

By: Creighton, et al.
(Kuempel, Shaheen, Bonnen)

S.B. No. 17

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

By: Kuempel

C.S.S.B. No. 17

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the purpose of public institutions of higher education
3 and the powers and duties of the governing boards of those
4 institutions.

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

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

8 CHAPTER 50. HIGHER EDUCATION PURPOSE

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

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

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

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

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

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

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

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

14 (4) conducting trainings, programs, or activities
15 that advocate for or give preferential treatment on the basis of
16 race, sex, color, ethnicity, gender identity, or sexual
17 orientation, other than trainings, programs, or activities
18 developed by an attorney and approved in writing by the
19 institution's general counsel for the purpose of ensuring
20 compliance with any applicable court order or state or federal law
21 in accordance with institutional policy.

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

24 (1) does not, except as required by federal law or as
25 provided by Subsection (c):

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

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

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

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

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

15 (i) includes a training, program, or
16 activity that advocates for or gives preferential treatment on the
17 basis of race, sex, color, ethnicity, gender identity, or sexual
18 orientation; and

19 (ii) does not include a training, program,
20 or activity developed by an attorney and approved in writing by the
21 institution's general counsel for the purpose of ensuring
22 compliance with any applicable court order or state or federal law
23 in accordance with institutional policy; and

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

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

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

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

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

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

13 (d) Subsection (b)(1) may not be construed to apply to:

14 (1) academic course instruction;

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

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

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

22 (5) a program or activity to enhance student academic
23 achievement or postgraduate outcomes that allows participation
24 without regard to race, sex, color, or ethnicity;

25 (6) data collection; or

26 (7) student recruitment or admissions.

27 (e) An institution of higher education may not spend money

1 appropriated to the institution for a state fiscal year until the
2 governing board of the institution submits to the legislature and
3 the Texas Higher Education Coordinating Board a report certifying
4 the board's compliance with this section during the preceding state
5 fiscal year.

6 (f) In the interim between each regular session of the
7 legislature, the governing board of each institution of higher
8 education, or the board's designee, shall testify before the
9 standing legislative committees with primary jurisdiction over
10 higher education at a public hearing of the committee regarding the
11 board's compliance with this section.

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

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

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2023.