SB129

BXGNQJQ-2

By Senators Barfoot, Roberts, Elliott, Waggoner, Gudger, Shelnutt, Williams, Price, Chesteen, Orr, Jones, Butler, Allen, Givhan, Weaver, Livingston, Melson, Sessions, Albritton, Bell, Kelley, Carnley, Chambliss, Kitchens, Stutts

RFD: County and Municipal Government

First Read: 20-Feb-24

A BILL

TO BE ENTITLED

AN ACT

Relating to diversity, equity, and inclusion; to prohibit certain public entities from maintaining diversity, equity, and inclusion offices and from sponsoring diversity, equity, and inclusion programs; to provide prohibitions on the promotion, endorsement, and affirmation of certain divisive concepts in certain public settings; with exceptions to provide that certain circumstances are not prohibited; to require public institutions of higher education to designate restrooms on the basis of biological sex; and to authorize certain penalties for violation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms have the following meanings:

(1) CONTRACTOR. Any individual or entity that has entered into a public contract pursuant to Title 39 or Title 41, Code of Alabama 1975.

(2) DIVISIVE CONCEPTS. Any of the following concepts:

a. That any race, color, religion, sex, ethnicity, or

national origin is inherently superior or inferior.

b. That individuals should be discriminated against or adversely treated because of their race, color, religion, sex, ethnicity, or national origin.

c. That the moral character of an individual is determined by his or her race, color, religion, sex, ethnicity, or national origin.

d. That, by virtue of an individual's race, color, religion, sex, ethnicity, or national origin, the individual is inherently racist, sexist, or oppressive, whether consciously or subconsciously.

e. That individuals, by virtue of race, color, religion, sex, ethnicity, or national origin, are inherently responsible for actions committed in the past by other members of the same race, color, religion, sex, ethnicity, or national origin.

f. That fault, blame, or bias should be assigned to members of a race, color, religion, sex, ethnicity, or national origin, on the basis of race, color, religion, sex, ethnicity, or national origin.

g. That any individual should accept, acknowledge, affirm, or assent to a sense of guilt, complicity, or a need to apologize on the basis of his or her race, color, religion, sex, ethnicity, or national origin.

h. That meritocracy or traits such as a hard work ethic are racist or sexist.

(3) DIVERSITY, EQUITY, AND INCLUSION PROGRAM. Any program, class, training, seminar, or other event where

attendance is based on an individual's race, sex, gender identity, ethnicity, national origin, or sexual orientation, or that otherwise violates this act. This term does not include programs, classes, trainings, seminars, or other events that are necessary to comply with applicable state law, federal law, or court order.

(4) PUBLIC INSTITUTION OF HIGHER EDUCATION. As defined under Section 16-5-1, Code of Alabama 1975, which includes all universities governed by constitutionally created boards of trustees.

(5) STUDENT. Any individual enrolled in a public K-12 school or public institution of higher education.

Section 2. A state agency, local board of education, or public institution of higher education may not do any of the following:

(1) Sponsor any diversity, equity, and inclusion program or maintain any office, physical location, or department that promotes diversity, equity, and inclusion programs.

(2) Direct or compel a student, employee, or contractor to personally affirm, adopt, or adhere to a divisive concept.

(3) Require its students, employees, or contractors to attend or participate in any diversity, equity, and inclusion program or any training, orientation, or course work that advocates for or requires assent to a divisive concept.

(4) Require a student, employee, or contractor to share his or her personal point of view on any divisive concept outside of an academic setting, as provided in Section 4(3)b.

(5) Require its students, employees, or contractors to participate, as part of any required curriculum or mandatory professional training, in an activity that involves lobbying at the state or local level for legislation related to a divisive concept.

(6) Penalize or discriminate against a student, employee, or contractor on the basis of his or her refusal to support, believe, endorse, embrace, confess, or otherwise assent to a divisive concept or diversity statement.

(7) Condition enrollment or attendance in a class, training, or orientation solely on the basis of race or color.

(8) Authorize or expend funding, or apply for or accept a grant, federal funding, or private funding, for the purpose of compelling assent to any divisive concept or any other purpose prohibited in this act, provided that such funding may be provided to student, faculty, or staff organizations or associations.

Section 3. All state agencies and political subdivisions, including local boards of education and public institutions of higher education, may discipline or terminate the employment of any employee or contractor who knowingly violates this act, provided that:

(1) Any disciplinary action or termination of an employee of a public institution of higher education shall remain subject to relevant policies established by the institution.

(2) Termination of an employee or contractor of a local board of education remains subject to the appeal of the

termination to the local board of education or State Board of Education if applicable, or, if applicable, the Teacher Accountability Act, Chapter 24B of Title 16, Code of Alabama 1975, and the Students First Act, Chapter 24C of Title 16, Code of Alabama 1975.

Section 4. Nothing in this act:

(1) Prevents student, staff, or faculty organizations or associations from hosting diversity, equity, and inclusion programs or discussions that may involve divisive concepts, provided that no state funds are used to sponsor these programs. If a student, staff, or faculty organization or association hosts an event pursuant to this subdivision, it shall identify the sponsor of the event at the event and in any advertisements relating to the event.

(2) Prevents an employee or a contractor of a state agency, local board of education, or public institution of higher education who provides, as part of his or her job duties, orientation, course work, or training from responding to questions that are raised by participants in the orientation, course work, or training and that pertain to divisive concepts or diversity, equity, and inclusion.

(3)a. Prohibits a public institution of higher education from providing any instruction or taking any action in furtherance of satisfying any accreditation standard or requirement.

b. Prohibits a public institution of higher education from authorizing the teaching or discussion of any divisive concept in an objective manner and without endorsement as part

of a larger course of academic instruction, provided the institution and its employees do not compel assent to any divisive concept and otherwise comply with the provisions of this act.

c. Prohibits the required collection or reporting of demographic data by public institutions of higher education.

(4) Prohibits the teaching of topics or historical events in a historically accurate context.

(5) Prohibits an institution of higher education from performing research, collecting data, engaging in recruiting and outreach programs, offering academic support services, engaging in clinical trials, or providing medical or mental health care targeted to support individuals of any specific demographic.

(6) Prevents state agencies from promoting racial, cultural, or ethnic diversity or inclusiveness, provided these efforts are consistent with the requirements of this act.

(7) Prohibits a public institution of higher education from providing space or ancillary services to any student or employee on a non-discriminatory basis, including, but not limited to, support and guidance to ensure compliance with applicable university policies and laws, assistance with security needs, and registration of events.

(8) Prohibits housing, athletic programming, or social organizations that are segregated by sex. Each public institution of higher education shall ensure that every multiple occupancy restroom be designated for use by individuals based on their biological sex, as defined by

Section 16-1-54, Code of Alabama 1975.

(9) May be construed to inhibit or violate the First Amendment rights of any student or employee, or to undermine the duty of a public institution of higher education to protect, to the greatest degree, academic freedom, intellectual diversity, and free expression, provided that none of these protected tenets conflict with this act.

(10) Shall be deemed to affect or revise any provision in state law requiring that membership of a state board, commission, or authority be inclusive and reflect the racial, gender, geographic, urban, rural, and economic diversity of the state, nor impact any public official appointed to a state board, commission, or authority as of October 1, 2024.

(11) May be construed to affect or limit the activities of the Alabama Office of Minority Affairs.

Section 5. It is the intent of the Legislature that all constitutionally created boards of trustees comply with the requirements of this act.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, the declaration shall not affect the part which remains.

Section 7. This act shall become effective on October 1, 2024.

Senate

Read for the first time and referred 20-Feb-24
to the Senate committee on County
and Municipal Government

Read for the second time and placed 21-Feb-24
on the calendar:
1 amendment

Read for the third time and passed 22-Feb-24
as amended
Yeas 26
Nays 7
Abstains 0

Patrick Harris,
Secretary.