

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 185

Introduced by Senator Hernandez

February 7, 2011

An act to amend Section 66205 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as amended, Hernandez. Public postsecondary education.

Existing law, the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Existing law establishes the University of California, under the administration of the Regents of the University of California, and the California State University, under the administration of the Trustees of the California State University, as 2 of the public segments of postsecondary education. Provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the regents act, by resolution, to make these provisions applicable. A provision of the act expresses legislative intent with respect to the determination of standards and criteria for admission to the University of California and the California State University.

This bill would authorize the University of California and *require* the California State University to consider ~~geographic origin and household income, along with other relevant factors, in undergraduate and graduate admissions.~~ The bill would also authorize the University of California and the California State University to consider race, gender, ethnicity, and national origin, along with other relevant factors, in undergraduate and graduate admissions, to the maximum extent permitted by the 14th

Amendment to the United States Constitution, *Section 31 of Article I of the California Constitution*, and relevant case law.

The bill would require the trustees, ~~and request the regents~~, to report, in writing, to the Legislature and the Governor by November 1, 2012, on the implementation of the bill. The bill would require these reports to include information relative to the number of students admitted, disaggregated by race, gender, ethnicity, national origin, geographic origin, and household income, and compared to the prior 2 years of admissions.

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. Section 66205 of the Education Code is amended
2 to read:

3 66205. (a) In determining the standards and criteria for
4 undergraduate and graduate admissions to the University of
5 California and the California State University, it is the intent of
6 the Legislature that the governing boards do all of the following:

7 (1) Develop processes which strive to be fair and are easily
8 understandable.

9 (2) Consider the use of criteria and procedures that allow
10 students to enroll who are otherwise fully eligible and admissible
11 but who have course deficiencies due to circumstances beyond
12 their control, and, when appropriate, provide that the admission
13 requires the student to make up the deficiency.

14 (3) Consult broadly with California's diverse ethnic and cultural
15 communities.

16 (b) It is the intent of the Legislature that the University of
17 California and the California State University, pursuant to Section
18 66201.5, seek to enroll a student body that meets high academic
19 standards and reflects the cultural, racial, geographic, economic,
20 and social diversity of California.

21 (c) (1) Pursuant to subdivision (b), the University of California
22 *may*, and the California State University ~~may~~ *shall*, consider race,
23 gender, ethnicity, national origin, geographic origin, and household
24 income, along with other relevant factors, in undergraduate and
25 graduate admissions, so long as no preference is given. This
26 consideration may take place if and when the university, campus,

1 college, school, or program is attempting to obtain educational
2 benefit through the recruitment of a multifaceted, diverse student
3 body. It is the intent of the Legislature that this provision be
4 implemented to the maximum extent permitted by the decision of
5 the United States Supreme Court in *Grutter v. Bollinger* (2003)
6 539 U.S. 306, in which the court stated that the equal protection
7 clause of the 14th Amendment to the United States Constitution
8 does not prohibit a university’s “narrowly tailored use of race in
9 admissions decisions to further a compelling interest in obtaining
10 the educational benefits that flow from a diverse student body,”
11 and in conformity with Section 31 of Article I of the California
12 Constitution.

13 ~~(2) Pursuant to subdivision (b), the University of California and~~
14 ~~the California State University may consider race, gender, ethnicity,~~
15 ~~and national origin, along with other relevant factors, in~~
16 ~~undergraduate and graduate admissions, to the maximum extent~~
17 ~~permitted by the equal protection clause of the Fourteenth~~
18 ~~Amendment to the United States Constitution, including, but not~~
19 ~~limited to, any use to obtain an educational benefit through the~~
20 ~~recruitment of a multifaceted, diverse student body as permitted~~
21 ~~by the decision of the United States Supreme Court in *Grutter v.*~~
22 ~~*Bollinger* (2003) 539 U.S. 306, in which the court upheld a~~
23 ~~university’s “narrowly tailored use of race in admissions decisions~~
24 ~~to further a compelling interest in obtaining the educational benefits~~
25 ~~that flow from a diverse student body.”~~

26 (3)

27 (2) (A) The Trustees of the California State University shall;
28 and the Regents of the University of California are requested to,
29 report, in writing, to the Legislature and the Governor by November
30 1, 2012, on the implementation of this subdivision. These reports
31 shall include information relative to the number of students
32 admitted, disaggregated by race, gender, ethnicity, national origin,
33 geographic origin, and household income, and compared to the
34 prior two years of admissions.

35 (B) A report to be submitted pursuant to subparagraph (A) shall
36 be submitted in compliance with Section 9795 of the Government
37 Code.

38 (d) It is the intent of the Legislature that the California State
39 University and the University of California use existing
40 data-gathering methodologies to the greatest extent possible in

- 1 preparing the report required by paragraph ~~(3)~~ (2) of subdivision
- 2 (c).

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