



March 14, 2023

SUMMARY OF BILL AS AMENDED (005889): Creates the *Tennessee Higher Education Freedom of Expression and Transparency Act*. Authorizes a student or employee of a public institution of higher education (institution) to file a report of an alleged violation related to a restriction on divisive concepts that occurred at the institution. Requires the institution to investigate the filed report and to take appropriate steps to correct any violation that is found to have occurred. Requires each institution to report violations and any corrective action annually to the comptroller of the treasury through the Comptroller's Office of Research and Education Accountability (OREA). Adds to the list of divisive concepts by prohibiting an institution's use of state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization that requires an individual to endorse or promote a divisive concept.

Requires institutions to notify their students and employees of the restrictions and the definitions of divisive concepts by including such information on the institution's website and on introductory materials provided by the institution to new students and employees. Further requires the institution to provide training to ensure compliance with the restrictions related to divisive concepts.

Prohibits an institution from approving or scheduling usage of its property that shows bias or favoritism for or against a student group for use of the property. Prohibits the institution from requiring a student group to pay fees or security deposits that are not charged to all other student groups or from denying access to student groups to the property if it is routinely used by other student groups. Clarifies that an institution is still authorized to ban demonstrations, or gatherings related to violations of obscenity or a divisive concept. Prohibits an institution from requiring an applicant for employment or admission to submit a personal diversity statement or to affirm the applicant's agreement with an institutional diversity statement as part of the application or admissions process.

Requires an institution to ensure that its employees whose job duties include diversity, equity, or inclusion are to be devoted to supporting student academic achievement and workforce readiness, or other related learning support activities necessary for the academic success of all students. Requires the institution to review that the requirements of the employee's duties in order to ensure the institution is in compliance and to submit an evaluation of the review to the chief executive of the institution in order to ensure the institution is in compliance and making progress toward the requirement outcomes.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- Each public institution of higher education can comply with the prohibitions relative to divisive concepts, can take appropriate steps to correct any violations of divisive concepts, and can meet reporting requirements to the OREA and its chief executives within existing resources.
- OREA can collect reports and corrected action plans submitted by the institutions within existing resources.
- Pursuant to Tenn. Code Ann. § 49-7-2405, the *Campus Free Speech Protection Act* includes prohibitions relative to institutions showing favoritism and bias for or against student groups or activities. The provisions of the proposed legislation would further solidify freedom of speech relative to campus guest speakers, student group activities, student use of property in which each institution is currently complying and can continue to do so under the proposed legislation without a significant fiscal impact to state or local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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