

BILL ANALYSIS

Senate Research Center

S.B. 175
By: Shapiro et al.
Higher Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Top 10 Percent law in Texas has limited the admissions process at The University of Texas at Austin (UT Austin). In 2008, 81 percent of the Texas residents in the freshmen class at UT Austin were automatically admitted under the Top 10 Percent law. At this rate, Top 10 Percent law admissions will likely be at 100 percent by 2013. No other institution of higher education in the state is forced to use only one criteria for student admission.

A university needs the flexibility to consider criteria other than high school rank, such as test scores, special talents, leadership ability, personal achievements, or other relevant aspects of what the student can offer the academic environment. This bill places a cap on automatic admissions, limiting the percentage of the incoming class that must be admitted under that law.

S.B. 175 amends current law relating to the automatic admission of undergraduate students to certain general academic teaching institutions and to scholarship and other programs to facilitate enrollment at institutions of higher education.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 51.803, Education Code), SECTION 5 (Sections 56.491 and 56.493, Education Code), and SECTION 6 (Section 61.07622, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 3 (Section 28.026, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.803, Education Code, by amending Subsection (a) and adding Subsections (a-1)-(a-6) and (g)-(l), as follows:

(a) Provides that the provisions of this subsection are subject to Subsection (a-1). Makes a nonsubstantive change.

(a-1) Provides that The University of Texas at Austin (UT Austin), beginning with admissions for the 2011-2012 academic year, is not required to offer admission to applicants who qualify for automatic admission under Subsection (a) in excess of the number required to fill 75 percent of UT Austin's enrollment capacity designated for first-time resident undergraduate students in an academic year. Authorizes UT Austin, if the number of applicants who qualify for automatic admission to UT Austin under Subsection (a) for an academic year exceeds 75 percent of UT Austin's enrollment capacity designated for first-time resident undergraduate students for that academic year, to elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). Requires UT Austin, if UT Austin elects to offer admission under this subsection, to offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by UT Austin as sufficient to fill 75 percent of UT Austin's enrollment capacity designated for first-time resident undergraduate students, except that UT Austin must offer admission to all applicants with the same percentile rank. Requires UT Austin, after the applicants

qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 75 percent of the designated enrollment capacity described by this subsection, to consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805 (Other Admissions).

(a-2) Requires a general academic teaching institution, if the number of applicants who apply to the institution during the current academic year for admission in the next academic year and who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds 75 percent of the institution's enrollment capacity designated for first-time resident undergraduate students for that next academic year and the institution plans to offer admission under Subsection (a-1) during the next school year, in the manner prescribed by the Texas Education Agency and not later than September 15, to provide to each school district, for dissemination of the information to high school junior-level students and their parents, notice of which percentile ranks of high school senior-level students who qualify for automatic admission under Subsection (a) are anticipated by the institution to be offered admission under Subsection (a-1) during the next school year.

(a-3) Prohibits UT Austin, notwithstanding Subsection (a-1), from offering admission under that subsection for an academic year after the 2015-2016 academic year.

(a-4) Requires UT Austin, if UT Austin elects to offer admission to first-time resident undergraduate students under Subsection (a-1) for an academic year, to continue its practice of not considering an applicant's legacy status as a factor in UT Austin's decisions relating to admissions for that academic year.

(a-5) Requires a general academic teaching institution that offers admission to first-time resident undergraduate students under Subsection (a-1) to require that a student admitted under that subsection complete a designated portion of not less than six semester credit hours of the student's coursework during evening hours or other low-demand hours as necessary to ensure the efficient use of the institution's available classrooms.

(a-6) Requires UT Austin, not later than December 31 of each academic year in which UT Austin offers admission under Subsection (a-1), to deliver a written report to the governor, the lieutenant governor, and speaker of the house of representatives regarding the university's progress in certain matters.

(g) Requires the Texas Higher Education Coordinating Board (THECB) by rule to develop and implement a program to increase and enhance the efforts of general academic teaching institutions in conducting outreach to academically high-performing high school seniors in this state who are likely to be eligible for automatic admission under Subsection (a) to provide to those students information and counseling regarding the operation of this section and other opportunities, including financial assistance, available to those students for success at public institutions of higher education in this state. Requires THECB, under the program, after gathering information and recommendations from available sources and examining current outreach practices by institutions in this state and in other states, to prescribe best practices guidelines and standards to be used by general academic teaching institutions in conducting the student outreach described by this subsection.

(h) Authorizes an institution that admits under this section an applicant qualified for automatic admission under Subsection (a) to admit the applicant for either the fall semester of the academic year for which the applicant applies or for the summer session preceding that fall semester, as determined by the institution.

(i) Prohibits a general academic teaching institution if the institution denies admission to an applicant for an academic year, in any letter or other communication the institution provides to the applicant notifying the applicant of that denial, from referencing the provisions of this section, including using a description of a provision of this section such

as the top 10 percent automatic admissions law, as a reason the institution is unable to offer admission to the applicant unless the number of applicants for admission to the institution for that academic year who qualify for automatic admission under Subsection (a) is sufficient to fill 100 percent of the institution's enrollment capacity designated for first-time resident undergraduate students.

(j) Prohibits a general academic teaching institution that elects to offer admission under Subsection (a-1) for an academic year from offering admission to first-time undergraduate students who are not residents of this state for that academic year in excess of the number required to fill 10 percent of the institution's enrollment capacity designated for first-time undergraduate students for that academic year.

(k) Prohibits a general academic teaching institution from offering admission under Subsection (a-1) for an academic year if, on the date of the institution's general deadline for applications for admission of first-time undergraduate students for that academic year a final court order applicable to the institution prohibits the institution from considering an applicant's race or ethnicity as a factor in the institution's decisions relating to first-time undergraduate admissions or the institution's governing board by rule, policy, or other manner has provided that an applicant's race or ethnicity may not be considered as a factor in the institution's decisions relating to first-time undergraduate admissions, except that this subdivision does not apply to an institution that did not consider, on or before June 1, 2009, an applicant's race or ethnicity as a factor in its admissions of first-time resident undergraduate students for the 2009-2010 academic year.

(l) Requires THECB to publish an annual report on the impact of Subsection (a-1) on the state's goal of closing college access and achievement gaps under "Closing the Gaps," the state's master plan for higher education, with respect to students of an institution that offers admission under that subsection, disaggregated by race, ethnicity, socioeconomic status, and geographic region and by whether the high school from which the student graduated was a small school, as defined by the commissioner of education, or a public high school that is ranked among the lowest 20 percent of public high schools according to the percentage of each high school's graduates who enroll in a four-year institution, including a general academic teaching institution, in one of the two academic years following the year of the applicant's high school graduation. Requires a general academic teaching institution that offers admission under Subsection (a-1), on request, to provide THECB with any information THECB considers necessary for the completion of the report required by this subsection.

SECTION 2. Amends Subchapter U, Chapter 51, Education Code, by adding Section 51.8035, as follows:

Sec. 51.8035. AUTOMATIC ADMISSION OF APPLICANTS COMPLETING CORE CURRICULUM AT ANOTHER INSTITUTION. (a) Defines "core curriculum" and "general academic teaching institution."

(b) Requires a general academic teaching institution to admit an applicant for admission to the institution as a transfer undergraduate student who meets certain requirements.

(c) Requires that transfer semester credit hours from a different institution of higher education and semester credit hours earned by examination, for purposes of this section, be included in determining whether the person completed the core curriculum at an institution of higher education.

(d) Provides that it is the responsibility of the applicant for admission under this section to expressly and clearly claim in the application entitlement to admission under this section and timely provide to the general academic teaching institution the documentation required by the institution to determine the student's entitlement to admission under this section.

SECTION 3. Amends Section 28.026, Education Code, as follows:

Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. (a) Creates this subsection from existing text. Requires the school district, to assist in the dissemination of this information, to perform certain duties, including to provide each district student, at the time the student first registers for one or more classes required for high school graduation, with a written notification of the substance of Section 51.803 (Automatic Admission: All Institutions); and, not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system under Section 25.084, provide each eligible senior student under Section 51.803 and each student enrolled in the junior year of high school who has a grade point average in the top 10 percent of the student's high school class, and the student's parent or guardian, rather than at the commencement of a class's senior year, with a written notification of the student's eligibility with a detailed explanation in plain language of the substance of Section 51.803. Makes nonsubstantive changes.

(b) Requires the commissioner of education (commissioner) to adopt forms to use in providing notice under Subsections (a)(2) (relating to requiring the school district to provide each district student with a written notification of the substance of Section 51.803) and (4) (relating to requiring the school district to certain students with written notification of the students eligibility). Requires a school district, in providing notice under Subsection (a)(2) or (4), to use the appropriate form adopted by the commissioner. Requires that the notice to a student and the student's parent or guardian under Subsection (a)(4) be on a single form that may contain one or more signature lines to indicate receipt of notice by the student or the student's parent or guardian.

(c) Requires the commissioner to adopt procedures to ensure that, as soon as practicable after this subsection becomes law, each school district provides written notification of the substance of Section 51.803 as amended by the 81st Legislature, Regular Session, 2009, to each district student who, for the 2009-2010 school year, registers for one or more courses required for high school graduation. Authorizes the commissioner to adopt rules under this subsection in the manner provided by law for emergency rules. Requires each district to comply with the procedures adopted by the commissioner under this subsection. Provides that this subsection expires September 1, 2010.

SECTION 4. Amends Section 33.007, Education Code, by adding Subsection (c), to require a school counselor certified under the rules of the State Board for Educator Certification, at the beginning of grades 10 and 11, to explain the requirements of automatic admission to a general academic teaching institution under Section 51.803 to each student enrolled in a high school or at the high school level in an open-enrollment charter school who has a grade point average in the top 25 percent of the student's high school class.

SECTION 5. Amends Chapter 56, Education Code, by adding Subchapter R, as follows:

SUBCHAPTER R. SCHOLARSHIPS FOR STUDENTS GRADUATING IN TOP 10 PERCENT OF HIGH SCHOOL CLASS

Sec. 56.481. PURPOSE. Provides that the purpose of this program is to encourage attendance at public institutions of higher education in this state by outstanding high school students in the top 10 percent of their graduating class.

Sec. 56.482. DEFINITIONS. Defines "coordinating board," "institution of higher education," and "program."

Sec. 56.483. AWARD OF SCHOLARSHIP. (a) Requires THECB to award scholarships to eligible students under this subchapter.

(b) Requires an institution of higher education to provide to a student who receives a scholarship under the scholarship program (program) for a semester or other academic term a credit in the amount of the scholarship, to be applied

toward the payment of any amount of educational costs charged by the institution for that semester or term and a check, electronic transfer, or other disbursement of any remaining scholarship amount.

(c) Authorizes that an amount paid under Subsection (b)(2) (relating to requiring an institution of higher learning to provide a check, electronic transfer, or other disbursement of any remaining scholarship amount to the student) be applied only to any usual and customary cost incurred by the student to attend the institution of higher education.

Sec. 56.484. INITIAL ELIGIBILITY FOR SCHOLARSHIP. Requires a student, to be eligible for a scholarship under this subchapter, to have graduated from a public or accredited private high school in this state while ranked in the top 10 percent of the student's graduating class, subject to Section 56.487(b); have completed the recommended or advanced high school curriculum established under Section 28.025 or its equivalent; have applied for admission as a first-time freshman student for the 2010-2011 academic year or a subsequent academic year to an institution of higher education that has elected to offer admissions for that academic year to applicants as provided by Section 51.803(a-1); enroll as a first-time freshman student in an institution of higher education not later than the 16th month after the date of the student's high school graduation; have been awarded a "Toward EXcellence, Access, & Success" (TEXAS) grant under Subchapter M for the same semester or other academic term for which the scholarship will be awarded; be a Texas resident under Section 54.052 (Determination of Resident Status); and comply with any other eligibility requirements established by THECB rule.

Sec. 56.485. INELIGIBILITY FOR SCHOLARSHIP. Provides that notwithstanding Section 56.484, a student is not eligible for an initial or subsequent scholarship under this subchapter if the student was offered admission as a first-time freshman student to any institution of higher education for an academic year for which that institution made admissions under Section 51.803(a-1), regardless of whether the student subsequently enrolls at that institution.

Sec. 56.486. AMOUNT OF SCHOLARSHIP. (a) Provides that except as provided by Subsection (b), the amount of a scholarship for each semester or other academic term in which an eligible student is enrolled at an institution of higher education is an amount sufficient to cover, but not exceed, the amount of tuition charged to the student for that semester or term.

(b) Prohibits the amount of a scholarship for each semester or other academic term from exceeding the amount of the student's unmet financial need for that semester or term after any other gift aid has been awarded.

(c) Requires THECB to issue to each eligible student a certificate indicating the amount of the scholarship awarded to the student.

Sec. 56.487. APPLICATION PROCEDURE. (a) Requires THECB to establish application procedures for the program. Authorizes the procedures to require an officer of the applicable high school or school district to verify the eligibility of a student to receive a scholarship under the program.

(b) Authorizes THECB to permit a student to establish initial eligibility based on the student's class rank at the end of the student's seventh semester in high school. Authorizes THECB to revoke an initial scholarship awarded to a student who subsequently loses eligibility based on the student's class rank on graduation from high school.

(c) Authorizes THECB to consider applications received after the application deadline only if sufficient funding for scholarships remains after THECB awards scholarships to all eligible students who applied on or before the deadline.

(d) Requires THECB to establish procedures to notify each eligible student of the receipt of a scholarship under the program and to enable an institution of higher education to verify the award of a scholarship to a student who is enrolled at that institution.

Sec. 56.488. CONTINUING ELIGIBILITY FOR SCHOLARSHIP. (a) Authorizes a student, after establishing eligibility to receive an initial scholarship under the program, to continue to receive additional scholarships during each subsequent semester or other academic term in which the student is enrolled at an institution of higher education if the student meets certain requirements.

(b) Prohibits the student, if a student fails to meet any of the requirements of Subsection (a) after completing a semester or other academic term, from receiving a scholarship during the next semester or other academic term in which the student enrolls. Authorizes a student to become eligible to receive a scholarship in a subsequent semester or term if the student meets certain requirements.

(c) Provides that except as provided by Section 56.490(b), a student's eligibility for a scholarship under the program ends on the fourth anniversary of the first day of the semester or other academic term for which the student was awarded an initial scholarship under the program.

Sec. 56.489. SATISFACTORY ACADEMIC PROGRESS. Requires the student, for each academic year in which a student receives one or more scholarships under the program, to complete certain credit hours for that year and maintain an overall grade point average of at least 3.25 on a four-point scale or its equivalent for all coursework attempted at any public or private institution of higher education.

Sec. 56.490. EXCEPTION FOR HARDSHIP OR OTHER GOOD CAUSE. (a) Requires each institution of higher education to adopt a policy to allow a student who fails to make satisfactory academic progress as required by Section 56.489 to receive a scholarship in a subsequent semester or other academic term on a showing of hardship or other good cause, including a showing of a severe illness or other debilitating condition that could affect the student's academic performance; an indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care could affect the student's academic performance; or any other cause considered acceptable by THECB.

(b) Authorizes an institution of higher education to extend the eligibility period described by Section 56.488(c) in the event of hardship or other good cause as provided by the institution's policy adopted under Subsection (a).

(c) Requires an institution of higher education to maintain documentation of each exception granted to a student under this section and to provide timely notice of those exceptions to THECB.

Sec. 56.491. PUBLICATION OF PROGRAM INFORMATION. (a) Requires THECB to publish and disseminate general information and rules for the program as provided by Subsection (b) and as otherwise considered appropriate by THECB.

(b) Requires THECB to provide application instructions to each school district and each institution of higher education and an individual student on request.

Sec. 56.492. REIMBURSEMENT. (a) Provides that each institution of higher education that provides scholarships under the program to eligible students enrolled at the institution is entitled to reimbursement by THECB of the amounts provided. Requires the institution to request reimbursement in the manner specified by THECB rule.

(b) Requires THECB, on approval of an institution's request for reimbursement, to direct the comptroller of public accounts to transfer the appropriate amount to the institution. Authorizes the institution to use the transferred funds as

reimbursement for any credits provided to students under this subchapter, to reimburse students for charges previously paid to the institution, or to make scholarship payments to students, as applicable.

Sec. 56.493. RULES. Requires THECB to adopt rules as necessary to administer the program under this subchapter.

SECTION 6. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.07622, as follows:

Sec. 61.07622. HIGHER EDUCATION ASSISTANCE PLAN. (a) Requires THECB to develop a plan under which each public high school in this state that is, as determined by THECB in accordance with THECB rule, substantially below the state average in the number of graduates who attend public or private or independent institutions of higher education to provide to prospective students information related to enrollment in public or private or independent institutions of higher education, including admissions and financial aid information and assist those prospective students in completing applications related to enrollment in those institutions, including admissions and financial aid applications.

SECTION 7. Provides that the purpose of the reforms provided for in this Act is to continue and facilitate progress in general academic teaching institutions in this state with regard to the racial, ethnic, demographic, geographic, and rural/urban diversity of the student bodies of those institutions in undergraduate, graduate, and professional education, including the participation goals identified in the "Closing the Gaps" initiative, the state's master plan for higher education. Provides that nothing in this Act prevents a general academic teaching institution in this state from engaging in appropriate individualized holistic review, consistent with that purpose, for the admission of students who are not entitled to automatic admission under Section 51.803, Education Code, as amended by this Act.

SECTION 8. Requires the commissioner of education to adopt a form for notifying eligible high school seniors and their parents or guardians of automatic college admission as required by Section 28.026, Education Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9. (a) Requires THECB to adopt rules to administer Subchapter R, Chapter 56, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. Authorizes THECB, for that purpose, to adopt the initial rules in the manner provided by law for emergency rules.

(b) Requires THECB to begin awarding scholarships under Subchapter R, Chapter 56, Education Code, as added by this Act, for the first academic year for which money is appropriated for that purpose, except that THECB is prohibited from awarding scholarships under that subchapter for an academic year before the 2010-2011 academic year.

SECTION 10. Provides that Section 51.8035, Education Code, as added by this Act, applies beginning with admissions to a general academic teaching institution for the 2010 spring semester.

SECTION 11. Effective date: upon passage or September 1, 2009.