

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

A Bill

HOUSE BILL 1510

4
5 By: Representative Gonzales

For An Act To Be Entitled

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

Subtitle

12 TO CREATE THE DEMOGRAPHIC PREFERENCE
14 DISCLOSURE ACT.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code Title 6, Chapter 60, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 10 – Demographic Preference Disclosure Act

22
23 6-60-1001. Title.

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

26
27 6-60-1002. Findings.

28 The General Assembly finds that:

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

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



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

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

7
 8 6-60-1003. Definitions

9 As used in this subchapter, “other demographic preference” means the
 10 exercise of a preference based on gender, legacy status, regional location,
 11 religious, sexual orientation, or socioeconomic status.

12
 13 6-60-1004. Higher education reporting requirement.

14 (a)(1)(A) Beginning October 1, 2018, and each year thereafter, each
 15 state-supported institution of higher education in this state shall provide
 16 annually to the Senate Committee on Education, House Committee on Education,
 17 and the public a report regarding its student admissions process which shall
 18 include:

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

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

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

32 (i) How membership in a demographic group is:

33 (a) Determined;

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

35 and

36 (c) Weighted;

1 (ii) Why membership in a demographic group is
2 considered including the determination of the critical mass level and
3 relationship to the particular institution's education mission with respect
4 to the diversity rationale;

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

8 (iv) How frequently:

9 (a) The need to consider membership in a
10 demographic group is reassessed; and

11 (b) The reassessment is conducted;

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

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

27 (vi) Analysis, relative to other demographic groups,
28 of whether there is a correlation between membership in a demographic group
29 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.

9
10 6-60-1005. State agency reporting requirement.

11 (a)(1) Beginning October 1, 2018, 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 membership in a demographic group is:

29 (i) Determined;

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

31 (iii) Weighted;

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

36 (C) What consideration has been given to neutral

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

3 (D) How frequently:

4 (i) The need to consider such membership in a
5 demographic group is 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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