

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Higher Education

BILL: CS/SB 984

INTRODUCER: Higher Education Committee and Senator Legg

SUBJECT: Education Access and Accountability

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	HE	Fav/CS
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 984 modifies requirements related to higher education textbooks and instructional materials affordability and promotes public awareness on higher education costs. Specifically, the bill:

- Expands textbook provisions to include instructional materials.
- Modifies the textbook and instructional materials affordability policies, procedures, and guidelines adopted by the State Board of Education and the Board of Governors for the State University System of Florida to include new issues and specifies reporting requirements regarding textbooks and instructional materials.
- Establishes college affordability provisions to identify strategies and initiatives to reduce the cost of higher education, and specifies annual reporting requirements regarding college affordability.
- Establishes notification requirements to inform students and the public, clearly and specifically, about any upcoming institutional boards of trustees meeting at which a vote will be taken on proposed increases in tuition and fees.

The bill takes effect July 1, 2016.

II. Present Situation:

The Legislature has established several mechanisms to maintain higher education access and affordability through strategies to reduce the costs associated with textbook and instructional materials and tuition and fees.

Textbook Affordability

Federal Law

The Higher Education Opportunity Act (HEOA)¹ was enacted on August 14, 2008, and reauthorizes the Higher Education Act of 1965, as amended.² The HEOA imposes certain disclosure provisions to “ensure that students have timely access to affordable course materials at postsecondary institutions receiving Federal financial assistance.”³ The provisions require postsecondary institutions to:⁴

- Include on their online course schedules for required and recommended textbooks and supplemental material certain information (e.g., the International Standard Book Number (ISBN) or if the ISBN is not available, the author, title, publisher, and copyright date). Postsecondary institutions must include on its written course schedule a reference to the textbook information available online and the Internet address to the course schedule.
- Provide to their college bookstores, upon request by such bookstores, information regarding the course schedule for the subsequent academic period, required and recommended textbooks and supplemental materials, and student enrollment.

Additionally, institutions are encouraged to provide information regarding renting textbooks, purchasing used textbooks, textbook buy-back programs, and alternative content delivery programs.⁵

The HEOA also requires textbook publishers to provide certain information regarding textbook and supplemental materials to faculty in charge of selecting course materials at postsecondary institutions such as the price of the textbooks, a description of substantial content revisions, and whether the textbooks are available in other formats and the related costs to the institution and the general public.⁶

The HEOA directed the Government Accountability Office (GAO) to study the implementation of the HEOA textbook provisions.⁷

¹ Pub. L. No. 110-315, s. 112(a), 122 Stat. 3107 (Aug. 14, 2008), *codified at* 20 U.S.C. s. 1015b.

² U.S. Department of Education, *The Higher Education Opportunity Act (Dec. 2008)*, available at <http://ifap.ed.gov/dpcletters/attachments/GEN0812FP0810AttachHEOADCL.pdf>, at 1 of 219.

³ *Id.* at 34-35 of 219.

⁴ *Id.* at 35 of 219.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

The GAO reported that “the rising costs of postsecondary education present challenges to maintaining college access and affordability.”⁸ Between 2002 and 2012, the cost of textbooks increased at an average of 6 percent per year while tuition and fees increased at an average of 7 percent and overall prices increased at an average of 2 percent per year.⁹ Over this ten-year time period, new textbook prices increased by a total of 82 percent, tuition and fees increased by 89 percent and overall prices increased by 28 percent.¹⁰ The implementation of HEOA’s textbook provisions has afforded students and their parents increased access to clear and early information about the cost of textbooks.¹¹ However, “although students are the end consumers, faculty are responsible for selecting which textbooks students will need, thereby limiting students’ ability to allay costs.”¹² Typically, faculty prioritize selecting the most appropriate materials for their courses over pricing and format considerations.¹³ Nevertheless, new products, formats, and delivery channels provide students many options for obtaining the course materials.¹⁴

State Law

The Florida Legislature enacted the textbook affordability law in 2008.¹⁵ The law prohibits Florida College System (FCS) institution and state university employees from receiving anything of value in exchange for requiring students to purchase specific textbooks for coursework and instruction, and specifies notification requirements regarding the required textbooks.¹⁶ Each FCS institution and state university must post on its website, at least 30 days prior to the first day of class for each term, a list of each textbook required for each course offered at the institution during the upcoming term.¹⁷ The posted list must include the ISBN for each required textbook and other relevant information necessary to identify the specific textbook or textbooks required for each course.¹⁸

Additionally, the textbook affordability law requires the State Board of Education (SBE) and the Board of Governors for the State University System of Florida (BOG) to adopt policies, procedures, and guidelines for implementation by FCS institutions and state universities, respectively, that further efforts to minimize the costs of textbooks for students attending such institutions while maintaining the quality of education and academic freedom.¹⁹ The policies, procedures, and guidelines must provide for the following:²⁰

- Textbook adoptions are made with sufficient lead time to bookstores so as to confirm availability of the requested materials and ensure maximum availability of used books.

⁸ United States Government Accountability Office, *College Textbooks: Student Have Greater Access to Textbook Information* (June 2013), available at <http://www.gao.gov/assets/660/655066.pdf>, at 1.

⁹ *Id.* at 6.

¹⁰ United States Government Accountability Office, *College Textbooks: Student Have Greater Access to Textbook Information* (June 2013), available at <http://www.gao.gov/assets/660/655066.pdf>, at 6.

¹¹ *Id.* at 22.

¹² *Id.*

¹³ *Id.* at 14.

¹⁴ *Id.* at 22.

¹⁵ Section 1, ch. 2008-78, L.O.F., *codified at* s. 1004.085, F.S.

¹⁶ Section 1004.085(1) and (3), F.S.

¹⁷ Section 1004.085(3), F.S.; *see also* Rule 6A-14.092, F.A.C. and Board of Governors Regulation 8.003.

¹⁸ *Id.*

¹⁹ Section 1004.085(4), F.S.

²⁰ *Id.*

- In the textbook adoption process, the intent to use all items ordered, is confirmed by the course instructor or academic department offering the course before the adoption is finalized.
- A course instructor or the academic department offering the course determines, before a textbook is adopted, the extent to which a new edition differs significantly and substantively from earlier versions and the value of changing to a new edition or the extent to which an open access textbook may exist and be used.
- The establishment of policies must address the availability of required textbooks to students who are otherwise unable to afford the cost, including consideration of the extent to which an open-access textbook may be used.
- Course instructors and academic departments are encouraged to participate in the development, adaptation, and review of open-access textbooks, especially open-access textbooks for high-demand general education courses.

The SBE and BOG have adopted rules and regulations, respectively, to implement the statutory provisions regarding textbook affordability.²¹

During the Spring 2012 term, the Florida Distance Learning Consortium (FDLC) conducted a survey of students from 11 state universities and 22 of the 28 FCS institutions.²² The survey revealed that a majority of students (54%) spent over \$300 on textbooks during the Spring 2012 term.²³ Nineteen percent of the students spent more than \$500 on textbooks during the same period.²⁴ The average student purchased 1.6 textbooks that were not used during the student's academic career.²⁵ The survey also indicated that financial aid does not always fully cover the costs of textbooks.²⁶ Additionally, students were generally unaware of open textbooks and their potential for use as supplementary text or as means to reduce costs.²⁷

College Affordability

Attaining higher education is a growing challenge for students and their families nationally as tuition and fees have risen faster than incomes and the Pell Grant has lost buying power over the last 30 years.²⁸ In 1983-1984, the maximum Pell Grant covered 52 percent of the average annual costs of attending a U.S. public four-year college as compared to 31 percent in 2013-2014.²⁹

Nationwide, the average annual costs for an in-state undergraduate student to attend a public four-year college reached \$18,100 in 2013-2014, which is 126 percent higher than the 1983-1984 average.³⁰ At public two-year colleges, the average annual cost of attendance rose 57 percent to

²¹ Rule 6A-14.092, F.A.C. and Board of Governors Regulation 8.003.

²² Florida Virtual Campus, *2012 Florida Student Textbook Survey*, at 1, on file with the Senate Committee on Higher Education staff.

²³ *Id.*, at 2.

²⁴ *Id.*

²⁵ *Id.* at 8.

²⁶ *Id.* at 7-8.

²⁷ *Id.* at 2.

²⁸ The Southern Regional Education Board, *Fact Book on Higher Education* (Sep. 2015), available at http://publications.sreb.org/2015/2015_Fact_Book_webversion.pdf, at i. The federal Pell Grant is the nation's largest need-based grant aid program for college students. *Id.* at 103.

²⁹ *Id.* at 103.

³⁰ The cost of attendance includes tuition, required fees, and room and board. *Id.* at 101.

\$9,300 over the 30-year period.³¹ The tuition and required fees portion of the college attendance costs at public four-year colleges typically range from 35 percent to 40 percent of the full costs of attendance.³²

In Florida, the standard tuition is \$71.98 per credit hour at FCS institutions³³ and \$105.07 per credit hour at state universities.³⁴ Students, in addition to tuition, pay for fees, books and supplies, room and board, and other on campus expenses. The average annual cost of attendance (COA)³⁵ for a full-time, Florida resident student enrolled at a state university or college living on campus has increased over the years. Specifically, during the 2014-2015 academic year, the average COA for a full-time, undergraduate Florida resident enrolled at a state university living on campus was \$20,911, representing approximately 2.5 percent increase since the 2012-2013 academic year.³⁶ In comparison, the average COA for a full-time Florida resident enrolled at a FCS institution living on campus during the 2014-2015 academic year was \$15,969, representing just over a 1 percent increase during the same period.³⁷ The average COA for a full-time Florida resident enrolled at a state university or FCS institution living off campus, not with his or her family, also increased slightly between the 2012-2013 and 2014-2015 academic years.³⁸

The COA data reflect general estimates of higher education costs and do not factor in financial aid that students may receive.³⁹

III. Effect of Proposed Changes:

CS/SB 984 modifies requirements related to higher education textbooks and instructional materials affordability and promotes public awareness on higher education costs.

³¹ *Id.*

³² *Id.* at 102.

³³ The standard tuition is for resident and nonresident students enrolled in advanced and professional, postsecondary vocational, developmental education, or educator preparation institute programs. Nonresident students must also pay an out-of-state fee in the amount of \$215.94 per credit hour. Section 1009.23(3)(a), F.S. For students who are residents for tuition purposes and enrolled in baccalaureate degree programs at public colleges, the tuition is \$91.79 per credit hour. Section 1009.23(3)(b), F.S.

³⁴ Section 1009.24(4)(a), F.S.

³⁵ The cost of attendance includes tuition and fees, books and supplies, room and board, and other on-campus expenses for full-time, first-time degree- or certificate-seeking students. The COA data are based on information submitted by the colleges and universities annually to the Integrated Postsecondary Education Data System (IPEDS). Email, Florida Department of Education, Division of Florida Colleges (Jan. 5, 2016). Federal guidelines for reporting COA data to the IPEDS is not standardized. For instance, the data for the state universities are based on a 30 credit hour student course workload compared to a 24 credit hour student course workload. Additionally, the non-tuition components of the COA are estimates that are based on institutional surveys. Email, Board of Governors (Jan. 5, 2016).

³⁶ Emails, Florida Department of Education, Division of Florida Colleges (Jan. 4 and 5, 2016); *see also* Email, Board of Governors (Jan. 5, 2016).

³⁷ Only four of the 28 Florida College System institutions report the on-campus cost of attendance data. Email, Florida Department of Education, Division of Florida Colleges (Jan. 4, 2016)

³⁸ Emails, Florida Department of Education, Division of Florida Colleges (Jan. 4 and 5, 2016); *see also* Email, Board of Governors (Jan. 5, 2016).

³⁹ Email, Board of Governors (Jan. 5, 2016).

Textbook Affordability

The bill modifies the textbook affordability law⁴⁰ to include instructional materials and defines “instructional materials” as educational materials, in either printed or digital format, which are required or recommended for use within a course. The bill also adds recommended textbooks and instructional materials to the textbook affordability provisions which are currently limited to the required textbooks only.

In addition, the bill adds instructional materials to the costs that must be excluded from the tuition for the preeminent state research university online degree programs.⁴¹ In effect, the bill aligns instructional materials to the textbooks-related policies for preeminent state research university online degree programs.

Policies and Reporting Requirements

The bill modifies the textbook and instructional materials affordability policies, procedures, and guidelines, which must be adopted by the State Board of Education (SBE) and the Board of Governors for the State University System of Florida (BOG), to include new issues addressing:

- The establishment of deadlines for instructors or departments to notify the college or university bookstore, as applicable, of the required and recommended textbooks and instructional materials so that the bookstore may verify availability and explore lower cost options and alternatives with the concerned faculty.
- Consultation with school districts to identify practices that impact the cost of dual enrollment textbooks and instructional materials to the school districts, including, but not limited to, the length of time that such textbooks and instructional materials remain in use.
- Selection of textbooks and instructional materials through cost-benefit analyses that help students obtain the highest quality product at the lowest available price by considering specified options (e.g., purchasing digital textbooks in bulk, expanding the use of open-access textbooks and instructional materials, providing rental options for textbook and instructional materials, and developing mechanisms to assist in buying, renting, selling, and sharing textbooks and instructional materials).

The bill also requires each Florida College System (FCS) institution and state university board of trustees to examine each semester the cost of textbooks and instructional materials by course and course section for all general education course offerings. The purpose for such examination is to identify any variance in the cost of textbooks and instructional materials among different sections of the same course and the percentage of textbooks and instructional materials that remain in use for more than one term. Courses with a wide variance in textbooks and instructional materials costs among sections or with frequent changes in textbooks and instructional materials must be reported to the appropriate academic department chair for review. The bill specifies July 1, 2018 deadline for repeal of these general education course provisions.

⁴⁰ Section 1004.085, F.S.

⁴¹ A state research university must meet all 12 of the academic and research excellence standards that are specified in law, as verified by the BOG, to establish an institute for online learning for offering high quality, fully online baccalaureate degree programs. Section 1001.7065(4), F.S. Currently, the University of Florida is the only state research university to have an institute for online learning based on meeting the specified criteria. Board of Governors, *Advisory Board for UF Online*, http://www.flbog.edu/about/taskforce/uf_online_advisory.php (last visited Jan. 5, 2016).

Additionally, the bill specifies the following new reporting requirements for Florida College System (FCS) institution and state university boards of trustees, and the FCS and State University System chancellors:

- The board of trustees of each FCS institution and state university must annually report, by September 30, specified textbook and instructional material information to the Chancellor of the Florida College System or the Chancellor of the State University System, as applicable (e.g., textbooks and instructional materials selection process for general education courses with a wide cost variance and high-enrollment courses, and specific initiatives of the institution to reduce the cost of textbooks and instructional materials).
- Each chancellor must submit to the SBE or the BOG, as applicable, by November 1 of each year, a summary of the specified textbook and instructional materials information provided by the institution boards of trustees.

Publishing the information related to textbooks and instructional materials will provide students and parents, on behalf of their child, greater access to such information and the ability to plan ahead for higher education in the state of Florida. Cost-benefit analyses will assist with identifying mechanisms to reduce the costs associated with textbooks and instructional materials.

Notification Requirements

The bill promotes public awareness about textbook and instructional materials costs by requiring each FCS institution and state university to prominently post in the institution's course registration system and on the institution's website, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of the courses and course sections offered by the institution during the upcoming term. The bill also changes the statutory deadline for posting the textbook information from at least 30 days to at least 45 days before the first day of class for each term, requiring the institutions to post the specified information sooner than is required under current law. Such information, made available for a majority of courses in advance of the upcoming term, will help students plan ahead for course registration and course workload.

College Affordability

The bill establishes college affordability provisions and provides students and the public, in general, greater access to information regarding tuition and fees.

Policies and Reporting Requirements

The bill requires the BOG and the SBE to annually identify college affordability strategies and initiatives that must, at a minimum, evaluate the impact of:

- Tuition and fees on undergraduate, graduate, and professional students at public colleges and universities and graduate assistants employed by public universities.
- Federal, state, and institutional financial aid policies on the actual cost of attendance for students and their families.
- The costs of textbooks and instructional materials.

The bill also eliminates the BOG's ability to delegate authority to the university boards of trustees regarding establishing tuition for graduate and professional programs and out-of-state

fees for all programs. As a result, state universities, on their own, will not be able to raise the tuition for graduate and professional programs and out-of-state fees for all programs, without seeking approval from the BOG.

Additionally, the bill establishes reporting requirements for the SBE and the BOG. Each board must annually, by December 31, report on its college affordability initiatives to the Governor, President of the Senate, and Speaker of the House of Representatives.

Notification Requirements

The bill requires each FCS institution and state university to notify all enrolled students and the public about any upcoming institutional boards of trustees meeting at which a vote will be taken on proposed increases in tuition and fees. The notification for such meeting must be posted at least 28 days before the scheduled meeting. Such notification must be posted on the institution's website homepage and issued in a press release, regarding the:

- Date and time of the meeting.
- Specific details of the existing tuition and fee, the rationale for the proposed increase, and the use for the proposed increase.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

“Students may see cost savings as a result of postsecondary institutions reviewing their textbook policies.”⁴²

⁴² Florida Department of Education, 2016 Agency Legislative Bill Analysis for SB 984 (Jan. 5, 2016), at 6.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.7065, 1004.085, 1009.23, and 1009.24.

Also, this bill creates section 1004.084 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on January 11, 2016:

The committee substitute maintains the substance of SB 984 with some modifications.

The strike-all amendment:

- Changed the deadline within which the institutions must post required and recommended textbooks and instructional materials information to at least 45 days before the first day of class for each term.
- Changed the percentage of courses for which such information must be posted from to 95 percent of the courses and course sections offered in the upcoming term.
- Modified the textbook and instructional materials policies to require the State Board of Education (SBE) and the Board of Governors (BOG) to establish deadlines within which instructors or departments must notify the respective college or university bookstore about the required and recommended textbooks and instructional materials.
- Modified the textbook and instructional materials reporting requirements.
- Established requirements for the boards of trustees to examine the cost of textbooks and instructional materials for all general education course offerings to identify cost variance among different sections of the same course, and specified July 1, 2018 deadline for repeal of such provisions.
- Deleted the provision requiring certain institutions to submit quarterly reports.
- Eliminated the BOG's ability to delegate authority to the university boards of trustees regarding establishing tuition for graduate and professional programs and out-of-state fees for all programs.
- Specified that the BOG and the SBE include in their strategies to promote college affordability, the impact of federal, state, and institutional financial aid on the actual cost of attendance for students.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
