

SUBJECT: Studying minority participation in higher education

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 6 ayes — Rangel, Bailey, Dunnam, Kamel, Rabuck, E. Reyna
0 nays
3 absent— Solis, Cuellar, Rodriguez

WITNESSES: For —Don Brown, Higher Education Coordinating Board; Al Kauffman, Mexican American Legal Defense Fund
Against — None

BACKGROUND : The Fifth U.S. Circuit Court of Appeals, in its *Hopwood v. Texas* decision last year, ruled that an affirmative action admissions program at the University of Texas School of Law was unconstitutional. The ruling has been interpreted by the Texas attorney general as voiding all such programs at public institutions of higher education in Texas.

The Higher Education Coordinating Board has collected data on the gender and ethnicity of students enrolled in Texas' colleges and universities ever since first being required to do so by a rider to the general appropriations act enacted by the 73rd Legislature in 1993.

DIGEST: HB 2146 would require the Higher Education Coordinating Board to collect data on and study the participation of racial, ethnic, and language minority groups in public colleges and universities. The board would have to collect data on minority applications, recruitment, admissions, retention, graduation, and professional licensing at both the undergraduate and graduate levels.

The coordinating board would be further required to study the factors affecting application and admission rates of minority groups, including recent legal developments, such as the *Hopwood* decision; recent changes in application or student recruiting procedures by public institutions of higher

education; and recent changes in admissions standards or practices at public institutions of higher education.

The coordinating board would be authorized to appoint advisory or other committees to assist in planning, conducting, or analyzing the study, and request the assistance of any state agency, office, department, or institution. Public higher education institutions would have to cooperate with the board in the study. The findings of the study would be reported to the governor, lieutenant governor, and speaker of the House by December 1, 1998.

HB 2146 would take effect immediately if finally approved by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 2146 would ensure that the state is able to make educated policy decisions regarding the participation of minorities in Texas higher education. Since *Hopwood*, the number of minority students applying and being admitted to Texas public colleges and universities has declined sharply. The greatest decline in applications has been at the UT Law School, which received 15 percent fewer applications from Hispanics and 42 percent for blacks, in contrast to 8 percent for Anglos. Admissions figures are similarly startling: after sending out 80 percent of its offers of admission this year, UT Law admitted fewer than 20 Hispanic students and only five African-American students.

The increasing under-representation of minorities in higher education requires the attention of all the state's leaders regardless of their position on affirmative action. If nothing else, self-interest should prompt swift action: today, more than 50 percent of all Texans under 25 are minorities. By 2008, minorities will constitute the majority of the population in Texas.

In response to the legal changes and subsequent decline in minority participation, both institutions of higher education and the Legislature have moved to craft admissions policies that would be both fair to all students and legally defensible. To best achieve this goal, Texas needs reliable data and analysis, which the coordinating board is best equipped to provide. Texas universities and colleges routinely collect and report to the coordinating board information regarding the participation of racial and ethnic minorities

in higher education. HB 2146 would pose no burden, therefore, either to the coordinating board nor to the institutions themselves.

In a forthcoming study, the coordinating board analyzes minority participation trends over the last six years; this study could serve as a benchmark against which to measure future trends in minority participation. Though such efforts have largely been undertaken on the initiative of the board, imminent personnel changes in the board's leadership make it uncertain whether these types of initiatives would continue without legislative direction.

HB 2146 would affirm that institutions are still required to maintain and report information on race and ethnicity to the coordinating board. The atmosphere surrounding higher education admissions has changed drastically since the *Hopwood* plaintiffs filed their suit challenging admissions procedures at UT Law over two years ago. Due to the current confusion surrounding which actions regarding race and ethnicity are allowable, institutions need direction from the Legislature on how to proceed.

HB 2146 would call for information complementary to that of a similar study being proposed this session in HB 3058 by Berlanga, which would require the comptroller to conduct a disparity study to determine whether past acts of discrimination by institutions of higher education have created any present effects of such discrimination.

As recent exchanges among the Legislature, the attorney general, and the U.S. Department of Education illustrate, Texas will continue to be called upon to explain and defend its higher education admission policies and their effects of the students of Texas. HB 2146 would be an essential step in this process.

OPPONENTS
SAY:

The coordinating board should be allowed to respond to the changes brought about by the *Hopwood* case in the manner it finds most suitable, without micro-management from the Legislature on the minutia of data collection and analysis.

The coordinating board already collects data similar to that required by HB 2146 and has already undertaken analysis of the effects of *Hopwood* as requests for information have been made by individual legislators. The issues HB 2146 was designed to raise are already being addressed, rendering the bill unnecessary.

A study such as the one proposed by HB 2146 would be inconclusive at best. The reasons students do or do not apply to college can be extremely subjective, and any one cause for changes in application and admissions numbers would be difficult to isolate.

OTHER
OPPONENTS
SAY:

HB 2146 would require the collection of data not only on racial and ethnic, but also language minority groups. "Language minority" is an ill-defined term; such data are not now collected by the coordinating board or major state institutions. Collection of this type of data would be difficult and excessively burdensome to both the coordinating board and institutions.

NOTES:

Rep. Maxey plans to offer a floor amendment removing the provision that the coordinating board include language minority groups in its collection and maintenance of information on racial and ethnic minority groups.