
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 727 **Hearing Date:** April 5, 2017
Author: Galgiani
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Urgency: No **Fiscal:** Yes
Consultant: Lynn Lorber

Subject: Public postsecondary education: instructional materials: innovative pricing

SUMMARY

This bill authorizes a public postsecondary educational institution to adopt policies that allow for the use of innovative pricing techniques and payment options for textbooks and other instructional materials.

BACKGROUND

Existing federal regulations authorize an institution of higher education to include the costs of books and supplies as part of tuition and fees if the institution does one of the following:

- 1) The institution does all of the following:
 - a) Has an arrangement with a book publisher or other entity that enables it to make those books or supplies available to students below competitive market rates.
 - b) Provides a way for a student to obtain those books and supplies by the seventh day of a payment period.
 - c) Has a policy under which the student may opt-out of the way the institution provides for the student to obtain books and supplies.
- 2) Documents on a current basis that the books or supplies, including digital or electronic course materials, are not available elsewhere or accessible by students enrolled in that program from sources other than those provided or authorized by the institution.
- 3) The institution demonstrates there is a compelling health or safety reason. (Code of Federal Regulations, Title 34 § 668.164)

Existing federal regulations also authorize an institution to credit a student's ledger account with federal financial aid funds to pay for allowable charges associated with the current payment period. Allowable charges are:

- 1) The amount of tuition, fees, and institutionally provided room and board assessed the student for the payment period, or the prorated amount of those

charges if the institution debits the student's ledger account for more than the charges associated with the payment period.

- 2) The amount incurred by the student for the payment period for purchasing books, supplies, and other educationally related goods and services provided by the institution for which the institution obtains the student's or parent's authorization. (34 CFR § 668.164)

ANALYSIS

This bill authorizes a public postsecondary educational institution to adopt policies that allow for the use of innovative pricing techniques and payment options for textbooks and other instructional materials. Specifically, this bill:

- 1) Authorizes each public postsecondary educational institution to adopt policies, consistent with federal regulations, that allow for the use of innovative pricing techniques and payment options for textbooks and other instructional materials.
- 2) Authorizes policies to include but are not limited to, bulk pricing arrangements that enable students to purchase course materials or texts that are delivered by any of the following methods:
 - a) Delivered digitally.
 - b) Delivered through a technology that is, or the license of which is, required to only be used within a course.
 - c) Delivered in a print format.
- 3) Authorizes the innovative pricing techniques and payment options to be adopted only if there is documented evidence that the proposed options, if they are adopted, would actually reduce the cost of textbooks or other instructional materials for students taking a course.
- 4) Requires innovative pricing techniques and payment options to include an opt-out provision for students.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "This bill helps address the crisis of increasing college costs and mounting student debt. Learning materials pose a significant cost to students. Many students cannot afford the cost of textbooks, resulting in students not purchasing the necessary course materials needed to succeed. The Immediate Access model has been a successful pilot on campuses throughout California. This model allows digital textbook materials to be sold in bulk to students at a discount. This bill includes protections for students, including an opt-out provision as well as requiring that an institution adopting this sort of approach to demonstrate that there is documented evidence

that the proposed program would actually reduce the cost of the textbooks or other instructional materials for the students taking the course.”

- 2) ***How does this delivery model work?*** Federal regulations authorize postsecondary educational institutions to include the costs of instructional materials and supplies as part of tuition and fees if the institution has an arrangement with a book publisher or other entity that enables it to make those books or supplies available to students below competitive market rates, or if the materials are not available elsewhere or accessible by students. Through this model, students can purchase instructional materials at the time of enrollment in courses. The price of those materials is included in their tuition or fees; students would not be required to pay additional costs for instructional materials, wait to make a trip to the bookstore, wait for materials to be available, or wait to be able to afford materials.

According to information provided by the author, several California institutions are currently implementing a digital discount/immediate access/inclusive program, including four campuses of the University of California, three campuses of the California State University, and four campuses of the California Community Colleges. One may question the need for this bill if campuses are currently implementing such models of delivering instructional materials. According to the author, specific statutory authority is needed to ensure institutions are clearly authorized to have policies regarding a digital discount/immediate access/inclusive program, and to describe the components that should be included in policies to ensure proper implementation.

- 3) ***Academic freedom.*** Faculty plays a key role in determining which instructional materials are required for each course. **Staff recommends** an amendment to state that nothing in this bill, or policies that may be adopted by institutions, is to violate or be inconsistent with the academic freedom of faculty as it relates to instructional materials.
- 4) ***Other stakeholders.*** This bill authorizes a public postsecondary educational institution to adopt policies related to instructional materials delivery models. Should college bookstores, faculty, academic senates, and students be consulted as colleges and universities develop their policies?
- 5) ***Opt out vs opt in.*** Federal regulations require an opt-out for students who do not wish to participate. Similar legislation was adopted in Florida and requires students to opt-in, rather than opt-out. The rationale for the opt-in is to ensure students are fully informed when granting consent. As noted by the author's office, students cannot opt-in to a program they are unaware exists. Should students be required to opt-in rather than opt-out? See next comment.
- 6) ***Federal regulations.*** This bill references one provision of federal regulations related to the inclusion of the costs of instructional materials in tuition and fees. An additional provision of federal regulations allows institutions to credit a student's ledger account with federal financial aid funds to pay for allowable charges such as instructional materials, which does not require the costs of materials to be included in tuition or fees. Should a cross-reference to this

provision be included in this bill to allow for an additional method of charging for instructional materials? This option would require students to opt-in to specifically grant permission for their accounts to be credited, while this bill only provides for students to opt-out.

SUPPORT

None received

OPPOSITION

None received

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