

BILL ANALYSIS

Senate Research Center
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S.B. 1091
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Higher Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The original top 10 percent law was passed by the 75th Texas Legislature in 1997 to address the issue of diversity in Texas public universities. The legislation was a response to the United States 5th Circuit Court Hopwood decision (*Texas v. Hopwood*) in 1996 that institutions could not use a student's race as an admissions criterion. The top 10 percent policy has had a disproportionate impact on the admission methods and procedures at the two flagship institutions, The University of Texas at Austin (UT-Austin) and Texas A&M University. The policy has eliminated the institutions' autonomy to compile their student body to its choosing and restricts admission to largely one metric—class rank.

In 2009, the legislature amended the top 10 percent rule, allowing UT-Austin to cap the number of automatically admitted freshmen at 75 percent of the overall class. This change only applies to UT-Austin and requires the university to set the threshold for automatic admission annually. The remaining 25 percent of freshman applicants, as well as transfer applicants, are admitted through a holistic review process. This holistic review process includes consideration for "race and ethnicity." A 2019 report from the Texas Higher Education Coordinating Board stated descriptive statistics do not make it possible to distinguish the effect of the top 10 percent rule from the other policies, initiatives, and trends that have taken place over the last 20 years.

S.B. 1091 expands the automatically admitted freshman class percentage cap to all public general academic institutions in Texas. Also, this proposal decreases the institutional automatic admission percentage cap from 75 percent to 30 percent. The proposal would limit each general academic institution to have automatically admitted students consist of up to 30 percent of their respective incoming freshman class. The narrowing of automatically admitted students would allow institutions more autonomy to determine their own admissions criteria and utilize a more holistic review of students. This would give institutions relief to develop more appropriate policies for increasing diversity.

As proposed, S.B. 1091 amends current law relating to the automatic admission of students to general academic teaching institutions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 51.803(a-1), (a-2), and (a-6), Education Code, as follows:

(a-1) Provides that, beginning with admissions for the 2025-2026 academic year, a general academic teaching institution is not required to offer admission to applicants who qualify for automatic admission under Subsection (a) (relating to certain qualifications for automatic admission as an undergraduate student to general academic teaching institutions) in excess of the number required to fill 30 percent of the institution's enrollment capacity designated for first-time resident undergraduate students in an academic year. Deletes existing text providing that, beginning with admissions for the 2011-2012 academic year, The University of Texas at Austin 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 the university's enrollment capacity designated for first-time resident undergraduate students in an academic year. Makes conforming changes.

(a-2) Makes a conforming change to this subsection.

(a-6) Requires a general academic teaching institution, not later than December 31 of each academic year in which the institution offers admission under Subsection (a-1), to deliver a written report to the governor, lieutenant governor, and speaker of the Texas House of Representatives regarding the institution's progress in certain matters, including progress in assessing and improving the institution's regional recruitment efforts, rather than the university's regional recruitment centers. Makes conforming changes.

SECTION 2. Makes application of this Act prospective to admissions for the 2025-2026 academic year.

SECTION 3. Effective date: September 1, 2023.