

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1944

By: Representative Gonzales

For An Act To Be Entitled

AN ACT TO CREATE THE DEMOGRAPHIC PREFERENCE
DISCLOSURE ACT; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO CREATE THE DEMOGRAPHIC
PREFERENCE DISCLOSURE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1: Arkansas Code Title 6, Chapter 60, is amended to add an additional subchapter to read as follows:

Subchapter 10 – Demographic Preference Disclosure Act

6-60-1001. Title.

This subchapter shall be known and may be cited as the "Demographic Preference Disclosure Act".

6-60-1002. Findings.

The General Assembly finds that:

(1) Citizens and taxpayers in Arkansas have a right to know whether state-supported institutions of higher education are treating student applications differently depending on a student's race, color, ethnicity, national origin, or other demographic preferences and, if so, the consequences to the student applicants of doing so;

(2) The United States Supreme Court has set limitations on considerations of race, color, ethnicity, and national origin in public



institutions of higher education admissions;

(3) Based on the past holdings, it is reasonable to expect that the United States Supreme Court may create limitations on considerations with respect to state government employment in the future; and

(4) It is the duty of the General Assembly to ensure that those limitations are being observed so that the state is not exposed to expensive litigation.

6-60-1003. Definitions

As used in this subchapter, "demographic preferences" means gender, legacy status, regional location, religious, sexual orientation, or socioeconomic status.

6-60-1004. Higher education reporting requirement.

(a)(1)(A) Beginning October 1, 2016, and each year thereafter, each state-supported institution of higher education in this state shall provide annually to the Senate Committee on Education, House Committee on Education, and the public a report regarding its student admissions process which shall include:

(i) A statement of whether race, color, ethnicity, national origin, or other demographic preferences are considered in the student admissions process; and

(ii) Which department or departments within the institution, if any, have separate admission processes that consider race, color, ethnicity, national origin, or other demographic preferences in the student admissions process.

(B) If a state-supported institution of higher education or a department of a state-supported institution of higher education considers race, color, ethnicity, national origin, or other demographic preferences in the student admission process, the state-supported institution of higher education shall provide in the report described in subdivision (a)(1)(A) of this section the following information:

(i) How such group membership is:

(a) Determined;

(b) Used to meet targets, goals, or quotas;

and

(c) Weighted;

(ii) Why such group membership is considered including the determination of the critical mass level and relationship to the particular institution's education mission with respect to the diversity rationale;

(iii) What consideration has been given to neutral alternatives as a means for achieving the same goals for which such group membership is considered;

(iv) How frequently:

(a) The need to consider such group membership is reassessed; and

(b) The reassessment is conducted;

(v)(a) Factors other than race, color, ethnicity, national origin, and other demographic preferences collected in the admissions process by state-supported institutions of higher education where those factors include grades, class rank in high school, standardized test scores, state residency, or other quantifiable criteria.

(b) If such factors are collected, all raw admissions data for an applicant regarding these factors with the applicant's race, color, ethnicity, national origin, and other demographic preferences and the admissions decision made by the institution regarding that applicant shall accompany the report in computer-readable form with the names of individual students redacted but with appropriate links so that it is possible for the General Assembly or other interested persons to determine through statistical analysis the weight being given to race, color, ethnicity, national origin, and other demographic preferences relative to other factors; and

(vi) Analysis, relative to other groups, of whether there is a correlation between such group membership and:

(a) Favoritism because of race, color, ethnicity, national origin, or other demographic preferences;

(b) Likelihood of enrollment in a remediation program;

(c) Graduation rates; and

(d) Likelihood of defaulting on education loans.

(2) All personally identifiable information shall be redacted to the extent required by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

(b) This subchapter does not allow or permit preference or discrimination on the basis of race, color, ethnicity, or national origin.

(c) If a state-supported institution of higher education does not use demographic preferences in the admissions decision process, a statement to that effect satisfies the reporting requirements under this section.

6-60-1005. State agency reporting requirement.

(a)(1) Beginning October 1, 2016, and each year thereafter, each state agency, board or commission shall provide annually to the Senate Committee on State Agencies and Governmental Affairs, House Committee on State Agencies and Governmental Affairs, and the public a report regarding its employment process which shall include:

(A) A statement of whether race, color, ethnicity, national origin, or other demographic preferences are considered in the employment process; and

(B) Which department or departments within the state agency, board or commission, if any, have separate employment processes that consider race, color, ethnicity, national origin, or other demographic preferences in the employment process.

(2) If a state agency, board, or commission considers race, color, ethnicity, national origin, or other demographic preferences in the employment process, the state agency, board, or commission shall provide in the report described in subdivision (a)(1)(A) of this section the following information:

(A) How such group membership is:

(i) Determined;

(ii) Used to meet targets, goals, or quotas; and

(iii) Weighted;

(B) Why such group membership is considered including the determination of the critical mass level and relationship to the particular state agency, board, or commission's mission with respect to the diversity rationale;

(C) What consideration has been given to neutral

alternatives as a means for achieving the same goals for which such group membership is considered;

(D) How frequently:

(i) The need to consider such group membership is reassessed; and

(ii) The reassessment is conducted; and

(E)(i) Factors other than race, color, ethnicity, national origin, and other demographic preferences collected in the employment process by a state agency, board, or commission.

(ii) If such factors are collected, all raw employment data for applicants regarding these factors with the applicants' race, color, ethnicity, national origin, and other demographic preferences and the employment decision made by the state agency, board, or commission regarding that applicant shall accompany the report in computer-readable form with the names of individual employment applicants redacted but with appropriate links so that it is possible for the General Assembly or other interested persons to determine through statistical analysis the weight being given to race, color, ethnicity, national origin, and other demographic preferences relative to other factors.

(b) This subchapter does not allow or permit preference or discrimination on the basis of race, color, ethnicity, or national origin.

(c) A state agency, board, or commission with less than fifteen (15) employees is exempt from this section.

(d) If a state agency, board, or commission does not use demographic preferences in the employment decision process, a statement to that effect satisfies the reporting requirements under this section.