost of textbooks.¹

Employee Requirements

The law prohibits an employee of a FCS institution or state university from demanding or receiving any payment, loan, subscription, advance, deposit of money, service, or anything of value in exchange for requiring students to purchase specific textbooks.² The law permits employees to receive:

- Sample copies, instructor copies, or instructional materials that may not be sold for any type of compensation if specifically marked as free samples not for resale;
- Royalties or other compensation from sales of textbooks that include the instructor's own writing or work;
- Honoraria for academic peer review of course materials;
- Fees associated with activities such as reviewing, critiquing, or preparing support materials for textbooks pursuant to guidelines adopted by the SBE or BOG; and
- Training in the use of course materials and learning technologies.³

Textbook Information Requirements

State universities and FCS institutions are required to post on their websites, as early as is feasible, but not less than 30 days prior to the first day of class for each term, a list of each textbook required for each course for the term. The list must include the International Standard Book Number (ISBN) for each required textbook and, at a minimum, the following: the title; all authors listed; publishers, edition number, copyright date, published date, and other relevant information necessary to identify the specific textbook.⁴

Rules and Regulations

The SBE adopted Rule 6A-14.092, F.A.C.⁵, in January 2009, and the BOG adopted Regulation 8.003 in March 2009,⁶ each in accordance with the following statutory requirements that:

- Textbook adoptions are made with sufficient lead time to bookstores in order to confirm availability of textbooks and ensure maximum availability of used books.
- The course instructor or academic department offering the course confirms that all items ordered, including individual items as part of a bundled package, are going to be used.
- The course instructor or academic department offering the course determines, before adoption of the textbook, that a new edition differs significantly and substantially enough from earlier versions that there is value in changing to the new edition.

¹ Section 1, ch. 2008-78, L.O.F

² Section 1004.085(1), F.S.

³ Section 1004.085(2), F.S.

⁴ Section 1004.085(3), F.S.

⁵ See <https://www.flrules.org/gateway/ruleNo.asp?id=6A-14.092>

⁶ See http://www.flbog.edu/documents_regulations/regulations/8_003_Textbook_Adoption.pdf

- The policies shall address the availability of required textbooks to students otherwise unable to afford the cost.⁷

Effect of Proposed Changes

The bill includes instructional materials within the provisions of the current affordability requirements and defines “instructional materials” as educational materials for use within a course that may be available in printed or digital format.

Employee Requirements

The bill applies the same provisions to instructional materials as it does to textbooks with regard to prohibiting employees from receiving any kind of payment for requiring students to purchase specific textbooks or instructional materials.

Textbook Information Requirements

The bill specifies that FCS institutions and state universities must prominently post information for required and recommended textbooks and instructional materials in the course registration system and on their websites. The information must be posted at least 14 days before the first day of student registration and include hyperlinks to lists of required and recommended textbooks and instructional materials for each course and course section. The bill allows postsecondary institutions that are unable to meet the Fall 2014 textbook information posting deadline to submit quarterly reports to the State Board of Education or the Board of Governors about their efforts to be in compliance with these requirements by Fall 2015.

The list must also include the new and used retail price and the rental price, if applicable, for all required and recommended textbooks and instructional materials for purchase at the institution’s designated bookstore or other specified vendor. It must have the website or other contact information for the bookstore.

Rules and Regulations

The bill requires the SBE and BOG to include the following provisions in their adopted policies, procedures and guidelines related to textbook affordability:

- That textbooks for an undergraduate course be in use for a minimum of three years in that course, unless an exception has been approved by the institution’s president or designee. The president or his or her designee must annually report to the institution’s board of trustees any exceptions granted and the rationale for such exceptions. The report must be posted on the FCS institution’s or state university’s website.
- That postsecondary institutions consult with school districts with which they have a dual enrollment articulation agreement to identify practices that impact the cost of dual enrollment textbooks on school districts’ instructional materials budgets.
- That cost benefit analyses be conducted regularly in comparing options to ensure that students get the highest quality product at the lowest available price.

Reporting Requirements

The bill requires each FCS institution and state university to annually report to the Chancellor of the FCS or the Chancellor of the State University System (SUS), as applicable, the following:

- The cost of undergraduate textbooks and instructional materials by course and course section;
- The adoption cycles for high-demand courses as determined by the chancellors;

⁷ Section 1004.085(4), F.S. Note - The Legislature amended 1004.085, F.S. in 2011 to include the consideration of open-access textbooks within the policies and procedures. The SBE rule and BOG regulation have not been updated to include these provisions.

- Any institution specific initiatives that reduce the cost of textbooks and instructional materials;
- The number of courses and course sections that did not meet the posting deadline; and
- Additional information as determined by the chancellors.

The chancellors must compile the institution reports and submit, no later than December 31 each year, a comprehensive report to the Governor, BOG, the President of the Senate, and the Speaker of the House of Representatives.

Additionally, the bill requires each FCS institution and state university to annually submit to the SBE and BOG electronic copies of its current textbook and instructional materials affordability policies and procedures. The SBE and BOG must provide this information on their websites.

Preeminent State Research University Institute for Online Learning

The bill requires that the preeminent state research university institute for online learning include costs for instructional materials when determining tuition for the online degree program.

Governor's Task Force

The bill requires the Governor to appoint a task force to research options that will reduce the cost of textbooks and instructional materials. The task force must include representatives from:

- Florida College System institutions, in addition to the Chancellor;
- State universities, in addition to the Chancellor;
- School districts;
- Textbook and instructional materials publishers;
- Bookstore owners or managers; and
- Students who are currently enrolled in a postsecondary institution.

The task force must utilize the information in the SBE and BOG annual reports previously described and must, at a minimum, consider the following:

- Any existing FCS or SUS initiative to reduce the cost of textbooks and instructional materials;
- Bulk purchasing of e-textbooks;
- Expanding the use of open-access textbooks and instructional materials;
- Textbook and instructional materials rental options;
- Statewide agreements with publishers and vendors; and
- The development of online portals at each institution that will assist students in buying, renting, selling, and sharing textbooks and instructional materials.

The bill requires the task force to submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than July 1, 2015.

B. SECTION DIRECTORY:

Section 1. Amends 1004.085, F.S., to: define “instructional materials”; apply textbook affordability policies and procedures to instructional materials; require an institution and university to post in the course registration system and on their website information relating to required and recommended textbooks and other instructional materials; require annual reporting by institutions and universities to the chancellors of FCS and SUS; require an annual comprehensive report from the chancellors to the Governor, BOG, the President of the Senate, and the Speaker of the House of Representatives; require the Governor to appoint a task force to research options that will reduce the cost of textbooks and instructional materials; specify membership requirements for the task force; outline duties of the task force; require the task force to submit recommendations to the Governor and Legislature no later than July 1, 2015; and require SBE and BOG to publish on their websites a report of textbook and other instructional materials affordability policies and procedures.

Section 2. Amends 1001.7065, F.S., to include the cost of instructional materials in determining tuition for an online degree program offered by the preeminent state research university institute for online learning.

Section 3. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students may spend less on textbooks if they have ample time and information to search for best prices.

D. FISCAL COMMENTS:

As reported by the Division of Florida Colleges, institutional costs associated with providing additional required information to students and reporting requirements are indeterminate and variable by college. Associated costs can be absorbed within current resources. No cost data was provided by the Board of Governors for the State University System, but it is anticipated that costs are indeterminate and variable by university as well.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2014, the Higher Education and Workforce Subcommittee reported HB 355 favorably as a committee substitute. The committee adopted a strike-all amendment that included several new provisions, including, but not limited to:

- Providing a definition of “instructional materials.”
- Requiring institutions to post textbook and instructional materials information for each course and course section in the course registration system as well as on the website.
- Requiring institutions, for undergraduate courses, to use the same textbook in that course for a minimum of three years, unless granted an exemption.
- Revising the information required in the annual reports.
- Requiring the Governor to establish a task force to research options that will reduce the cost of textbooks and instructional materials.

The analysis is drafted to the committee substitute as adopted by the Higher Education and Workforce Subcommittee.

On March 27, 2014, the Education Committee reported CS/HB 355 favorably as a committee substitute. The committee adopted three amendments that:

- Allows postsecondary institutions that are unable to meet the Fall 2014 textbook information posting deadline to submit quarterly reports to the State Board of Education or the Board of Governors about their efforts to be in compliance with these requirements by Fall 2015.
- Requires colleges and universities to consult with the school districts in their service area to identify practices that impact the cost of dual enrollment textbooks on school districts’ instructional materials budgets. Also requires them to conduct cost benefit analyses regularly in comparing options to ensure high quality products at the lowest available prices.
- Adds school district representatives to the Governor’s task force to ensure that they can provide input on how the costs of textbooks affects dual enrollment.

The analysis is drafted to the committee substitute as adopted by the Education Committee.