

Government Administration and Elections Committee
JOINT FAVORABLE REPORT

Bill No.: HB-5312

AN ACT MAKING CERTAIN TERMS IN ELECTRONIC BOOK AND DIGITAL

Title: AUDIOBOOK LICENSE AGREEMENTS OR CONTRACTS UNENFORCEABLE.

Vote Date: 3/22/2024

Vote Action: Joint Favorable

PH Date: 3/4/2024

File No.:

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SPONSORS OF BILL:

Government Administration & Elections Committee

REASONS FOR BILL:

This bill would address the problem faced by public libraries paying high prices charged by publishers for audiobooks and E-books by banning them from entering into certain contractual terms thus increasing all libraries' negotiating power.

RESPONSE FROM ADMINISTRATION/AGENCY:

None expressed.

NATURE AND SOURCES OF SUPPORT:

Colleen Bailie, Library Director, West Haven Library: Supports this bill because E-Books are too expensive for libraries to build up a catalogue. States that the public expect libraries to have all the materials they are looking for because they are taxpayer-funded, thus putting libraries in a difficult situation as they do not have the budgets to purchase a wide variety of E-Book materials.

Nina Bartlomiejczyk, Adult Services Library, Case Memorial Library: Supports this bill because it would give library patrons more access to electronic materials that are currently too expensive for libraries to purchase. States that this bill would help libraries educate the public and achieve their mission of providing materials to patrons who expect a wide variety of options when they go to the library.

Ava Biffer, Board of Trustees Chair, Bloomfield Public Library: Supports this bill because they are seeing a higher number of patrons requesting E-Books, and the current pricing of electronic items is just too high for libraries to purchase all the materials that the public want. States that this bill helps libraries provide the services that are expected from taxpayers.

Kevin Bowdler, President, Stonington Free Library: Supports this bill because libraries should be able to purchase E-Books with the same pricing structure as physical books.

Ramona Burkey, Director, Russell Library: Supports this bill because libraries are responsible for spending taxpayer dollars wisely, and right now libraries are forced to spend too much on E-Books, which are priced higher than physical books and thus preventing libraries from purchasing the materials that patrons are requesting.

Taylor Cordova, Adult Services Librarian, West Haven Public Library: Supports this bill because it will help libraries serve patrons who cannot afford to purchase E-Books and therefore go to the library to take one out. States that this bill would help libraries purchase E-Books that they can currently not afford due to high pricing.

Carl Demilia, Executive Director, Bibliomation Inc.: Supports this bill because libraries currently cannot fully provide E-Books to their patrons due to restrictive contracts and high pricing by publishers. States that this bill would help libraries and patrons by reducing prices and increasing the availability of electronic materials.

Joseph Jankowski, President, Booth & Dimock Memorial Library: Supports this bill because it will establish fair terms for libraries in terms of pricing of E-Books. This will help libraries better serve their patrons.

Lizanne Johnson, School Library Media Specialist, Fitch High & Groton Middle School: Supports this bill because it eliminates the unfair pricing currently set by publishers that prevent libraries from providing materials that the public want.

Jenny Lussier, Teacher Librarian, CT Association of School Librarians: Supports this bill because E-Books are currently priced at a much higher rate than physical books and the demand for them is becoming greater as more students turn to E-Books instead of physical books.

Holly McGrath, Chair, Simsbury Public Library: Supports this bill because it will help set fair terms and prices for E-Books and audiobooks. States that parents with young children greatly benefit from renting audiobooks from libraries for long road trips.

Annette McNeely, Avon Free Public Library Board: Supports this bill because it will align the pricing of E-Books to the current trend of more library patrons looking to take out E-Books and audiobooks rather than physical books. States that one of the benefits of E-Books for seniors and those with vision and reading impairments is having the ability to adjust font size.

Marianne O'Neil, Trustee, Simsbury Public Library: Supports this bill because it will make E-Books more widely available at libraries, which will significantly help those with vision impairments who can no longer read printed books.

Ellen Paul, Executive Director, CT Library Consortium: Supports this bill because it acknowledges and attempts to remedy the outrageous prices that libraries must pay for an E-Book compared to a physical copy. Gives an example that a physical book that costs \$29 will cost the library \$55 for an electronic version. This is unsustainable for libraries that are trying to provide a wide variety of materials to their patrons.

Brett Prestia, Dr, Hamden Public Library Trustee: Supports this bill because it will give libraries much needed relief and help them better serve their dedicated patrons.

Deborah Schander, State Librarian, CT State Library: Supports this bill because E-Books and audiobooks are becoming a greater portion of the materials that library patrons take out, and the current pricing for these materials is too high for libraries to be able to afford the items that patrons are looking for. States that the expiring licenses have resulted in libraries losing 13% of their content this year. Also states that this bill is a matter of fiscal responsibility and ensuring that libraries can spend their money more efficiently.

Nella Szilagyi, Library Media Specialist, CASL: Supports this bill because it will allow libraries to purchase the materials that students and library patrons want and need without having to pay exorbitant prices for E-Books, which are becoming more popular amongst patrons.

Ann Thompson, Executive Director, Essex Library Association: Supports this bill because libraries currently must pay a high price for E-Books compared to physical copies. Gives an example of a physical book that costs \$14.99 and in E-Book form costs \$65. States that this bill would help libraries provide the necessary materials to promote an educated and well-read community.

Jodie D'Alexander, Library Media Specialist, Woodland Regional High School: Supports this bill because it is important for libraries to be able to provide materials purchased at a reasonable rate.

Melissa Baker, Head of Materials Management, Wilton Library Association: Supports this bill because it will help both librarians and patrons with the overall library experience. States that the librarians would be helped by not having to explain to frustrated patrons why an item is unavailable, and patrons would be helped by having more materials available to take out. Also states that it is a waste of tax dollars that libraries are forced to spend so much on E-Books compared to regular books.

Brook Berry, Library Director, Wethersfield Library: Supports this bill because the pricing system for libraries purchasing E-Books is outrageous and the wait times are too long for patrons looking for certain items. States that the bill would give assistance to libraries who already provide materials using limited resources.

Glenn Grube, Library Director, Avon Free Library: Supports this bill because the current pricing system forces libraries to selectively choose which items are purchased in E-Book form, resulting in less available items for library patrons. States that librarians want to support authors and publishers but need to be able to do so without spending more than they can budget for.

Laura Irmischer, Director of Library Services, West Hartford Public Library: Supports this bill because libraries are expected to provide a wider variety of electronic items at the same time as prices for these items rise. States that providing these items is an issue of accessibility, as many of those taking out E-Books are those with vision impairments. Also states that it is important for those with children to be able to take out the items they are looking for.

Barbara Johnson, School Librarian, CT Association of School Librarians: Supports this bill because it reverses the access and equality gap caused by the current pricing of E-Books. States that the elementary school she works for had to stop purchasing E-Books 15 years ago because of pricing.

Elizabeth Lane, Library Director, Bloomfield Public Library: Supports this bill because libraries are trying to break through accessibility restrictions to reading and the current pricing system of E-Books makes that difficult to accomplish. States that this bill would help libraries better connect people with information and learning.

Sarah McCusker, President, Connecticut Library Association: Supports this bill because the issue with access to E-Books for libraries and patrons has changed from being technology-related to being more related to economics. States that libraries currently only lease E-Books, which requires them to repurchase them regularly, preventing them from building a robust catalogue. Also states that libraries currently cannot justify the cost to taxpayers to purchase more E-Books.

Allison Murphy, Library Director, EC Scranton Memorial Library: Supports this bill because it will help libraries purchase E-Books that are desired by older individuals and those with failing vision. States that patrons are often on a waiting list for an item that eventually is expired due to the libraries needing to lease these items.

Kristen Orth, Librarian, Darien Library: Supports this bill because libraries are currently forced to leave the needs of the public unmet due to the high cost of items. States that currently she can check out just two E-Books per week, and that certain best-seller and high interest items can cost up to \$100 for the library.

Dorothy Russell, Head of Collection Management, Lucy Robbins Welles Library: Supports this bill because it would address the increased demand for digital reading by making E-Books more affordable to purchase and have available for their patrons. States that this bill overall would make digital reading items more accessible to users.

Kate Sheehan, Head of IT, Stratford Library Association: Supports this bill because while libraries receive a discount on the purchasing of physical books, they are charged a much higher amount for E-Books. States that libraries are supporting authors by making these demands because it would allow them to purchase more items, thus benefiting the authors who are not making any additional money from increased prices.

Brian Story, Head of Young Adult Services, Acton Public Library: Supports this bill because libraries in Connecticut currently suffer from the terms established in contracts with publishers, which make it difficult for libraries to meet the needs of patrons who may otherwise not be able to afford purchasing such items on their own.

Several individuals submitted testimony expressing support for the bill, stating that libraries currently struggle to meet the demands of patrons due to the high cost of E-Books. They state that E-Books are popular among older individuals and those with vision impairments because the font sizes are adjustable. They also state that E-Books must be continuously repurchased by libraries to ensure they are kept in stock, resulting in a significant cost for taxpayers.

These individuals include:

Karla Umland, Assistant Director, Stonington Free Library
Diana Beck, Board Member, Stonington Free Library
William Dittman, Board of Trustees, Stonington Free Library
Michael Fontana, Board of Directors Member, Stonington Free Library

Several individuals submitted testimony expressing support for the bill because it will establish fair pricing for libraries to purchase E-Books and Audiobooks that will benefit patrons and encourage more people to visit the libraries that are vital to the communities they serve. Also stated the importance of reading for students and making sure all forms of books are available.

These individuals include:

Kaitlin Acabbo
Jessica Bernier
Jennifer Duetzmann
Michael Fiorello
Amanda Gigante
Alexis Haakonsen
Shelby Land
Paula Schwartz
Elaine Shapiro
Beth Smith
Olivia Blake
Kristen Ciccone
Mary Etter
Windsor Geraci
Lauren Hall
Meghan Hatch
Denice McGregor
Ann Percival
Shira Tarantino
Sarah Tornow

NATURE AND SOURCES OF OPPOSITION:

Devlin Hartline, Legal Fellow, Hudson Institute: Opposes this bill because it would be unenforceable and unconstitutional due to it conflicting with the federal Copyright Act under the preemption doctrine. States that it does not make sense for libraries and consumers to have the same terms for E-Books because libraries are afforded a wider scope of use for the

items. Also states that a similar bill to this one was challenged in court in Maryland based on publishers having the right to refuse to grant licenses.

Shelley Husband, SVP for Government Affairs, AAP: Opposes this bill because it would be preempted by the federal Copyright Act. States that similar legislation had already been vetoed by the Governor of New York based on the preemption doctrine. Also states that the bill would devalue the intellectual property of authors by reducing the price of their content.

Kurt Brackob, Advocacy Committee, Independent Book Publishers Association: Opposes this bill because it does not offer a distinction between large and small publishers, thus hurting smaller publishers who would be more affected by a decrease in revenue. States that the bill may forced publishers not to offer their works to libraries at all because of the reduced revenue and less control over contract provisions. Also states that it is important to strike a balance between library services and protecting the rights of small publishers.

Umair Kazi, Director of Advocacy and Policy, Authors Guild: Opposes this bill because it is preempted by the federal Copyright Act. States that it would harm the earnings of authors who already don't make very much money. Also states that the bill encroaches on freedom of expression by setting certain mandates that authors may not want to follow.

Keith Kupferschmid, CEO, Copyright Alliance: Opposes this bill because it would weaken the legal copyright protections, thus hurting the authors and other creators that provide their works to the libraries and their patrons. States that similar legislation has already been vetoed by the Governor of New York due to the preemption doctrine.

Regan Smith, News-Media Alliance: Opposes this bill because it is trying to address a problem that generally does not exist, as libraries already have access to a wide variety of items including E-Books and other electronic materials. States that the bill would violate the federal Copyright Act that has provided authors and other creators the protection they need to produce their work. Also states that similar bills have recently failed in Maryland and New York due to concerns about violating copyright law.

Reported by: Gabriel Marques, Assistant Clerk Date: 4/2/2024