

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1944

5 By: Representative Gonzales
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE DEMOGRAPHIC PREFERENCE
9 DISCLOSURE ACT; AND FOR OTHER PURPOSES.
10

Subtitle

11 AN ACT TO CREATE THE DEMOGRAPHIC
12 PREFERENCE DISCLOSURE ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1: Arkansas Code Title 6, Chapter 60, is amended to add an
20 additional subchapter to read as follows:
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Subchapter 10 – Demographic Preference Disclosure Act

6-60-1001. Title.

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24 This subchapter shall be known and may be cited as the "Demographic
25 Preference Disclosure Act".
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6-60-1002. Findings.

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28 The General Assembly finds that:
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30 (1) Citizens and taxpayers in Arkansas have a right to know
31 whether state-supported institutions of higher education are treating student
32 applications differently depending on a student's race, color, ethnicity,
33 national origin, or other demographic preferences and, if so, the
34 consequences to the student applicants of doing so;

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



1 institutions of higher education admissions;

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

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

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 9 6-60-1003. Definitions

10 As used in this subchapter, “demographic preferences” means gender,
 11 legacy status, regional location, religious, sexual orientation, or
 12 socioeconomic status.

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 14 6-60-1004. Higher education reporting requirement.

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

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

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

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

33 (i) How such group membership is:

34 (a) Determined;

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

36 and

- 1 (c) Weighted;
- 2 (ii) Why such group membership is considered
- 3 including the determination of the critical mass level and relationship to
- 4 the particular institution's education mission with respect to the diversity
- 5 rationale;
- 6 (iii) What consideration has been given to neutral
- 7 alternatives as a means for achieving the same goals for which such group
- 8 membership is considered;
- 9 (iv) How frequently:
- 10 (a) The need to consider such group membership
- 11 is reassessed; and
- 12 (b) The reassessment is conducted;
- 13 (v)(a) Factors other than race, color, ethnicity,
- 14 national origin, and other demographic preferences collected in the
- 15 admissions process by state-supported institutions of higher education where
- 16 those factors include grades, class rank in high school, standardized test
- 17 scores, state residency, or other quantifiable criteria.
- 18 (b) If such factors are collected, all raw
- 19 admissions data for an applicant regarding these factors with the applicant's
- 20 race, color, ethnicity, national origin, and other demographic preferences
- 21 and the admissions decision made by the institution regarding that applicant
- 22 shall accompany the report in computer-readable form with the names of
- 23 individual students redacted but with appropriate links so that it is
- 24 possible for the General Assembly or other interested persons to determine
- 25 through statistical analysis the weight being given to race, color,
- 26 ethnicity, national origin, and other demographic preferences relative to
- 27 other factors; and
- 28 (vi) Analysis, relative to other groups, of whether
- 29 there is a correlation between such group membership and:
- 30 (a) Favoritism because of race, color,
- 31 ethnicity, national origin, or other demographic preferences;
- 32 (b) Likelihood of enrollment in a remediation
- 33 program;
- 34 (c) Graduation rates; and
- 35 (d) Likelihood of defaulting on education
- 36 loans.

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

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

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

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 10 6-60-1005. State agency reporting requirement.

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

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

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

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

28 (A) How such group membership is:

29 (i) Determined;

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

31 (iii) Weighted;

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

36 (C) What consideration has been given to neutral

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

3 (D) How frequently:

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

6 (ii) The reassessment is conducted; and

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

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

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

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

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

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