

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 81 (Senator Klausmeier, *et al.*)
Education, Health, and Environmental Affairs

Public Institutions of Higher Education - Textbook Fairness Act

This bill requires public institutions of higher education to notify students of the textbooks assigned for each course offered at the institutions by listing the textbooks and their international standard book numbers (ISBNs) on the institutions' web sites when the materials are identified for order. In addition, the bill prohibits an employee of a public institution of higher education from demanding or receiving a benefit for requiring students to purchase a specific textbook for a course. An employee may, however, receive a copy of the textbook and related instructional materials and may receive compensation from the sale of a textbook that includes the employee's writing or work. The bill does not apply to the overseas programs of the University of Maryland University College.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: General fund sales tax revenues could decrease minimally beginning in FY 2009 due to a potential migration of textbook purchases from campus bookstores to online vendors. Higher education revenues could decrease beginning in FY 2009 due to a potential loss of business at campus bookstores. The State's institutions of higher education could meet the requirements of the bill without impacting expenditures.

Local Effect: Community college revenues could decrease beginning in FY 2009 due to a potential loss of business at campus bookstores. Community college expenditures could increase minimally in FY 2009 to enhance web-based databases needed to meet the bill's reporting requirements.

Small Business Effect: Potential meaningful.

Analysis

Current Law: There are no laws requiring notifications about textbooks or limiting benefits higher education personnel may receive for agreeing to assign certain textbooks. In general, the governing boards of institutions of higher education are responsible for setting policies and procedures for the institutions.

Background: With the 2004 release of “Rip-off 101,” the U.S. Public Interest Research Group (PIRG) launched an effort to inform the public about practices by textbook publishers that, according to PIRG, result in higher college textbook prices. A July 2005 report from the U.S. Government Accountability Office (GAO-05-806) found that college textbook prices increased by 186% from 1986 to 2004, more than twice the rate of inflation but less than the 240% increase in tuition over the same period. The report concludes that “many factors affect textbook pricing, [but] the increasing costs associated with developing products designed to accompany textbooks, such as CD-ROMs and other instructional supplements, best explain price increases in recent years.” Different sources have estimated that the increase in costs associated with the “bundling” of textbooks with supplementary materials is 10% to 30%.

The College Opportunity and Affordability Act passed by the U.S. House of Representatives on February 7, 2008 attempts to address concerns about college textbook prices by requiring publishers to provide unbundled versions of textbooks and more information to course instructors as they choose textbooks for their students. The legislation also requires institutions of higher education to make ISBNs or other details about textbooks available to students on course schedules to the extent practicable. The bill has not been considered by the U.S. Senate yet.

Actions in Other States

This bill is modeled on Virginia’s “Textbook Market Fairness Act” of 2005. The Act was intended to reduce textbook costs for students by eliminating faculty “kickbacks” from textbook companies and by giving students more time to look for assigned texts so they are not forced to buy from campus bookstores where prices may be higher. *State Legislatures* magazine reports that 85 bills in 27 states addressed college textbook costs in 2007, with 10 states enacting 15 laws and resolutions. Some of the bills require publishers to offer bundled and unbundled versions of textbooks or to provide more information to faculty about the changes made to textbooks from one edition to the next. Other states have required instructors to consider lower cost options when choosing

course materials and have urged colleges and universities to implement options that will reduce costs.

Maryland Legislative Actions

During the 2007 session, the General Assembly considered several bills that would have addressed textbooks costs. To gather additional information before making any decisions about a course of action, one of these bills, House Bill 204, was amended to require a legislative study of textbook prices. The bill was signed into law as Chapter 295 of 2007.

In response to Chapter 295, the Department of Legislative Services (DLS) conducted a survey of college bookstore and textbook adoption policies and practices at higher education institutions. DLS also organized a briefing that took place on January 10, 2008 and included testimony from DLS, college students, faculty, on-campus and off-campus bookstores, textbook publishers, and Maryland PIRG. Legislators from the education committees and subcommittees in the Senate and House were invited to attend the briefing and had the opportunity to ask questions to presenters.

With respect to the requirements of this bill, a representative of Barnes and Noble, which operates the bookstores at several colleges and universities in Maryland under contracts with the institutions, noted that both Virginia and West Virginia universities require textbook ISBNs to be posted online and that this situation has not created any particular problems for campus bookstores. However, when a bundled textbook is assigned by a professor, it has a separate ISBN from the unbundled version of the same text. According to testimony at the briefing, campus bookstores will often sell textbooks unbundled even when the course instructors have assigned bundled versions. The textbook alone is likely to be cheaper for students who may not need or want the supplementary materials included in a bundle; however, with only an ISBN for the bundled version, the proper unbundled version of a textbook may be difficult to identify. Concerning publisher “kickbacks” to faculty, a university professor who was asked about receiving benefits from publishers for assigning certain textbooks said she had never heard of a publisher offering or a faculty member accepting these types of incentives.

Actions at Maryland’s Public Institutions of Higher Education

Some Maryland institutions have developed policies to restrain textbook costs. Most Maryland institutions reported in the DLS survey that they do not post ISBNs online but they are available at the campus bookstore. St. Mary’s College of Maryland (St. Mary’s) and University of Maryland University College (UMUC) currently provide ISBNs on their web sites. St. Mary’s reports that it provides all textbook information on its college bookstore web site two weeks prior to the start of classes. UMUC also requires

instructors to use at least 50% of a textbook in order to assign it for a course. Some campuses also work with vendors to create partial textbooks that exclude some of the supplemental materials. The University System of Maryland (USM) advises that almost all USM campus bookstores, including the University of Maryland, College Park (UMCP) bookstore, already include notification of course textbooks on their web sites, although they do all not provide ISBNs. It has also been reported that UMCP has recently stopped the practice of taking students to off-campus bookstores during its orientation tour.

University Concerns About this Bill

Both USM and St. Mary's advise that the bill could affect the final stage of the textbook adoption process, which occurs after an instructor provides the bookstore with initial course material information. When the bookstore gets information from an instructor, it identifies any issues that will hinder availability of the requested materials and will also make the instructor aware of any options that may reduce costs for students, such as using an older or unbundled version of a textbook. After reviewing availability problems and any options suggested by the bookstore, the instructor then has a chance to change or adjust course materials. USM and St. Mary's suggest that providing textbook information prior to the final stages of the textbook adoption process could result in larger numbers of textbook returns and exchanges, and ultimately higher costs for students.

State Revenues: The bill has the potential to negatively impact two current revenue streams. First, USM and at least one community college advise that listing ISBNs online could reduce general fund sales tax revenues since more students would have the opportunity to find cheaper textbooks through Internet sources that are unlikely to result in sales tax revenue. Anne Arundel Community College (AACC) estimates that as much as 15% of textbook purchases made by its students could migrate to online vendors, reducing general fund revenues by \$60,000 annually. DLS advises that the impact on sales tax revenues projected by USM and AACC is probably overstated. Although providing students with ISBNs could make online shopping easier, students currently have the option of purchasing textbooks from Internet vendors. Further, providing ISBNs may enhance the ability of off-campus bookstores to stock and compete for the sale of assigned textbooks. If these bookstores are better able to compete with Internet vendors, the sales tax revenue they collect would help to offset any potential loss to online sources. Any impact on general fund revenues, therefore, is expected to be minimal.

The second and probably more significant revenue impact would be on the higher education revenue derived from on-campus bookstores. Revenue from these sources would decrease if posting ISBNs erodes the proportion of sales made through the stores.

A survey conducted by DLS indicated that fiscal 2007 profits from on-campus bookstores at four-year public institutions of higher education ranged from \$13,300 at Morgan State University (MSU) to \$2.8 million at UMCP. On average, each public university brings in approximately \$575,000 in auxiliary funds through its campus bookstore. USM estimates that the bill would result in an annual decrease of \$750,000 in higher education revenues at its institutions due to loss of business at the campus bookstores. In contrast to concerns about the revenue loss, USM also suggests that policies are being implemented to help students more easily and quickly identify the textbooks that have been assigned so they have time to shop around for cheaper options. If this is true, requiring ISBNs to be published on institutions' web sites would not diverge substantially from efforts already in progress. DLS advises, therefore, that either the estimated revenue loss or USM's current efforts to reduce textbook costs for students may be overstated.

State Expenditures: It is assumed that ISBNs for assigned textbooks could be collected and recorded at the same time other textbook information is being compiled without significantly impacting expenditures at the State institutions of higher education. It is further assumed that faculty could police themselves with respect to "kickbacks" for textbook assignments.

Local Revenue: Community colleges would be subject to the same requirements as the public four-year institutions. A DLS survey concluded that the average profit for community college bookstores is approximately \$230,000. To the extent that posting ISBNs on college web sites reduces sales at community college bookstores, revenue generated by the bookstores would decrease.

Local Expenditures: One community college advises that its web-based information technology system would have to be enhanced to provide the information required by the bill. The college was unable to estimate the cost of any necessary enhancements, but they are assumed to be minimal.

Small Business Effect: Early posting of ISBNs would presumably allow more off-campus bookstores, including both small and larger book sellers, to compete more equally for students' business. Although textbook titles and authors are generally published early, the exact textbook assignment may not be readily available. A textbook's ISBN provides greater specificity about which edition of the textbook is being assigned and whether a bundled or unbundled version of the text has been assigned. If this information enhances the ability of off-campus bookstores to stock the correct textbooks, they would benefit from the change.

Additional Information

Prior Introductions: Identical cross filed bills, SB 166/HB 1092, were introduced in 2007. HB 1092 received an unfavorable report from the House Appropriations Committee, while SB 166 was referred for interim study by the Senate Education, Health, and Environmental Affairs Committee. In 2006, SB 214 received a hearing, but the Education, Health, and Environmental Affairs took no action on the bill.

Cross File: None.

Information Source(s): St. Mary's College of Maryland; Morgan State University; University System of Maryland; Maryland Higher Education Commission; Baltimore City Community College; Anne Arundel, Garrett, Montgomery, and Prince George's counties; Government Accountability Office; *State Legislatures* magazine; Department of Legislative Services

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