

ELECTRONIC TEXTBOOK ACT

House Bill 4070 as introduced First Analysis (3-11-03)

Sponsor: Rep. Doug Spade
Committee: Higher Education

THE APPARENT PROBLEM:

Many college instructors assign readings from specific textbooks to supplement lectures, in-class discussions, and other classroom activities. Students who are blind or otherwise visually-challenged, as well as those who suffer from certain learning disabilities such as dyslexia, often find college textbooks inaccessible. As defined by the Texas Education Agency in a 1997 report to the Texas Legislature, "*Accessibility* refers to the freedom or ability of an individual to obtain or make full use of a product or environment. A product is accessible to an individual only if he or she is able to use it to carry out all of the same functions and to achieve the same results as individuals with similar skills and training who do not have disabilities" (italics in original). Students who find their textbooks inaccessible have trouble making the most of their college experience.

One organization that took the charge in making textbooks accessible to people with disabilities is Recording for the Blind and Dyslexic (RFBD). RFBD was founded by a group of women who wanted to help World War II veterans blinded in combat to take full advantage of the GI Bill of Rights' promise of a college education. The organization--then known as Recording for the Blind--began recording textbooks on vinyl records, and by 1951 it had incorporated as the nation's only nonprofit textbook recording organization. Over the years, demand for RFBD's services grew: in 2002 the group distributed nearly a quarter of a million titles (mainly on cassette tapes) to almost 117,000 members who cannot effectively read standard print because of a disability. Today members include not only college undergraduates but also kindergartners through twelfth-graders, graduate students, and working professionals.

Despite their admirable efforts, RFBD and others cannot keep pace with publishers who put out many new and newly edited books each year. Colleges and universities provide some support for these students, but with limited resources, they reportedly find it difficult to meet every student's needs. It is possible to scan printed material and have it "read

aloud" by a digitized voice, but such technology can be expensive and may not be very practical for a college or university office scrambling to make a number of different students' texts accessible at the beginning of the semester. As a result, college students with disabilities often have to rely on volunteers or paid helpers to either read texts to them or make personal recordings. Legislation has been introduced to require publishers to make electronic versions of textbooks available to colleges and universities at a price not exceeding the price they charge for the standard edition of the textbook.

THE CONTENT OF THE BILL:

The bill would create a new act, the College and University Electronic Textbook Act. Upon request, a publisher of a textbook adopted by a college or university would be required to furnish the school with an electronic version of the textbook, if the textbook was for a literary subject. For a textbook for a nonliterary subject, the publisher would be required to convert the textbook directly to a format compatible with Braille translation software, if the technology was available. A publisher could not charge a price for this electronic version exceeding the price for the print or electronic media version of the textbook.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no identifiable fiscal impact on the state. The bill could have an indeterminate fiscal impact on a textbook publisher. (2-27-03)

ARGUMENTS:

For:

The bill is needed to make certain that students with certain visual or learning disabilities can use the textbooks that they are assigned to read. While technology exists that allows a textbook to be scanned into a computer one page at a time and then

“read aloud” by a digitized voice, this technology is expensive. An individual who works with students with disabilities at the University of Michigan estimated that the university spends \$40,000-\$50,000 a year scanning books. It is also time consuming; while an office providing support services to students with disabilities struggles to keep up with all their requests, students trying to keep up with course assignments may experience frustrating delays, especially at the beginning of a semester. Students whose texts are not scanned on time may have to ask someone to read the texts to them, which may lead to other difficulties, such as scheduling a time to meet and having to pay a reader.

Since most books are electronically formatted at some point before being printed anyway, it should not be too difficult for a publisher to supply an electronic version of the text. Having an electronic version of a book available allows students to use different programs to translate textbooks into more useful media. For example, programs can expand the print size or translate the electronic text into Braille or into an audible version.

Legislation unanimously approved by both the House and the Senate in 2000 made similar requirements for K-12 school districts and publishers of textbooks used in those districts. This legislation would simply extend those requirements to ensure that students going on to college are guaranteed the same access to instructional materials. The bill would provide students with certain disabilities with a richer educational experience which will allow them to participate more fully in classroom discussions and other activities.

Against:

Questions have been raised about the potential costs that this requirement could impose upon textbook publishers and about the appropriateness of constraining publishers’ ability to demand the market price for a product. The bill would essentially shift the burden for making textbooks accessible from colleges and universities to publishers, without allowing publishers to recover any potential costs. Specifically, it has been suggested that the bill should be amended by striking the (proposed) prohibition against charging a higher price for the electronic version of the text.

Response:

Similar legislation already exists in California and has not sparked significant protests from publishing companies there. As for concerns that the legislation could constrain the free market, the market for

students seeking textbooks for particular college courses and particular sections of those courses is already constrained by instructors’ decisions to assign readings from specific texts. Students with disabilities should not be forced to pay higher prices to access the same information as other students. While concern for potential increased costs for publishers is legitimate, nothing in the legislation would prevent a textbook publisher from charging a slightly higher rate for all versions of the text than they currently charge. Finally, it should be noted that the bill contains no penalty for publishers who fail to comply with the bill’s requirements. Providing electronic versions of textbooks for people with “print disabilities” is simply the right thing to do.

POSITIONS:

A representative of the National Federation of the Blind of Michigan testified in support of the bill. (3-11-03)

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.