

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

SENATE BILL 627

4
5 By: Senators T. Garner, B. Ballinger, B. Johnson

For An Act To Be Entitled

8 AN ACT TO PROHIBIT THE PROPAGATION OF DIVISIVE
9 CONCEPTS; TO PROHIBIT STATE CONTRACTS WITH
10 CONTRACTORS WHO PROPAGATE DIVISIVE CONCEPTS; TO
11 REVIEW STATE ENTITY TRAINING MATERIALS; AND FOR OTHER
12 PURPOSES.

Subtitle

16 TO PROHIBIT THE PROPAGATION OF DIVISIVE
17 CONCEPTS; TO PROHIBIT STATE CONTRACTS
18 WITH CONTRACTORS WHO PROPAGATE DIVISIVE
19 CONCEPTS; AND TO REVIEW STATE ENTITY
20 TRAINING MATERIALS.

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

25 SECTION 1. Arkansas Code Title 25, Chapter 1, is amended to add an
26 additional subchapter to read as follows:

Subchapter 6 – Propagation of Divisive Concepts Prohibited

25-1-601. Definitions.

As used in this subchapter:

31 (1) “Contractor” means all persons, individuals, corporations,
32 or businesses of any kind that in any manner have entered into a contract, or
33 perform a subcontract pursuant to a contract, with the state of Arkansas;

34 (2) “Divisive concept” means the concept that:

35 (A) One race or sex is inherently superior to another race
36 or sex;



1 (B) The state of Arkansas or the United States is
2 fundamentally racist or sexist;

3 (C) An individual, by virtue of his or her race or sex, is
4 inherently racist, sexist, or oppressive, whether consciously or
5 unconsciously;

6 (D) An individual should be discriminated against or
7 receive adverse treatment solely or partly because of his or her race or sex;

8 (E) Members of one race or sex cannot and should not
9 attempt to treat others without respect to race or sex;

10 (F) An individual's moral character is necessarily
11 determined by his or her race or sex;

12 (G) An individual, by virtue of his or her race or sex,
13 bears responsibility for actions committed in the past by other members of
14 the same race or sex;

15 (H) Any individual should feel discomfort, guilt, anguish,
16 or any other form of psychological distress on account of his or her race or
17 sex;

18 (I) Meritocracy or traits such as a hard work ethic are
19 racist or sexist, or were created by a particular race to oppress another
20 race; or

21 (J) The term "divisive concept" includes any other form of
22 race or sex stereotyping or any other form of race or sex scapegoating;

23 (4) "Race or sex stereotyping" means ascribing character traits,
24 values, moral and ethical codes, privileges, status, or beliefs to a race or
25 sex, or to an individual because of his or her race or sex;

26 (5)(A) "Race or sex scapegoating" means assigning fault, blame,
27 or bias to a race or sex, or to members of a race or sex because of their
28 race or sex.

29 (B) "Race or sex scapegoating" encompasses any claim that,
30 consciously or unconsciously, and by virtue of his or her race or sex,
31 members of any race are inherently racist or are inherently inclined to
32 oppress others, or that members of a sex are inherently sexist or inclined to
33 oppress others; and

34 (6)(A) "State entity" means an instrumentality of state
35 government, including

36 (i) The Department of Agriculture;

- (ii) The Department of Commerce;
- (iii) The Department of Corrections;
- (iv) The Department of Education;
- (v) The Department of Energy and Environment;
- (vi) The Department of Finance and Administration;
- (vii) The Department of Health;
- (viii) The Department of Human Services;
- (ix) The Department of the Inspector General;
- (x) The Department of Labor and Licensing;
- (xi) The Department of the Military;
- (xii) The Department of Parks, Heritage, and
Tourism;
- (xiii) The Department of Public Safety;
- (xiv) The Department of Transformation and Shared
Services; and
- (xv) The Department of Veterans Affairs; and

(B) "State entity" does not include:

- (i) Political subdivisions of the state;
- (ii) Public schools;
- (iii) Charter schools;
- (iv) Institutions of higher education; or
- (v) The offices of constitutional officers.

25-1-602. Unlawful propagation of divisive concepts by a state entity.

(a) A state entity shall not teach, instruct, or train any employee, contractor, staff member, or any other individual or group, to adopt or believe any divisive concepts.

(b) No employee, contractor, or staff member, of the state of Arkansas shall face any penalty or discrimination on account of his or her refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to the divisive concepts defined under § 25-1-601.

25-1-603. Unlawful propagation of divisive concepts in state contracts.

(a) All state contracts entered into on or after the effective date of this subchapter shall include the following provision:

1 "During the performance of this contract, the contractor agrees as
2 follows:

3 The contractor shall not use any workplace training that inculcates in
4 its employees any form of race or sex stereotyping or any form of race or sex
5 scapegoating, including the concepts that:

6 (1) One race or sex is inherently superior to another race or
7 sex;

8 (2) An individual, by virtue of his or her race or sex, is
9 inherently racist, sexist, or oppressive, whether consciously or
10 unconsciously;

11 (3) An individual should be discriminated against or receive
12 adverse treatment solely or partly because of his or her race or sex;

13 (4) Members of one race or sex cannot and should not attempt to
14 treat others without respect to race or sex;

15 (5) An individual's moral character is necessarily determined by
16 his or her race or sex;

17 (6) An individual, by virtue of his or her race or sex, bears
18 responsibility for actions committed in the past by other members of the same
19 race or sex;

20 (7) Any individual should feel discomfort, guilt, anguish, or
21 any other form of psychological distress on account of his or her race or
22 sex; or

23 (8) meritocracy or traits such as a hard work ethic are racist or
24 sexist, or were created by a particular race to oppress another race. The
25 term "race or sex stereotyping" means ascribing character traits, values,
26 moral and ethical codes, privileges, status, or beliefs to a race or sex, or
27 to an individual because of his or her race or sex, and the term "race or sex
28 scapegoating" means assigning fault, blame, or bias to a race or sex, or to
29 members of a race or sex because of their race or sex."

30 (b) The contractor shall send to each labor union or representative of
31 workers with which the contractor has a collective bargaining agreement or
32 other contract or understanding a notice, to be provided by the state entity
33 contracting officer, advising the labor union or workers' representative of
34 the contractor's commitments under this section, and shall post copies of the
35 notice in conspicuous places available to employees and applicants for
36 employment.

1 (c) In the event of the contractor's noncompliance with the
2 requirements of this section, or with any rules or policies that may be
3 promulgated in accordance with this section, the contract may be canceled,
4 terminated, or suspended in whole or in part and the contractor may be
5 declared ineligible for further state entity contracts.

6 (d)(1) The contractor shall include the provisions of this section in
7 every subcontract or purchase order unless exempted by rules or policies
8 under Arkansas procurement law, so that such provisions shall be binding upon
9 each subcontractor or vendor.

10 (2) The contractor shall take such action with respect to any
11 subcontract or purchase order as may be directed by Arkansas procurement law
12 as a means of enforcing such provisions including sanctions for
13 noncompliance.

14 (e) The Department of Transformation and Shared Services, or a state
15 entity designated by the department, is directed to investigate complaints
16 received alleging that a state contractor is utilizing such training programs
17 in violation of the contractor's obligations under the binding provisions of
18 this section.

19 (f) The department shall take appropriate enforcement action and
20 provide remedial relief, as appropriate.

21
22 25-1-602. State entities – Grants.

23 The administrative head of all state entities shall review their
24 respective grant programs and identify programs for which the state entity
25 may, as a condition of receiving such a grant, require the recipient to
26 certify that it will not use state funds or assets to promote a divisive
27 concept.

28
29 25-1-602. State entity training.

30 (a)(1) The fair and equal treatment of individuals is an inviolable
31 principle that must be maintained in the state workplace.

32 (2) The administrative head of each state entity shall use his
33 or her authority under to ensure that the state entity, state entity
34 employees during work hours, and any contractors hired by the state entity to
35 provide training, workshops, forums, or similar programming, for purposes of
36 this section, "training", to state entity employees do not teach, advocate,

1 act upon, or promote in any training to state entity employees any of the
2 divisive concepts as defined in § 25-1-601.

3 (3) State entity diversity and inclusion efforts shall encourage
4 state entity employees not to judge each other by their color, race,
5 ethnicity, sex, or any other characteristic protected by federal or state
6 law.

7 (b) The Secretary of the Department of Transformation and Shared
8 Services shall develop rules for the enforcement of the provisions of this
9 subchapter.

10 (c) Each state entity head shall:

11 (1) Issue a policy incorporating the requirements of this
12 subchapter into state entity operations, including by making compliance with
13 the policy a provision in all state entity contracts;

14 (2) Request that the state entity thoroughly review and assess
15 not less than annually thereafter, state entity compliance with the
16 requirements of the policy in the form of a report submitted to the
17 Department of Transformation and Shared Services; and

18 (3) Assign at least one (1) employee of the state entity
19 responsibility for ensuring compliance with the requirements of the policy.

20
21 25-1-604. Review of state entity training.

22 (a) All training programs for state entity employees relating to
23 diversity or inclusion shall, before being used, be reviewed by the
24 Department of Transformation and Shared Services for compliance with this
25 subchapter.

26 (b) If a contractor provides a training for state entity employees
27 relating to diversity or inclusion that teaches, advocates, or promotes the
28 divisive concepts defined in § 25-1-601, and such action is in violation of
29 the applicable contract, the state entity that contracted for such training
30 shall evaluate whether to pursue debarment of that contractor, consistent
31 with applicable law and regulations.

32
33 25-1-605. Promotion of diversity – Severability.

34 (a) Nothing in this subchapter shall prevent agencies or contractors
35 from promoting racial, cultural, or ethnic diversity or inclusiveness,
36 provided such efforts are consistent with the requirements of this

1 subchapter.

2 (b) Nothing in this subchapter shall be construed to prohibit
3 discussing, as part of a larger course of academic instruction, the divisive
4 concepts listed in § 25-1-601 in an objective manner and without endorsement.

5 (c) If any section of this subchapter, or the application of any
6 provision to any person or circumstance, is held to be invalid, the remainder
7 of this subchapter and the application of its provisions to any other persons
8 or circumstances is severable.

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SECTION 2. DO NOT CODIFY. Effective date.

This act shall take effect January 1, 2022.