

By: Toth

H.B. No. 40

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a prohibition on certain training concerning race or
3 sex, including a prohibition on state or local government contracts
4 with companies that require that training; providing a civil
5 penalty.

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

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

9 CHAPTER 620. CERTAIN TRAINING RELATING TO RACE OR SEX PROHIBITED

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

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

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

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

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

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

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

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

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

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

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

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

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

1 described by Subsection (a).

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

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

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

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

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

27 (c) If, based on an investigation, the attorney general

1 determines that a violation of Section 620.002 has occurred, the
2 attorney general shall provide the appropriate officer of the state
3 agency or political subdivision with a written notice that:

4 (1) describes the violation;

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

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

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

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

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

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

27 Sec. 620.004. TERMINATION OF EMPLOYEE FOR VIOLATION. An

1 employee of a state agency or political subdivision may be
2 terminated for wilfully or repeatedly violating Section 620.002.

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

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

7 Sec. 2275.001. DEFINITIONS. In this chapter:

8 (1) "Company" has the meaning assigned by Section
9 808.001.

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

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

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

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

27 (3) an individual should be discriminated against or

1 receive adverse treatment solely or partly because of the
2 individual's race;

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

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

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

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

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

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

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

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

1 entered into, and the former law is continued in effect for that
2 purpose.

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