

Senate Bill No. 185

Passed the Senate September 1, 2011

Secretary of the Senate

Passed the Assembly August 29, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 185, 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 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, 2013, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 66205 of the Education Code is amended to read:

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

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

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

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

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

(c) (1) Pursuant to subdivision (b), the University of California may, and the California State University may, consider race, gender, ethnicity, national origin, geographic origin, and household income, along with other relevant factors, in undergraduate and graduate admissions, so long as no preference is given. This consideration may take place if and when the university, campus, college, school, or program is attempting to obtain educational benefit through the recruitment of a multifactored, diverse student body. It is the intent of the Legislature that this provision be implemented to the maximum extent permitted by the decision of the United States Supreme Court in *Grutter v. Bollinger* (2003) 539 U.S. 306, in which the court stated that the equal protection clause of the 14th Amendment to the United States Constitution does not prohibit a university's "narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body," and in conformity with Section 31 of Article I of the California Constitution.

(2) (A) The Trustees of the California State University shall, and the Regents of the University of California are requested to, report, in writing, to the Legislature and the Governor by November 1, 2013, on the implementation of this subdivision. These reports shall 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 two years of admissions.

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

(d) It is the intent of the Legislature that the California State University and the University of California use existing data-gathering methodologies to the greatest extent possible in preparing the report required by paragraph (2) of subdivision (c).

Approved _____, 2011

Governor