By:  Toth H.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on certain training concerning race or sex, including a prohibition on state or local government contracts with companies that require that training; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. CERTAIN TRAINING RELATING TO RACE OR SEX PROHIBITED

Sec. 620.001.  DEFINITIONS. In this chapter, "political subdivision" and "state agency" have the meanings assigned by Section 609.001.

Sec. 620.002.  CERTAIN TRAINING PROHIBITED. (a) A state agency or political subdivision may not, directly or through another entity, compel, inculcate, instruct, teach, or train an employee, student, service recipient, contractor, staff member, inmate, or other individual or group to adopt or express a belief in, or support for, racist or sexist concepts or revisionist history concerning race or sex, including that:

(1)  one race or sex is inherently superior to another race or sex;

(2)  an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(3)  an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;

(4)  members of one race or sex cannot and should not attempt to treat others without respect to race;

(5)  an individual's moral character, standing, or worth is necessarily determined by the individual's race;

(6)  an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(7)  an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;

(8)  meritocracy or traits such as having a strong work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;

(9)  the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or

(10)  with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.

(b)  A state agency or political subdivision may not subject an employee to an adverse employment action, warning, or discipline for refusing to participate in a training program or other activity described by Subsection (a).

(c)  Not later than November 1 of each year, a state agency or political subdivision shall review any training program relating to diversity or inclusion and evaluate whether the training program violates Subsection (a).

(d)  Except as provided by Subsection (a), this section may not be construed to prohibit or discourage a state agency or political subdivision from providing workplace sensitivity training based on the inherent humanity and equality of all persons and the idea that all persons should be treated with equality, dignity, and respect.

(e)  An effort by a state agency or political subdivision to encourage diversity and inclusion must, first and foremost, encourage public employees to not judge or treat another person differently on the basis of a protected characteristic.

Sec. 620.003.  ENFORCEMENT; CIVIL PENALTY FOR VIOLATION BY STATE AGENCY OR POLITICAL SUBDIVISION. (a) A state agency or political subdivision that violates Section 620.002 is liable to this state for a civil penalty in the amount of $5,000 for each violation. Each day a violation continues is considered a separate violation for purposes of this subsection.

(b)  A resident of this state may file a complaint with the attorney general alleging that a state agency or political subdivision is in violation of Section 620.002. The resident must include with the complaint a signed statement describing the violation.

(c)  If, based on an investigation, the attorney general determines that a violation of Section 620.002 has occurred, the attorney general shall provide the appropriate officer of the state agency or political subdivision with a written notice that:

(1)  describes the violation;

(2)  states the amount of the proposed civil penalty for the violation; and

(3)  requires the state agency or political subdivision to cure the violation on or before the 15th day after the date the notice is received to avoid the civil penalty, unless the state agency or political subdivision was previously found liable by a court for violating Section 620.002.

(d)  If a state agency or political subdivision does not cure the violation on or before the 15th day after the date notice under Subsection (c) is received or the state agency or political subdivision was previously found liable by a court for violating Section 620.002, the attorney general may sue to collect the civil penalty. In addition, the attorney general may petition for a writ of mandamus or apply for other appropriate equitable relief.

(e)  A suit or petition under this section may be filed in a district court in Travis County.

(f)  The attorney general may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(g)  Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

Sec. 620.004.  TERMINATION OF EMPLOYEE FOR VIOLATION. An employee of a state agency or political subdivision may be terminated for wilfully or repeatedly violating Section 620.002.

SECTION 2.  Subtitle F, Title 10, Government Code, is amended by adding Chapter 2275 to read as follows:

CHAPTER 2275. PROHIBITION ON CONTRACTS WITH COMPANIES THAT REQUIRE CERTAIN TRAINING RELATED TO RACE OR SEX

Sec. 2275.001.  DEFINITIONS. In this chapter:

(1)  "Company" has the meaning assigned by Section 808.001.

(2)  "Political subdivision" and "state agency" have the meanings assigned in Section 609.001.

Sec. 2275.002.  PROVISION REQUIRED IN CONTRACT. A state agency or political subdivision may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not, and will not during the term of the contract, compel, inculcate, instruct, teach, or train any public or private employee, student, service recipient, contractor, staff member, inmate, or other individual or group to adopt or express a belief in, or support for, racist or sexist concepts or revisionist history concerning race or sex, including that:

(1)  one race or sex is inherently superior to another race or sex;

(2)  an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(3)  an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;

(4)  members of one race or sex cannot and should not attempt to treat others without respect to race;

(5)  an individual's moral character, standing, or worth is necessarily determined by the individual's race;

(6)  an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(7)  an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;

(8)  meritocracy or traits such as having a strong work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;

(9)  the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or

(10)  with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.

SECTION 3.  Chapter 2275, Government Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.