Introduced by Assembly Member Salas

February 21, 2020

An act to add Chapter 6.1 (commencing with Section 66420) to Part 40 of Division 5 of Title 3 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL’S DIGEST


Existing law establishes the segments of the postsecondary education system in the state, including the University of California, administered by the Regents of the University of California, the California State University, administered by the Trustees of the California State University, and the California Community Colleges, administered by the Board of Governors of the California Community Colleges. Existing law establishes the College Textbook Affordability Act of 2015 to reduce costs for California State University and California community college students by encouraging faculty to accelerate the adoption of lower cost, high-quality, open educational resources, as defined. Provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the regents act, by resolution, to make them applicable.

This bill would establish the Fair Access to College Textbooks Act as part of the Donahoe Higher Education Act. The act would prohibit an institution of higher education, defined to be a public postsecondary
institution within the California State University, the California Community Colleges, and the University of California, from assessing an automatic charge for instructional materials, as defined, to a student, or enter into an agreement with a book publisher or other entity to assess the charge, and would prohibit an institution of higher education from calculating a charge to be automatically assessed under these provisions on the basis of the number of credit hours in which the student enrolls, number of courses in which the student enrolls, a student’s major or program, or any other basis other than the cost of the specific instructional materials required or recommended for a specific course or course section in which the student enrolls, unless certain conditions are met. The bill would provide that an agreement between an institution of higher education and another entity, such as a book publisher, bookstore, or content management provider, that allows the entity to automatically assess a charge for instructional materials to a student, or to electronically provide instructional materials to a student for which an automatic charge is assessed is an open record under the California Public Records Act. The bill would prohibit an institution of higher education from denying a student access to instructional materials for which the student has been automatically charged based on the student’s refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any data pertaining to the student that would be obtained through the student’s use of the materials. The bill would provide that these provisions only apply to a contract entered into or renewed after January 1, 2021.

Existing law establishes the segments of the postsecondary education system in the state, including the California Community Colleges, administered by the Board of Governors of the California Community Colleges. Existing law establishes the College Textbook Affordability Act of 2015 to reduce costs for California State University and California community college students by encouraging faculty to accelerate the adoption of lower cost, high quality, open educational resources, as defined.

This bill would express the intent of the Legislature to enact legislation pertaining to the affordability of textbooks and other instructional materials at the California Community Colleges.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.1 (commencing with Section 66420) is added to Part 40 of Division 5 of Title 3 of the Education Code, to read:

CHAPTER 6.1. FAIR ACCESS TO COLLEGE TEXTBOOKS ACT

66420. This chapter shall be known, and may be cited, as the Fair Access to College Textbooks Act.

66421. For purposes of this chapter, the following definitions apply:

(a) “Automatic charge for instructional materials” means a charge assessed to a student by an institution of higher education, or entity authorized by the institution, for the purpose of providing access to instructional materials. “Automatic charge for instructional materials” does not include tuition.

(b) “Institution of higher education” means a public postsecondary institution within the California State University, the California Community Colleges, and the University of California.

(c) “Instructional materials” means content in any medium or combination of media used or intended to be used for conveying information to a student. “Instructional materials” includes, but is not limited to, a book, supplementary material, computer software, magnetic media, DVD, CD-ROM, computer courseware, online subscription, or other means of conveying content to the student or otherwise contributing to the learning process through electronic means. The term also includes packages or bundles of multiple instructional materials.

(d) “Open educational resource” means an instructional material or other teaching, learning, or research resource that is offered freely to users in at least one form and that either resides in the public domain or has been released under an open copyright license that allows for its free use, reuse, modification, and sharing with attribution.

66422. (a) An institution of higher education shall not assess an automatic charge for instructional materials to a student, or enter into an agreement with a book publisher or other entity to assess the charge, unless both of the following conditions are met:
(1) The automatic charge for instructional materials assessed to each student is less than the price at which a student could acquire the same or substantially similar instructional materials in a similar format, similar condition, and with no less restrictive rental or digital access terms, if any, from any other source generally available to the student.

(2) The instructional materials assigned for a course are made available no later than the first day of the term to each student who enrolls in the course at least seven days before the first day of the term, and within seven days after enrollment for those who enroll thereafter.

(b) An institution of higher education shall not calculate a charge to be automatically assessed under subdivision (a) on the basis of the number of credit hours in which the student enrolls, number of courses in which the student enrolls, a student’s major or program, or any other basis other than the cost of the specific instructional materials required or recommended for a specific course or course section in which the student enrolls, unless the institution of higher education adopts a policy that ensures that the charge is not automatically assessed to any student enrolled in a course section for which all required instructional materials are generally available to the student at no cost in at least one form, such as open educational resources, free materials created for the course, digital materials that students can access at no charge through the institution’s library internet website, or other materials generally available to all students enrolled in the course section without additional charges or limitations.

(c) An agreement between an institution of higher education and another entity, such as a book publisher, bookstore, or content management provider, that allows the entity to automatically assess a charge for instructional materials to a student, or to electronically provide instructional materials to a student for which an automatic charge is assessed is an open record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), notwithstanding any provision that exempts commercial information or that generally exempts institutions of higher education.

(d) An institution of higher education shall not deny a student access to instructional materials for which the student has been
automatically charged based on the student’s refusal or failure to
agree to the sale, disclosure, licensing, use, retention, or other
exploitation of any data pertaining to the student that would be
obtained through the student’s use of the materials.
(e) This section shall only apply to a contract entered into or
renewed on or after January 1, 2021.
SECTION 1. It is the intent of the Legislature to enact
legislation pertaining to the affordability of textbooks and other
instructional materials at the California Community Colleges.