88R29956 KJE-F

By:  Creighton, et al. S.B. No. 17

(Kuempel, Shaheen, Bonnen)

Substitute the following for S.B. No. 17:

By:  Kuempel C.S.S.B. No. 17

A BILL TO BE ENTITLED

AN ACT

relating to the purpose of public institutions of higher education and the powers and duties of the governing boards of those institutions.

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

SECTION 1.  Subtitle A, Title 3, Education Code, is amended by adding Chapter 50 to read as follows:

CHAPTER 50. HIGHER EDUCATION PURPOSE

Sec. 50.001.  HIGHER EDUCATION PURPOSE. A public institution of higher education must be committed to creating an environment of:

(1)  intellectual inquiry and academic freedom so that all students are equipped for participation in the workforce and the betterment of society; and

(2)  intellectual diversity so that all students are respected and educated regardless of race, sex, or ethnicity or social, political, or religious background or belief.

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)  engaging in hiring or employment practices at the institution that give preferential treatment on the basis of race, sex, color, or ethnicity, other than through the use of nondiscriminatory hiring processes in accordance with any applicable state and federal antidiscrimination laws;

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

(3)  implementing policies or procedures that give preferential treatment on the basis of race, sex, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel for the purpose of ensuring compliance with any applicable court order or state or federal law in accordance with institutional policy; or

(4)  conducting trainings, programs, or activities that advocate for or give preferential treatment on the basis of race, sex, 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 for the purpose of ensuring compliance with any applicable court order or state or federal law in accordance with institutional policy.

(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 or as provided by Subsection (c):

(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 that advocates for or gives preferential treatment on the basis of race, sex, 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 for the purpose of ensuring compliance with any applicable court order or state or federal law in accordance with institutional policy; and

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

(c)  The governing board of an institution of higher education may approve the institution's implementation of a program described by Subsection (b)(1) if the governing board determines that the program:

(1)  otherwise complies with applicable state and federal law; and

(2)  is necessary for the institution to comply with:

(A)  the terms of a grant awarded by or contract with the federal government, a private entity, or a nonprofit organization; or

(B)  the standards or requirements of the institution's accrediting agency.

(d)  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 program or activity to enhance student academic achievement or postgraduate outcomes that allows participation without regard to race, sex, color, or ethnicity;

(6)  data collection; or

(7)  student recruitment or admissions.

(e)  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 this section during the preceding state fiscal year.

(f)  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 this section.

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(e), 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.  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.