

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 657

(Senator Conway, *et al.*)

Education, Health, and Environmental Affairs

Appropriations

College Textbook Competition and Affordability Act of 2008

This bill requires public institutions of postsecondary education to develop and implement specific practices and processes relating to textbook selection and adoption. Requirements for the disclosure of specific information about textbooks are also established for commercial textbook publishers and institutions of postsecondary education, and publishers and campus bookstores are required to provide and sell textbooks and supplemental materials in the same manner as selected by faculty. The bill also establishes reporting requirements for public institutions of higher education, the Maryland Higher Education Commission (MHEC), and the University System of Maryland (USM).

The bill takes effect July 1, 2008. The bill does not apply to the overseas programs of the University of Maryland University College (UMUC).

Fiscal Summary

State Effect: Higher education revenues could decrease beginning in FY 2009 due to a potential loss of business at campus bookstores. 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. General fund expenditures could increase by an estimated \$50,000 in FY 2009 for MHEC to hire a consultant to do the required feasibility studies. Future year expenditure estimates reflect the continuation of consulting fees until the report is submitted.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	(-)	(-)	(-)	(-)	(-)
Higher Ed Rev.	(-)	(-)	(-)	(-)	(-)
GF Expenditure	50,000	50,000	20,000	0	0
Net Effect	(\$50,000)	(\$50,000)	(\$20,000)	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Community college bookstore revenues could decrease beginning in FY 2009. Expenditures for the colleges could increase minimally in FY 2009 to enhance web-based databases needed to meet the bill's requirements.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Requirements for Institutions, Textbook Publishers, and Campus Bookstores

The bill requires each public institution of postsecondary education to develop and implement:

- a campaign to make faculty aware of textbook issues;
- a textbook adoption process that considers the availability and suggested retail prices of current and used versions of textbooks;
- a procedure by which bookstores and students are made aware of textbook information that must be disclosed;
- a best-practices process for faculty in selecting textbooks and course materials; and
- a procedure by which faculty affirm that use of current textbook editions are justified due to substantial changes in content from previous editions.

On the request of a bookstore that sells textbooks and course materials, an institution must provide specific information on the textbooks and course materials that have been selected by faculty members, including the title, the author, the publisher, the edition, the copyright and publication date, the International Standard Book Number (ISBN), and the anticipated enrollments for the courses. This textbook information must also be posted on the institution's web site within specified timeframes and with notification about whether supplemental materials are required or suggested by faculty and notification about whether earlier editions of assigned textbooks will suffice. Public institutions of postsecondary education must also provide on-campus and off-campus bookstores with equivalent access to students and prospective students.

A commercial textbook publisher that sells textbooks and other materials to a public institution of postsecondary education must provide specific information about the textbooks and materials, including pricing data, and must also itemize substantial content revisions made between current and previous textbook editions. Publishers selling bundled course materials must also make textbooks and supplemental materials available separately. Publishers and campus bookstores are required to provide and sell textbooks and supplemental materials in the same manner as selected by faculty. If textbooks or materials are unavailable as ordered, the publisher and the bookstore must work with faculty members to find alternatives.

Reporting Requirements

The bill requires public institutions of higher education to study textbook prices at the institutions and make recommendations to lessen the impact of textbook costs on students. MHEC must compile the reports by December 1, 2009 and forward copies of the compilation to the Governor and General Assembly. Public institutions of postsecondary education must also report by December 1, 2009 on the best practices policies they develop under the bill.

Under the direction of the Board of Regents, USM must conduct a study of changes that USM and its constituent institutions can make to their business models for textbook assignment and purchasing in order to reduce textbook costs. USM must report the results of the study by December 1, 2009.

In consultation with the State's four-year public institutions of higher education, the Maryland Association of Community Colleges, and the Maryland Independent College and University Association, MHEC must also conduct a feasibility study regarding the establishment of textbook rental programs and a statewide digital marketplace for textbooks. MHEC must report the results of the study by December 31, 2010.

Current Law: There are no laws requiring specific notifications about textbooks or limiting textbook options for postsecondary instructors. 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 the concerns about college textbook prices by requiring publishers to provide unbundled versions of textbooks and more pricing 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. The bill has yet to be considered by the U.S. Senate.

Actions in Other States

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 and budget committees and subcommittees in the Senate and House were invited to attend the briefing and had the opportunity to ask questions of presenters.

With respect to some of 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 the reporting of new content available in newer editions of textbooks, publishers advised that changes in educational material are described at the beginning of each new textbook edition. Publishers also suggested that the sale of bundled versions of

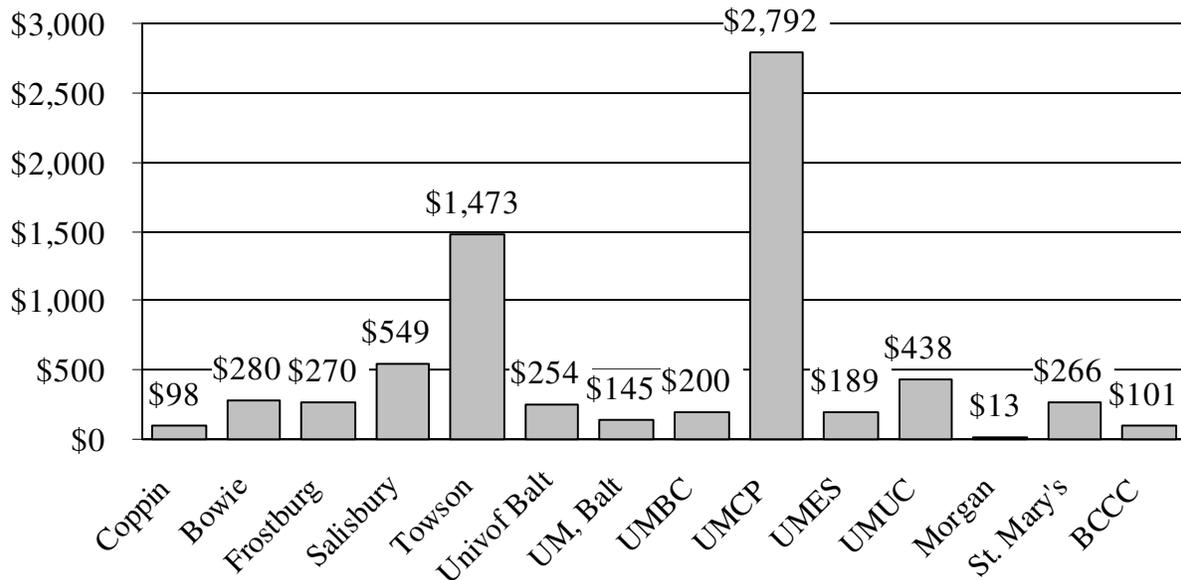
textbooks, which may include sample tests and study guides, is a response to the additional needs of some college students.

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 that ISBNs are available at the campus bookstore. St. Mary's College of Maryland, UMUC, and Montgomery College all report that they 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. Some campuses also work with vendors to create partial textbooks that exclude some of the supplemental materials. 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 not all provide ISBNs. It has also been reported that UMCP has recently stopped the practice of taking students to off-campus bookstores during its student orientation tour.

State Revenues: The bill has the potential to negatively impact two current revenue streams. The first and more significant revenue impact would be on the higher education revenues derived from on-campus bookstores. Revenues from these sources would decrease if posting specific textbook information online erodes the proportion of sales made through the stores. A survey conducted by DLS indicated that fiscal 2007 profits from on-campus bookstores at State institutions of higher education ranged from \$13,300 at Morgan State University (MSU) to \$2.8 million at UMCP, as shown in **Exhibit 1**. On average, each public university brings in approximately \$575,000 in auxiliary funds through its campus bookstore. USM estimates that the bill could result in an annual decrease of \$750,000 in higher education revenues at its 11 institutions due to loss of business at the campus bookstores.

Exhibit 1
Campus Bookstore Profits at State Institutions of Higher Education
(\$ in Thousands)
Fiscal 2007



Source: Department of Legislative Services Textbook Survey

Second, 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, requiring campus bookstores and institutions of higher education to disclose ISBNs and other specific textbook information 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.

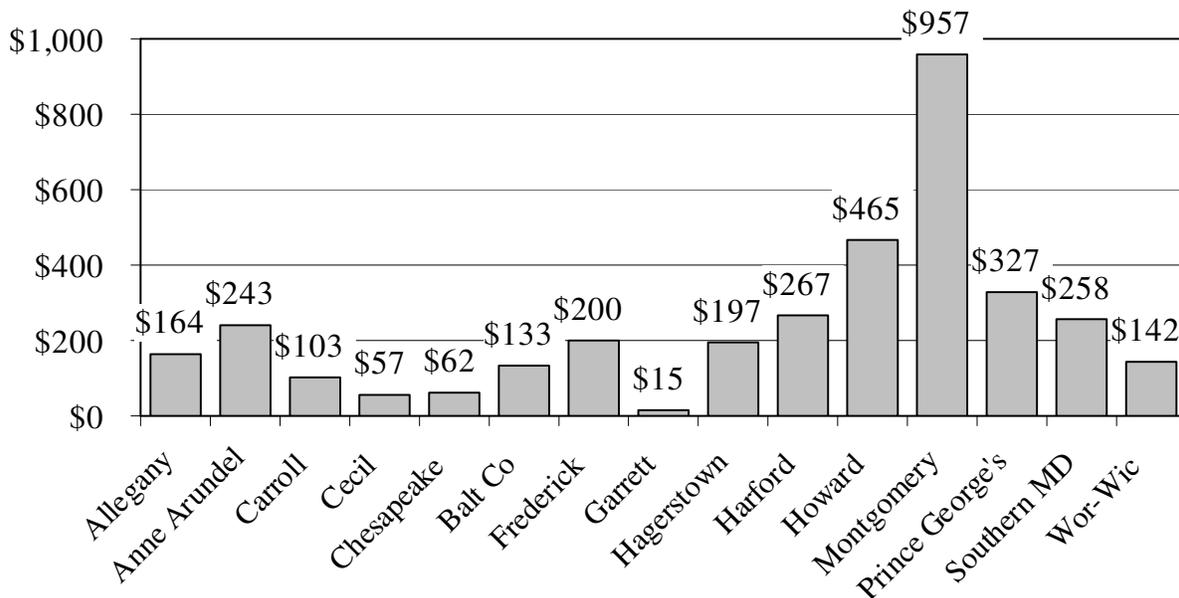
State Expenditures: General fund expenditures would increase by an estimated \$50,000 annually in fiscal 2009 and 2010 and \$20,000 in fiscal 2011 for MHEC to hire a

consultant to conduct the required feasibility studies. The studies would be complete by December 31, 2010 and no further costs would be incurred after that date.

MHEC could collect and compile textbook studies conducted by institutions of postsecondary education with existing personnel and resources.

Local Revenues: Community colleges would be subject to the same requirements as the public four-year institutions. A DLS survey concluded that on-campus bookstores at local community colleges generated approximately \$3.6 million in profits in fiscal 2007 (see **Exhibit 2**), an average of \$239,000 per college. Campus bookstore revenues could decrease if the posting of ISBNs and other textbook information leads to fewer textbook sales at college bookstores.

Exhibit 2
Campus Bookstore Profits at Local Community Colleges
(\$ in Thousands)
Fiscal 2007



Source: Department of Legislative Services Textbook Survey

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

Small Business Effect: Early posting of ISBNs and other textbook information 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.

Several of the bill's requirements, including the posting of ISBNs and other textbook information, would apply to private postsecondary institutions too. The bill could reduce revenues for these institutions.

Additional Information

Prior Introductions: None.

Cross File: HB 1067 (Delegate Rice, *et al.*) – Appropriations.

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

Fiscal Note History: First Reader - February 20, 2008
mll/rhh Revised - Clarification - February 21, 2008
Revised - Senate Third Reader - March 26, 2008
Revised - Clarification - May 12, 2008

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