
SENATE BILL 5019

State of Washington 60th Legislature 2007 Regular Session

By Senators Jacobsen, McCaslin, Poulsen, Delvin, Kline, Rockefeller and Murray

Read first time 01/08/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to higher education; amending RCW 28B.50.873;
2 adding new sections to chapter 28B.50 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) The state community and technical colleges hold a significant
6 place in our higher education system by providing citizens with high
7 quality instruction;

8 (2) The retention of excellent college professors is an integral
9 part to the success of our community and technical college system;

10 (3) Our state's colleges and universities are dedicated to the free
11 and open discussion of ideas that encourages the plurality of opinions
12 that has been the hallmark of the concept of academic freedom;

13 (4) Nearly half of the courses offered by the two-year colleges are
14 currently taught by nontenure track, part-time faculty who lack the job
15 security and academic freedom safeguards normally associated with
16 tenure;

17 (5) Job security for experienced faculty has long been a hallmark
18 of high-quality higher education and results in a more stable work
19 force of professionals dedicated to serving their students; and

1 (6) Good business practice and faculty morale is best served by the
2 time-honored labor practice of rewarding professors for their
3 seniority, continuing education, and experience.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.50 RCW
5 to read as follows:

6 (1) Each community and technical college shall develop a new senior
7 faculty position for nontenure track, part-time professors to be
8 officially called associate faculty.

9 (2) Nontenure track faculty are eligible for associate faculty
10 status after having taught for nine quarters.

11 (3) At a minimum, associate faculty shall have the following
12 privileges conferred on them as a result of their seniority:

13 (a) The right of first refusal on available departmental courses up
14 to the equivalent of a full-time teaching load each year for fall,
15 winter, and spring quarters;

16 (b) The right to bump other nontenure track faculty in the event
17 the associate faculty member's course is canceled;

18 (c) The right to be paid thirty-three percent of their contract by
19 the college in the event there is no one with less seniority to bump
20 and the associate faculty member's class is canceled;

21 (d) Their names and qualifications appearing in the college's
22 biennial catalogs;

23 (e) The right to receive annual contracts with the equivalent of
24 full-time teaching loads; and

25 (f) Annual contracts presumed to be automatically renewable.

26 (4) Associate faculty status shall be revocable for probable cause,
27 as outlined in the procedures for terminating full-time tenure track
28 faculty. The associate faculty member may appeal the decision, at his
29 or her option, including the right to a hearing and standard grievance
30 procedures afforded to full-time faculty by contract; and

31 (5) All nontenure track faculty who have taught more than nine
32 quarters before June 30, 2007, shall automatically be conferred
33 associate faculty status.

34 **Sec. 3.** RCW 28B.50.873 and 1991 c 238 s 72 are each amended to
35 read as follows:

36 The college board may declare a financial emergency under the

1 following conditions: (1) Reduction of allotments by the governor
2 pursuant to RCW 43.88.110(~~(+2)~~) (3), or (2) reduction by the
3 legislature from one biennium to the next or within a biennium of
4 appropriated funds based on constant dollars using the implicit price
5 deflator. When a district board of trustees determines that a
6 reduction in force of tenured (~~(+)~~) probationary, or associate
7 faculty members may be necessary due to financial emergency as declared
8 by the state board, written notice of the reduction in force and
9 separation from employment shall be given the faculty members so
10 affected by the president or district president as the case may be.
11 Said notice shall clearly indicate that separation is not due to the
12 job performance of the employee and hence is without prejudice to such
13 employee and need only state in addition the basis for the reduction in
14 force as one or more of the reasons enumerated in subsections (1) and
15 (2) of this section.

16 Said tenured (~~(+)~~) probationary, or associate faculty members
17 will have a right to request a formal hearing when being dismissed
18 pursuant to subsections (1) and (2) of this section. The only issue to
19 be determined shall be whether under the applicable policies, rules, or
20 collective bargaining agreement the particular faculty member or
21 members advised of severance are the proper ones to be terminated.
22 Said hearing shall be initiated by filing a written request therefor
23 with the president or district president, as the case may be, within
24 ten days after issuance of such notice. At such formal hearing the
25 tenure review committee provided for in RCW 28B.50.863 may observe the
26 formal hearing procedure and after the conclusion of such hearing offer
27 its recommended decision for consideration by the hearing officer.
28 Failure to timely request such a hearing shall cause separation from
29 service of such faculty members so notified on the effective date as
30 stated in the notice, regardless of the duration of any individual
31 employment contract.

32 The hearing required by this section shall be an adjudicative
33 proceeding pursuant to chapter 34.05 RCW, the administrative procedure
34 act, conducted by a hearing officer appointed by the board of trustees
35 and shall be concluded by the hearing officer within sixty days after
36 written notice of the reduction in force has been issued. Ten days
37 written notice of the formal hearing will be given to faculty members
38 who have requested such a hearing by the president or district

1 president as the case may be. The hearing officer within ten days
2 after conclusion of such formal hearing shall prepare findings,
3 conclusions of law and a recommended decision which shall be forwarded
4 to the board of trustees for its final action thereon. Any such
5 determination by the hearing officer under this section shall not be
6 subject to further tenure review committee action as otherwise provided
7 in this chapter.

8 Notwithstanding any other provision of this section, at the time of
9 a faculty member or members request for formal hearing said faculty
10 member or members may ask for participation in the choosing of the
11 hearing officer in the manner provided in RCW 28A.405.310(4), said
12 employee therein being a faculty member for the purposes hereof and
13 said board of directors therein being the board of trustees for the
14 purposes hereof: PROVIDED, That where there is more than one faculty
15 member affected by the board of trustees' reduction in force such
16 faculty members requesting hearing must act collectively in making such
17 request: PROVIDED FURTHER, That costs incurred for the services and
18 expenses of such hearing officer shall be shared equally by the
19 community or technical college and the faculty member or faculty
20 members requesting hearing.

21 When more than one faculty member is notified of termination
22 because of a reduction in force as provided in this section, hearings
23 for all such faculty members requesting formal hearing shall be
24 consolidated and only one such hearing for the affected faculty members
25 shall be held, and such consolidated hearing shall be concluded within
26 the time frame set forth herein.

27 Separation from service without prejudice after formal hearing
28 under the provisions of this section shall become effective upon final
29 action by the board of trustees.

30 It is the intent of the legislature by enactment of this section
31 and in accordance with RCW 28B.52.035, to modify any collective
32 bargaining agreements in effect, or any conflicting board policies or
33 rules, so that any reductions in force which take place after December
34 21, 1981, whether in progress or to be initiated, will comply solely
35 with the provisions of this section: PROVIDED, That any applicable
36 policies, rules, or provisions contained in a collective bargaining
37 agreement related to lay-off units, seniority and re-employment rights
38 shall not be affected by the provisions of this paragraph.

1 Nothing in this section shall be construed to affect the right of
2 the board of trustees or its designated appointing authority not to
3 renew a probationary faculty appointment pursuant to RCW 28B.50.857.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.50 RCW
5 to read as follows:

6 (1) Each community and technical college shall develop its
7 associate faculty positions by means of collective bargaining.

8 (2) Each community and technical college shall have its associate
9 faculty positions in place no later than September 30, 2008.

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