
Higher Education Committee

HB 2700

Brief Description: Permitting a college or university to maintain a diverse student population by considering race, color, ethnicity, or national origin in the admission and transfer process without using quotas, predetermined points, or set asides.

Sponsors: Representatives Kenney, Cox, Fromhold, Priest, Santos, Jarrett, Chase, Uptegrove, McIntire, Kessler, McCoy, Edwards, Haigh, Wood, Simpson, G., Schual-Berke, Conway, Hudgins and McDermott; by request of Governor Locke.

Brief Summary of Bill

- Grants express permission to public institutions of higher education to consider race, color, ethnicity, or national origin in admissions and transfer decisions.
- Limits the consideration of race, color, ethnicity, or national origin in admission and transfer decisions for the sole purpose of promoting diversity on the campus.

Hearing Date: 1/28/04

Staff: Sydney Forrester (786-7120).

Background:

State Law

In 1997, Initiative 200 was filed as an initiative to the Legislature. Petitions in support were filed in sufficient number to qualify the measure for certification to the 1998 Legislature. The Legislature took no action on the measure, so it became a ballot measure in the 1998 general election. A majority of voters approved the initiative and it became effective 30 days later in early December 1998.

Codified as RCW 49.60.400, the text of Initiative 200 prohibits the state from discriminating or granting preferential treatment to an individual or a group, based on race, sex, color, ethnicity, or national origin. Laws and governmental actions, however, which do not discriminate against or grant preferential treatment to an individual or group based on these factors, or which are necessary to establish or maintain eligibility for federal funds, are not prohibited. Also exempted are classifications necessary for privacy, medical or psychological treatment, undercover law enforcement, or film, video, or audio casting. And finally, providing separate athletic teams based on sex is allowed.

Recent U. S. Supreme Court Decisions

During its 2003 Term, the Court decided two cases addressing higher education admissions policies in which race was used as a factor. The Court had not addressed the use of race in public higher education since the 1978 *Bakke* case which reviewed a medical school's racial set-aside admissions policy and produced six separate opinions but no majority opinion.

Grutter v. Bolinger, 123 S. Ct. 2325 (2003)

A law school applicant sued the University of Michigan claiming race discrimination in the university's law school admissions policy. A majority of the Court held that the law school's use of race in its admissions policy was narrowly tailored and furthered a compelling interest in obtaining the benefits that flow from a diverse student body and was not prohibited by the Equal Protection Clause of the U. S. Constitution.

Gratz v. Bollinger, 123 S. Ct. 2411 (2003)

A class-action suit was filed against the University of Michigan claiming its undergraduate admissions policy constituted racial discrimination. The Court's majority opinion held that the university's undergraduate admissions policy was not narrowly tailored to achieve the university's interest in diversity and violated the Equal Protection Clause of the U. S. Constitution.

Summary of Bill:

Institutions of higher education are expressly authorized to implement admissions and transfer policies that include consideration of race, color, ethnicity, or national origin. Any such policy must meet minimum requirements, and all qualified applicants must be considered individually for their qualities and experiences that may contribute to diversity of the student body. No admissions slots may be set aside based on race, color, ethnicity, or national origin; no applicant may be given separate consideration based solely on these factors; and no predetermined value or weight may be assigned to these factors.

An admissions or transfer policy that includes consideration of race, color, ethnicity, or national origin also must include criteria for evaluating whether consideration of these factors continues to be necessary to promote diversity on campus, and a process for periodic review of the policy must be established. Finally, an institution that adopts such a policy must periodically explore race-neutral alternatives to achieve the diversity the institution is seeking.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.