

AMENDED IN SENATE SEPTEMBER 9, 2015

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

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AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 798

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Section 69999.6 of, and to add and repeal Part 40.1 (commencing with Section 67420) of Division 5 of Title 3 of, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 798, as amended, Bonilla. College Textbook Affordability Act of 2015.

(1) Existing law establishes the segments of the postsecondary education system in the state, including 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.

This bill would establish the College Textbook Affordability Act of 2015 to reduce costs for college students by encouraging faculty to

accelerate the adoption of lower cost, high-quality open educational resources, as defined.

The bill would create the Open Educational Resources Adoption Incentive Program to provide incentives and reward campus, staff, and faculty efforts to accelerate the adoption of open educational resources. The bill would require that specified moneys for the program be used by campuses to create and support faculty and staff professional development, open educational resource curation activities, curriculum modification, or technology support for faculty, staff, and students, as specified. The bill would authorize the local academic senate of a campus of the California State University or the California Community Colleges to (A) adopt a local campus resolution to increase student access to high-quality open educational resources and reduce the cost of textbooks and supplies for students, and (B) upon adoption of the resolution, develop a specified plan, in collaboration with students and the administration, that describes evidence of the campus' commitment and readiness to spend grant money from the fund to support faculty adoption of open educational resources. The bill would require the California Open Education Resources Council to review and approve the plan, and, if it meets these and other specified requirements, would authorize the Chancellor of the California State University to award an initial grant of up to \$50,000 to the campus from the fund. The bill would require additional bonus grants to be distributed to participating campuses if certain benchmarks are met. The bill would cap the number of initial grants that may be approved by the California Open Education Resources Council each award year at 100. The bill would require the California Digital Open Source Library, also known as the California Open Online Library for Education, in consultation with the Intersegmental Committee of Academic Senates, to report to the Legislature before September 1 of each year, commencing in 2018, as to whether the grants are increasing the rate of adoption of open educational resources and decreasing textbook costs for college students.

The bill would make these provisions inoperative on September 1, 2020, and would repeal them as of January 1, 2021.

(2) Existing law appropriates, from specified funds, \$5,000,000 to the Chancellor of the California State University to fund, among other things, the establishment and administration of the California Open Education Resources Council and the California Digital Open Source Library. ~~Existing law reverts any of this \$5,000,000 that is not 100% matched by private funds to a specified trust.~~

This bill would specify that \$3,000,000 of those funds are reappropriated for allocation for the Open Educational Resources Adoption Incentive Program. Of the remaining \$2,000,000, the bill would specify that up to \$200,000 may be used for the California Open Online Library for Education and up to \$27,000 may be used for stipends to members of the California Open Education Resources Council, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Part 40.1 (commencing with Section 67420) is
2 added to Division 5 of Title 3 of the Education Code, to read:

3

4 PART 40.1. COLLEGE TEXTBOOK AFFORDABILITY ACT
5 OF 2015

6

7 67420. This part shall be known, and may be cited, as the
8 College Textbook Affordability Act of 2015.

9 67421. (a) The College Textbook Affordability Act of 2015
10 is hereby established to reduce costs for college students by
11 encouraging faculty to accelerate the adoption of lower cost,
12 high-quality, open educational resources. Faculty development
13 shall be a key component of this acceleration initiative. This
14 initiative shall use, in addition to any other appropriate resources,
15 those identified, housed, produced, and otherwise found appropriate
16 pursuant to the California Open Education Resources Council
17 established in Section 66409 and the California Digital Open
18 Source Library, also known as the California Open Online Library
19 for Education, established in Section 66408.

20 (b) The Open Educational Resources Adoption Incentive
21 Program is hereby established to carry out the purposes of this act.
22 Unless context otherwise requires, “program” in this act means
23 the Open Educational Resources Adoption Incentive Program.

24 67422. (a) (1) Moneys appropriated in subdivision (f) of
25 Section 69999.6 for the program shall be used by community
26 college and California State University campuses to further the
27 purposes specified in subdivision (a) of Section 67421, including
28 any of the following purposes:

1 (A) Faculty professional development, which shall include
2 learning about the California Open Online Library for Education
3 established in Section 66408. Faculty who participate in this
4 professional development shall be reimbursed in accordance with
5 their campus' approved plan pursuant to paragraph (2) of
6 subdivision (a) of Section 67424.

7 (B) Professional development for staff whose work supports
8 providing students with open educational resources.

9 (C) Open educational resource curation activities. All new open
10 educational resources developed and available that are adopted as
11 course material pursuant to this program shall be added to the
12 California Open Online Library for Education established in
13 Section 66408.

14 (D) Curriculum modification and requisite release time for
15 faculty in accordance with a campus' approved plan pursuant to
16 paragraph (2) of subdivision (a) of Section 67424 related to the
17 adoption of open educational resources as course materials.

18 (E) Technology support for faculty, students, and staff whose
19 work furthers the goals specified in a campus' approved plan
20 pursuant to paragraph (2) of subdivision (a) of Section 67424.

21 (2) Moneys appropriated in subdivision (f) of Section 69999.6
22 for the program shall not be used for direct compensation for
23 faculty members who adopt open educational resources, except as
24 provided to compensate for professional development pursuant to
25 subparagraph (A) of paragraph (1), or for purchasing new
26 equipment.

27 (b) For the purposes of this act, a "community college campus"
28 is a community college campus site that has a local academic
29 senate.

30 67423. As used in this part, "open educational resources" are
31 high-quality teaching, learning, and research resources that reside
32 in the public domain or have been released under an intellectual
33 property license, such as a Creative Commons license, that permits
34 their free use and repurposing by others, and may include other
35 resources that are legally available and free of cost to students.
36 "Open educational resources" include, but are not limited to, full
37 courses, course materials, modules, textbooks, faculty-created
38 content, streaming videos, tests, software, and any other tools,
39 materials, or techniques used to support access to knowledge.

1 67424. (a) In order to participate in the program, the local
2 academic senate of a campus of the California State University or
3 the California Community Colleges shall do both of the following:

4 (1) Adopt a local campus resolution to increase student access
5 to high-quality open educational resources and reduce the cost of
6 textbooks and supplies for students in course sections for which
7 open educational resources are to be adopted to accomplish cost
8 savings for students.

9 (2) Approve a plan, in collaboration with students and campus
10 administration, that describes evidence of the faculty's commitment
11 and readiness to effectively use grant funds to support faculty
12 adoption of open educational resources.

13 (A) The plan may detail technological or staff support to increase
14 the adoption of open educational resources. The plan shall describe
15 how the faculty will learn about the California Open Online Library
16 for Education and other existing open educational resources.

17 (B) The plan shall include the number of academic departments
18 expected to be involved in the plan's implementation, the number
19 of course sections in which open educational resources will be
20 adopted, the percentage of cost savings for students anticipated on
21 account of the adoption of open educational resources for each of
22 these course sections, the ways existing faculty development
23 programs will be enhanced by the plan's implementation, and the
24 mechanisms that will be used to distribute adopted open
25 educational resources to students.

26 (C) At their discretion, faculty may choose, for courses that are
27 to adopt open educational resources under the plan, appropriate
28 resources for any of the 50 strategically selected lower division
29 courses identified by the California Open Education Resources
30 Council pursuant to subparagraph (B) of paragraph (1) of
31 subdivision (c) of Section 66409. Other open educational resources
32 may also be used.

33 (D) The plan shall describe how the campus will provide access
34 to open educational resource materials for students, including how
35 the campus will make hard copies of these materials available for
36 students who lack access to these materials off campus and make
37 it possible for students with such access to print hard copies.

38 (E) The plan will identify the amount of the grant requested.
39 The amount of the grant requested shall be equal to, or less than,
40 the number of course sections in which both open educational

1 resources will be adopted and cost savings for the course section
2 will be greater than 30 percent, multiplied by one thousand dollars
3 (\$1,000). The amount requested shall not be greater than fifty
4 thousand dollars (\$50,000). A plan shall commit to achieving
5 greater than 30 percent cost savings in at least 10 course sections.

6 (F) (i) The plan shall include the percentage of cost savings for
7 each course section calculated as follows:

8 (ii) The percentage of cost savings shall be the estimated
9 decrease in the costs of books and supplies for a course section in
10 the current term resulting from the adoption of open educational
11 resources for that course section, divided by the costs of books
12 and supplies for that course section in the immediately preceding
13 academic term.

14 (b) The California Open Education Resources Council may
15 provide expertise on available open educational resources and best
16 practices for the adoption of open educational resources for existing
17 courses to assist in the development of the plan.

18 (c) (1) The local academic senate of a campus of the California
19 State University or the California Community Colleges may submit
20 the resolution and the plan developed pursuant to subdivision (a)
21 to the California Open Education Resources Council as its
22 application for an initial grant no later than June 30, 2016.

23 (2) (A) The California Open Education Resources Council shall
24 make an initial grant to a campus within 60 days of the council's
25 receipt of the campus' application if the campus has satisfied the
26 requirements of subdivision (a). The California Open Education
27 Resources Council may award up to 100 initial grants.

28 (B) If the total amount requested in applications received
29 pursuant to subparagraph (A) is equal to or less than two million
30 dollars (\$2,000,000), the California Open Education Resources
31 Council shall make grants for each approved application equal to
32 the amount requested in the application. If the total amount
33 requested in applications received pursuant to subparagraph (A)
34 exceeds two million dollars (\$2,000,000), the California Open
35 Education Resources Council shall make grants for the full amount
36 requested in approved applications on a competitive basis based
37 on the strength of the evidence provided of faculty commitment
38 to the adoption of open educational resources.

39 (3) Each application approved by the California Open Education
40 Resources Council shall be submitted by the council to the

1 Chancellor of the California State University no later than 30 days
2 after the council approves the application. The chancellor shall
3 award grants to recipients in accordance with this section.

4 (4) Administrative support may be provided to the council by
5 the California Open Online Library for Education to help the
6 council carry out its duties in accordance with this part.

7 (5) (A) No later than June 30, 2018, a campus may apply for
8 a bonus grant equal to the amount of its initial grant. The
9 application shall include evidence that the campus has met or
10 exceeded total cost savings of greater than 30 percent for the
11 required number of course sections specified in the approved plan
12 for the campus' initial grant in the 2017–18 academic year.

13 (B) (i) A campus may also compute the total cost savings for
14 each course section and include that figure in its application for a
15 bonus grant pursuant to subparagraph (A).

16 (ii) The total cost savings for each course section shall be the
17 number of students enrolled in a course section multiplied by the
18 per-student decrease in the costs of books and supplies for the
19 course section in the term resulting from the adoption of open
20 educational resources.

21 (6) Bonus grants specified in paragraph (5) shall be used to
22 further the goals of the campus' approved plan for its initial grant.
23 It is the intent of the Legislature that bonus grants support each
24 campus' adoption of open educational resources for at least double
25 the number of course sections, and with at least 30 percent cost
26 savings for each of these course sections, as accomplished by the
27 campus' approved plan for its initial grant.

28 (7) If the total amount requested in applications for bonus grants
29 exceeds the total amount of funds available, the California Open
30 Educational Resources Council shall award grants on a competitive
31 basis to approved applications for the full amount of the initial
32 grant based on the overall percentage savings achieved by the
33 initial plan in the courses covered by the plan.

34 (8) It is the intent of the Legislature that initial and bonus grants
35 provide the impetus for campuses to adopt, and continue to use,
36 open educational resources as course materials.

37 (d) The California Open Online Library for Education, in
38 consultation with the Intersegmental Committee of Academic
39 Senates, shall report to the Legislature, in accordance with Section
40 9795 of the Government Code, before September 1 each year,

1 commencing in 2018, as to whether the grants are increasing the
2 rate of adoption of open educational resources and decreasing
3 textbook costs for college students.

4 67425. This part shall become inoperative on September 1,
5 2020, and, as of January 1, 2021, is repealed, unless a later enacted
6 statute, that becomes operative on or before January 1, 2021,
7 deletes or extends the dates on which it becomes inoperative and
8 is repealed.

9 SEC. 2. Section 69999.6 of the Education Code is amended to
10 read:

11 69999.6. (a) In enacting this article, it is the intent of the
12 Legislature to accomplish all of the following:

13 (1) Provide explicit authority to the board to continue to
14 administer accounts for, and make awards to, persons who qualified
15 for awards under the provisions of the Governor’s Scholarship
16 Programs as those provisions existed on January 1, 2003, prior to
17 the repeal of former Article 20 (commencing with Section 69995).

18 (2) Provide for the management and disbursement of funds
19 previously set aside for the scholarship programs authorized by
20 former Article 20 (commencing with Section 69995).

21 (3) Provide a guarantee should additional funds be needed to
22 cover awards authorized and made pursuant to former Article 20
23 (commencing with Section 69995).

24 (b) The board may manage and disburse the funds previously
25 set aside for the scholarship programs authorized by former Article
26 20 (commencing with Section 69995).

27 (c) If a person has earned an award under the Governor’s
28 Scholarship Programs on or before January 1, 2003, but has not
29 claimed the award on or before June 30, 2004, he or she still may
30 claim the award by a date that is five years from the first June 30
31 that fell after he or she took the qualifying test. An award shall not
32 be made by the board after that date.

33 (d) The board shall negotiate with the current manager of the
34 Governor’s Scholarship Programs and execute an amended or new
35 management and funding agreement, before January 1, 2013, which
36 shall include, but not be limited to, all of the following:

37 (1) Terms providing for the return to the General Fund by no
38 later than January 1, 2013, of moneys appropriated to the
39 Governor’s Scholarship Programs that are not anticipated to be

1 needed to make awards pursuant to paragraphs (1) and (2) of
2 subdivision (a).

3 (2) Provisions that authorize the board to pay agreed-upon early
4 withdrawal penalties or fees.

5 (3) Terms that extend to the final date upon which the board
6 may withdraw funds for a person who earned an award under the
7 Governor’s Scholarship Programs.

8 (e) (1) If funds retained in the Golden State Scholarshare Trust
9 after January 1, 2013, are insufficient to cover the remaining
10 withdrawal requests, it is the intent of the Legislature to appropriate
11 the necessary funds to the Golden State Scholarshare Trust for the
12 purpose of funding individual beneficiary accounts.

13 (2) The board shall notify the Department of Finance and the
14 Legislature no later than 10 working days after determining that
15 a shortfall in available funding described in paragraph (1) will
16 occur.

17 (f) (1) (A) Of the funds transferred to the General Fund
18 pursuant to paragraph (1) of subdivision (d), five million dollars
19 (\$5,000,000) is hereby appropriated to the Chancellor of the
20 California State University, without regard to fiscal years, to fund
21 the establishment and administration of the California Open
22 Education Resources Council and the California Digital Open
23 Source Library, and the development or acquisition of open
24 education resources, or any combination thereof, pursuant to
25 legislation enacted in the 2011–12 Regular Session of the
26 Legislature, provided that the chancellor may provide
27 reimbursement to the California Community Colleges and the
28 University of California for costs those segments, or their
29 representatives, incur in association with the activities described
30 in this paragraph.

31 (B) Effective January 1, 2016, three million dollars (\$3,000,000)
32 of the moneys appropriated pursuant to this paragraph are hereby
33 reappropriated pursuant to paragraph (4).

34 (2) ~~Except as specified in paragraph (3), those moneys allocated~~
35 ~~pursuant to paragraphs (3) and (4), moneys, or a portion of~~
36 ~~moneys, appropriated pursuant to paragraph (1) shall not be~~
37 ~~encumbered unless at least 100 percent of that amount encumbered~~
38 ~~is matched by private funds. Moneys appropriated pursuant to~~
39 ~~paragraph (1) that are funds and, if not matched by private funds~~

1 *funds*, shall revert to the Golden State Scholarshare Trust for
2 purposes of the Governor’s Scholarship Programs.

3 (3) Of the unencumbered amount appropriated pursuant to
4 paragraph (1) as of June 30, 2015:

5 (A) Up to two hundred thousand dollars (\$200,000) may be
6 used for administration of the California Open Online Library for
7 Education. These funds may be used by the California Open Online
8 Library for Education to continue developing and updating its
9 services to provide faculty, staff, and students convenient access
10 to open educational resources as course materials and to provide
11 administrative support for the California Open Educational
12 Resources Council. These funds may be used by the California
13 Open Online Library for Education for purposes of the Open
14 Educational Resources and Adoption Incentive Program until
15 September 1, 2020.

16 (B) Up to twenty-seven thousand dollars (\$27,000) may be used
17 for stipends to members of the California Open Education
18 Resources Council for these members to carry out their duties in
19 accordance with the Open Educational Resources Adoption
20 Incentive Program.

21 (4) Of the funds transferred to the General Fund pursuant to
22 paragraph (1) of subdivision (d) and appropriated pursuant to
23 paragraph (1), three million dollars (\$3,000,000) is hereby
24 reappropriated to the Chancellor of the California State University,
25 without regard to fiscal years, for allocation for the Open
26 Educational Resources Adoption Incentive Program.

27 (g) The board may adopt rules and regulations for the
28 implementation of this article.