

BILL ANALYSIS

C.S.S.B. 101
By: Shapiro
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

After a federal court struck down the use of race-based affirmative-action policies in Texas higher education admissions, the Legislature adopted a measure which guaranteed automatic admission to any public college or university in the state for those Texas students who graduate in the top 10 percent of their high school class. It was hoped that such legislation would provide greater access to public higher education by increasing geographic, socioeconomic, and racial/ethnic representation, without using race as an admissions criterion.

While the impact of this initiative on diversity continues to be debated, some argue that the impact of a single criterion admissions policy has become problematic. By mandating, without limitation, that institutions base admissions on a single factor, it is said that the state has significantly restricted the ability of a student to be admitted based on holistic file-review.

C.S.S.B 101 caps at 50 percent the number of students an institution is required to admit under the "Top 10 Percent Law." An institution at which the first-time resident undergraduate student admissions has reached the 50 percent cap would be required to give priority to those students who have completed the recommended or advanced high school program or equivalent curriculum. Once those students have been offered admission, the remaining students will be offered admission by percentile rank according to the graduating class standing based on grade point average.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 of the bill. Additionally, SECTION 4 of the bill requires, as required by Section 51.807(b), Education Code, as added by this Act, the rules to be adopted as soon as practicable after the effective date of the Act.

ANALYSIS

SECTION 1. Amends Section 51.803, Education Code, by amending Subsection (a) and adding Subsections (c) and (d) to provide that a general academic teaching institution is not required to admit under Subsection (a) more than 50 percent of the institution's first-time resident undergraduate students in an academic year. Provides that if the number of applicants who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds that percentage of the institution's enrollment capacity designated for first-time resident undergraduate students, the institution shall, except as provided by Subsection (d):

- (1) offer admission to those applicants beginning with those who completed the curriculum requirements established under Section 28.025 for the recommended or advanced high school program or an equivalent curriculum at a high school to which that section does not apply;
- (2) after offering admission to applicants under Subdivision (1), offer admission to the remaining applicants by percentile rank according to graduating class standing based on grade point average, beginning with the top percentile rank, until a sufficient number of applicants have accepted admission offers to fill that percentage of the institution's enrollment capacity designated for first-time resident undergraduate students, except that the institution must offer admission to all applicants with the same percentile rank; and

(3) after offering admission to applicants under Subdivisions (1) and (2), consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time freshmen students in accordance with Section 51.805.

The provision also provides that if the number of applicants qualified for admission under Subsection (c)(1) exceeds the percentage of the institution's enrollment capacity designated for first-time resident undergraduate students specified by Subsection (c), the institutions shall offer admission to those applicants by percentile rank according to graduating class standing based on grade point average, beginning with the top percentile rank, until a sufficient number of applicants have accepted admission offers to fill that percentage, except that the institution must offer admission to all applicants with the same percentile rank. It also requires the institution to consider any remaining applicants qualified for automatic admission under Subsection (a), including remaining applicants qualified for admission under Subsection (c)(1), in the same manner as other applicants for admission as first-time freshman students in accordance with Section 51.805. Makes a conforming change.

SECTION 2. Amends Section 51.807, Education Code, to require the Texas Higher Education Coordinating Board after consulting with the Texas Education Agency by rule to establish standards for determining for purposes of this subchapter whether a person completed a high school curriculum that is equivalent to the curriculum established under Section 28.025 for the recommended or advanced high school program. Deletes from Subsection (a) the rulemaking from the Texas Higher Education Coordinating Board relating to the reporting requirements of Section 51.806. Makes conforming changes.

SECTION 3. This Section provides that the change in law made by this Act applies beginning with admissions to institutions of higher education for the 2008-2009 academic year. Also, this Section provides that admissions to an institution of higher education before that academic year are covered by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. This provision requires the Texas Higher Education Coordinating Board to adopt rules as required by Section 51.807(b), Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 5. Effective date.

EFFECTIVE DATE

This Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substantial differences between the original and substitute are as follows. The substitute replaces SECTION 1 of the original bill, amending Sections 51.803 and 51.807, Education Code, with SECTIONS 1 and 2 of the substitute amending those same sections. As substituted, the bill caps the percentage of admissions required under the Top 10 Percent Law at 50, rather than 60 percent. The substitute gives priority for automatic admission to applicants who complete certain curriculum requirements, rather than imposing certain curriculum requirements on all students in order to qualify for automatic admission. The substitute removes various conditional and mandatory requirements of the original bill on institutions electing to admit students under the capped admissions policy, including removing the substance of Subsections 51.803(d) (recruitment and retention policies and community input), 51.803(e) (notice of percentile ranks anticipated to be required for automatic admission), and 51.803 (f) (automatic admission to other component institutions of a system) of the original bill. The substitute also removes Subsections 51.803(h) and 51.803(i), which provided exceptions to the curriculum requirements previously applicable to all students in order to qualify for automatic admission. The substitute also removes Subsection 51.803(j), providing for an August 31, 2015 expiration date.

The substitute removes SECTION 2 of the original bill, which amended Section 28.025, Education Code, regarding requirements for a school district regarding a student's transcript.

The substitute removes SECTION 3 of the original bill, which amended Section 28.026, Education Code, regarding requirements for a school district and the Commissioner regarding the notice of automatic college admission.

The substitute removes SECTION 4 of the original bill, which amended Section 51.4032, Education Code, as added by Chapter 694, Acts of the 79th Legislature, Regular Session, 2005, regarding the annual report of participation in higher education required of each general academic teaching institution and medical and dental unit as defined in Section 61.003, Education Code.

The substitute removes SECTION 5 of the original bill, which amended Subchapter D, Chapter 54, Education Code, by adding Section 54.202, regarding top 10 percent high school graduates admitted and enrolled under the automatic admission provisions of Section 51.803(c), Education Code.

The substitute removes SECTION 6 of the original bill, which amended Subchapter U, Chapter 51, Education Code, by adding Section 51.8035, effective September 1, 2015, regarding automatic admission for all institutions.

The substitute removes SECTION 7 of the original bill, which provided that the change in law made by this Act in adding Section 54.202, Education Code, applies beginning with tuition, fees, and other charges for the 2008 fall semester, and that tuition, fees, and other charges for a term or semester before the 2008 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

The substitute changes the transition section (SECTION 4 of the substitute and SECTION 9 of the original bill) to provide that the Texas Higher Education Coordinating Board shall adopt rules as required by Section 51.807(b), Education Code, as added by the substitute, as soon as practicable after the effective date, rather than rules related to admission of students under Section 51.803.

The substitute makes other conforming, technical, and non-substantive changes.