



M. S. J.

FLOOR AMENDMENT NO. _____

BY: _____

Amend C.S.S.B. 17 (house committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 51.352(d), Education Code, is amended to read as follows:

(d) In addition to powers and duties specifically granted by this code or other law, each governing board shall:

(1) establish, for each institution under its control and management, goals consistent with the role and mission of the institution;

(2) appoint the chancellor or other chief executive officer of the system, if the board governs a university system;

(3) appoint the president, or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals;

(4) ensure that a majority of the members of a search committee for the position of president or other chief executive officer of an institution under the board's control and management are members of the board;

(5) set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by the coordinating board; and

(6) [+5] ensure that its formal position on matters of

importance to the institutions under its governance is made clear to the coordinating board when such matters are under consideration by the coordinating board.

SECTION 2. Subchapter G, Chapter 51, Education Code, is amended by adding Section 51.3525 to read as follows:

Sec. 51.3525. RESPONSIBILITY OF GOVERNING BOARDS REGARDING DIVERSITY, EQUITY, AND INCLUSION INITIATIVES. (a) In this section, "diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the purpose of:

(1) influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;

(2) promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;

(3) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel and the office of the attorney general for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or

(4) conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings,

programs, or activities developed by an attorney and approved in writing by the institution's general counsel and the office of the attorney general for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

(b) The governing board of an institution of higher education shall ensure that each unit of the institution:

(1) does not, except as required by federal law:

(A) establish or maintain a diversity, equity, and inclusion office;

(B) hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office;

(C) compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;

(D) give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or

(E) require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which:

(i) includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and

(ii) does not include a training, program, or

activity developed by an attorney and approved in writing by the institution's general counsel and the office of the attorney general for the sole purpose of ensuring compliance with any applicable court order or state or federal law; and

(2) adopts policies and procedures for disciplining an employee or contractor of the institution who engages in conduct in violation of Subdivision (1), including by termination, as appropriate.

(b-1) An accrediting agency may not take or threaten to take adverse action against an institution of higher education based on the institution's compliance with this section. If an accrediting agency takes or threatens to take adverse action against an institution of higher education in violation of this subsection, the attorney general, the institution, or an employee of the institution may bring an action for declaratory or injunctive relief against the agency.

(b-2) Subsection (b) (1) may not be construed to apply to:

(1) academic course instruction;

(2) scholarly research or a creative work by an institution of higher education's students, faculty, or other research personnel or the dissemination of that research or work;

(3) an activity of a student organization registered with or recognized by an institution of higher education;

(4) guest speakers or performers on short-term engagements;

(5) a policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes

that is designed and implemented without regard to race, color, ethnicity, or sex;

(6) data collection; or

(7) student admissions.

(c) An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Texas Higher Education Coordinating Board a report certifying the board's compliance with Subsection (b) during the preceding state fiscal year.

(c-1) In the interim between each regular session of the legislature, the governing board of each institution of higher education, or the board's designee, shall testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with Subsection (b).

(d) The state auditor shall periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of this section. The state auditor shall adopt a schedule by which the state auditor will conduct compliance audits under this subsection. The schedule must ensure that each institution of higher education is audited at least once every four years.

(e) If the state auditor determines pursuant to a compliance audit conducted under Subsection (d) that an institution of higher education has spent state money in violation of this section, the

institution is ineligible to receive state funds for the state fiscal year immediately following the state fiscal year in which the determination is made, other than state funds appropriated to pay debt service on bonds or notes previously authorized for the institution.

(f) A student or employee of an institution of higher education who is required to participate in training in violation of Subsection (b) (1) (E) may bring an action against the institution for injunctive or declaratory relief.

SECTION 3. (a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2023-2024 academic year.

(b) Section 51.3525(c), Education Code, as added by this Act, applies beginning with money appropriated to a public institution of higher education for the state fiscal year beginning September 1, 2024.

SECTION 4. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 5. 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 September 1, 2023.