



# TEXAS HIGHER EDUCATION COORDINATING BOARD

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February 19, 2007

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512/ 427-6101  
Fax 512/ 427-6127

Web site:  
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Mr. John O'Brien  
Executive Director  
Legislative Budget Board  
Robert E. Johnson Building, 5<sup>th</sup> Floor  
1501 N. Congress  
Austin, Texas 78701

Dear Mr. O'Brien:

On behalf of the Coordinating Board, I am forwarding the following **Educational Impact Statement on Senate Bill 105**, which would authorize the Board of Regents of the University of North Texas System (UNT System) to establish and operate a law school in Dallas.

The Board staff has examined the critical issues of establishing a new law school in Dallas and offers the following information for the Senate members' consideration.

With the largest population of the state's 10 higher education regions, the Metroplex currently does not have a public law school; therefore, a public law school there would have the potential for providing access to a public law school education to a large number of Texas residents.

Texas currently has four public law schools and five independent law schools. The public law schools are Texas Southern University (Houston), Texas Tech University (Lubbock), the University of Houston, and The University of Texas at Austin. Independent law schools are Baylor University (Waco), St. Mary's University (San Antonio), South Texas College of Law (Houston), Southern Methodist University (Dallas), and Texas Wesleyan University (Fort Worth). The last law schools to receive American Bar Association approval were Texas Wesleyan in 1994 and Texas Tech in 1969 before that. In the last 20 years, the number of law school graduates has not increased as rapidly as the state's population or the number of undergraduate degrees awarded from its public and independent institutions. From 1985-2006, the number of law graduates increased 18 percent while the state's population increased 40 percent and undergraduate degrees awarded increased 61 percent.

According to one study, the state has fewer law graduates per 100,000 population than most other states. In 2006, there were 2,450 graduates from Texas law schools for a state with an estimated population of 23.5 million or 10.4 law graduates per 100,000 population. The U.S. ratio for 2003, the most recent year for which data are available, was 13.4 law graduates per 100,000 population. To achieve a ratio of 13.4, Texas would need to produce 3,150 law graduates per year (700 more than the current rate).

Texas ranks eighth among the ten most populous states in the ratio of lawyers to population. While there is no standard for an ideal ratio of lawyers to population, the Texas average of 304 lawyers per 100,000 population is lower than the national average (373) and the average of the 10 most populous states (394).

This may simply mean that the Texas economy does not require as many law school graduates per 100,000 population as other populous states.

As with many professionals, lawyers practice in areas where the need for their services is greatest. In 2005, the State Bar of Texas reported that the Dallas-Fort Worth-Arlington Metropolitan Statistical Area (MSA) had 357 lawyers per 100,000 population, which is close to the national average and ranks third in the state behind the Austin MSA (589), and the Houston MSA (415). At the county level, the State Bar reported that Dallas County had 626 lawyers per 100,000 population, second only to Travis County (Austin) with 878 lawyers per 100,000 population.

In considering the need for a new law school, Board staff also studied the opportunity for Texas residents to attend law school. Opportunity is measured by calculating the ratio of bachelor's degrees awarded in the state to the number of law school seats available in Texas, and then comparing that ratio to those for comparable states. In 2005, Texas ranked seventh among the ten most populous states in average opportunity to attend law school. Texas awarded 32 bachelor degrees per law school seat. The average for the ten states was 27 and the highest ranked state was Michigan with 18 bachelor's degrees awarded per seat. As the state continues to promote higher education and award more baccalaureate degrees, that opportunity will continue to decline if the number of seats in law school does not also increase.

Board staff also compared the average costs of law school at the state's public and independent institutions. It found that tuition and fees are at least 21 percent more at the least expensive law school at an independent institution than at the most expensive law school at a public institution in Texas. Tuition and fees range from \$10,268 (Texas Southern University) to \$16,935 (University at Texas at Austin) at public law schools, and \$20,520 (Texas Wesleyan University) to \$31,238 (Southern Methodist University) at independent schools. The average charges at the public law schools (\$13,174) are slightly above the national average (\$13,145), while charges at the state's independent law schools (\$24,425) are below the national average (\$28,900). While loans are available to students at all law schools, the large debts that students often accumulate can be a deterrent to enrollment at independent law schools. Student debt can be mitigated by a number of financial aid programs including the Tuition Equalization Grant Program (TEG), which is available to both graduate and professional students at independent institutions who meet the statutory requirements. Independent Colleges and Universities of Texas (ICUT) reports that, in fiscal year 2006, TEG provided \$323,792 in grants to 323 law students at Southern Methodist University and \$824,271 in TEG funds to 265 law students at Texas Wesleyan University.

While some of the information cited above gives cause for concern, several workforce indicators show that the state currently produces a sufficient number of lawyers to meet workforce demand. The Texas Board of Bar Examiners reports that 3,028 lawyers, of whom 72 percent (2,178) were Texas law school graduates, passed the Texas Bar examination in 2006. While many of the 850 who were not graduates

of Texas law schools may reside outside Texas and only occasionally practice in the state, these data suggest that Texas is attracting the lawyers it needs from out-of-state beyond the number it graduates. Furthermore, the Texas Workforce Commission projects only 1,535 new lawyer hires per year through 2012, approximately half the number who passed the bar exam in 2006. In a special study, the Texas Bar Association also reported a 2005 mean net annual earnings for city attorneys with 6 or fewer years of experience of \$48,900. This salary level suggests only a modest demand for new attorneys.

However, should the state choose to expand capacity and opportunity to attend law school, Board staff estimate that start-up costs for a new law school, excluding facility costs, would be \$23 million above the cost of adding the same capacity to existing law schools including inflation adjustment. All start-up costs assume that the school would begin employing some faculty (22) and staff as early as Fall 2007 and would enroll its first class of 150 to 200 students in Fall 2010 with 36 full-time faculty and staff. Based on this timeline, the law school would be eligible for formula funding for instruction and operations beginning in fiscal year 2012 but continue to receive special item funding from fiscal years 2008 through 2013. Start-up costs of the new school for the 2008-09 biennium are estimated to be \$3.2 million. An additional \$29.3 million would be required for the construction of a 165,000 square foot law school building (debt service would be an additional \$13 million over the initial five year period).

These amounts are minimal for the initial startup of a law school and may vary considerably depending on the number of faculty hired and the faculty salary levels. For example, these calculations are based on an average faculty salary of \$107,000 at Florida International University (the last U.S. law school to receive ABA accreditation when the analysis was conducted) adjusted for inflation with the number of faculty at the time of initial accreditation. Florida International University had approximately 32 faculty members by the time they received final accreditation. Faculty salaries could be considerably higher. For example, the University of Houston average faculty salary is \$157,301 for a professor and The University of Texas at Austin average professor salary is \$185,037.

In a recent survey of the nine law schools, Board staff found that, of the eight schools responding, two schools, Texas Southern and Texas Wesleyan, could increase their entering class size by a total of 45 entering students using existing resources (less than a 2 percent increase to the Fall 2006 statewide first-year enrollment). Although they did not indicate a desire to expand, five schools (TSU, Texas Tech, SMU, TWU and UH) reported that they could add 364 entering students with additional resources (a 14 percent increase to the current statewide total). The additional cost of adding these students would be incurred primarily for new faculty and staff although some construction would also be required. Two other schools, UT Austin and Baylor University, report that they would not consider increasing class size, and, in fact, want to decrease their law school enrollments in order to be more selective.

The average cost to General Revenue of supporting a law student at a public institution is currently \$6,381 per year (\$1.3 million for 200 students), which is approximately equivalent to the average annual cost of supporting a full-time graduate student at a public university but significantly more than the average cost to General Revenue of supporting a full-time undergraduate student at a public university (\$2,819) or community college (\$2,109). Thus, if overall educational funding is limited, each additional law school seat will displace one graduate school seat, 2.2 undergraduate seats or 2.9 community college seats.

As a final means of evaluating the merits of the proposed law school, Coordinating Board staff also examined regional access to law school. Although law schools are generally regarded as statewide resources, it is clear that regional balance would be improved by giving first priority to expanding law school capacity in South Texas. The Regional Plan for Texas Higher Education divides the state into 10 geographic regions, which for the purposes of law school analysis can be combined into five super regions. Of those super-regions, the South Texas/Upper Rio Grande (5.1 million population) has one independent law school at St. Mary's University with a total of 733 law students or 14.5 law students per 100,000 population. The next least well-served region is the Metroplex/Upper East region (7.3 million population) with SMU and Texas Wesleyan (1,739 combined enrollment) and a ratio of 23.9 law students per 100,000 population. The statewide ratio is 34.4 with the High Plains/Northwest/West ratio of 36.7, the Gulf Coast/Southeast ratio of 49.0 and the Central Texas ratio of 66.5. All of the Texas law schools enroll students from throughout the state and their graduates practice across the state.

## **Conclusion**

The data gathered by the Coordinating Board staff on the proposed law school in Dallas suggest that there is no urgent need currently for a new law school in the state and that, in regard to relative need, a stronger argument can be made to establish the next public law school in South Texas. It is certainly unseemly that the largest metropolitan region in Texas has no public law school and that Texas ranks eighth among the ten largest states in the ratio of lawyers to population. It is also troubling that Texas has been declining in "reasonable opportunity" for its residents to attend law school, again in comparison to the ten largest states, and that the reliance on private law schools to train Texas lawyers places an undue financial burden on the state's law students. Yet, even under these circumstances, the Metroplex is attracting sufficient numbers of lawyers to meet demand, according to available data. If the state determines that "reasonable opportunity" criteria for access to legal education justify a new public law school, the data suggest that Texas would be best served by placing the new school in South Texas. These considerations notwithstanding, the highly credible projections from the Texas Workforce Commission indicate that the state's law schools, both public and private, are more than meeting the state's need for new attorneys now and into the foreseeable future (and this without taking into account the significant number of attorneys trained in other states who come to Texas to practice). Furthermore, we urge that the issue of a new law school be weighed

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against the prioritized higher education needs identified by the Coordinating Board in its Legislative Appropriations Request such as increasing student financial aid and increasing funding for the Advanced Research Program, as well as fully funding the instruction and operations funding formula. Finally, in regard to the issue of higher educational needs in the Dallas area, we suggest that the aggressive development of the University of North Texas general campus in south Dallas, with its emphasis on undergraduate education in a community with one of the lowest educational attainment rates in the state, should be the highest priority.

The Coordinating Board welcomes the opportunity to comment upon proposed legislation affecting higher education. Please let me know if the Board or I can provide additional assistance regarding SB 105 or other proposed legislation.

Sincerely,

Raymund A. Paredes

c: Coordinating Board Members  
David Gardner

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