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**SENATE BILL 6578**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Ranker, Chase, Hasegawa, Darneille, Conway, Keiser, Saldaña, Hunt, Rolfes, Hobbs, Kuderer, and Liias

AN ACT Relating to policies for part-time faculty at institutions of higher education; amending RCW 41.05.065, 28B.50.4894, and 28B.50.489; adding a new chapter to Title 28B RCW; creating a new section; and recodifying RCW 28B.50.4892.

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

NEW SECTION. **Sec.**  The legislature finds that part-time faculty bring unique skills and expertise into workforce preparation and academic classrooms. Employing part-time faculty allows state institutions of higher education to offer more classes, when and where students need them, and the ability to respond to emerging student, community, and business needs. However, low salary levels, variable working conditions, and over reliance on part-time faculty have contributed to staffing concerns as state institutions of higher education absorb greater numbers of students.

The retention of excellent college professors is an integral part to the success of our state higher education system. Job security for experienced faculty has long been a hallmark of high quality higher education and results in a more stable workforce of professionals dedicated to serving their students. Yet nearly half of the courses offered by two-year colleges are taught by nontenure track, part-time faculty who lack the job security and academic freedom safeguards normally associated with tenure. Good business practice and faculty morale is best served by the time-honored labor practice of rewarding professors for their seniority, continuing education, and experience. Additionally, performance evaluations ensure instructional quality and provide feedback to faculty. An over reliance on student evaluations provides limited feedback and no guidance on how part-time faculty can improve.

Responding to these concerns, in 1996 and 2005 the legislature adopted provisions in RCW 28B.50.4892 (as recodified by this act) that required identification of best practices related to part-time faculty employment at community and technical colleges. The legislature reaffirms a commitment to addressing issues caused by reliance on a low-paid, part-time teaching workforce at state institutions of higher education.

NEW SECTION. **Sec.**  For the purposes of this chapter, "institutions of higher education" has the same meaning as in RCW 28B.10.016.

NEW SECTION. **Sec.**  (1) Each institution of higher education shall:

(a) Develop tracking systems that accurately capture part-time faculty work patterns;

(b) Review part-time faculty work patterns to identify faculty with a history of reappointments and consider providing early, multiquarter, multisemester, or annual appointment contracts; and

(c) Develop a review process and period that assesses the competence of part-time faculty and confers an enhanced status that provides a greater level of job security including, but not limited to, protections such as multiquarter or multisemester contracts, priority hiring lists, right of first refusal, or designation as associate faculty.

(2) For part-time faculty represented by an exclusive bargaining representative, each institution of higher education shall develop its review process, duration, and protections by means of collective bargaining.

NEW SECTION. **Sec.**  (1) Institutions of higher education shall:

(a) Evaluate part-time faculty using criteria, standards, and procedures comparable to that used to evaluate full-time faculty; and

(b) Include part-time faculty who have successfully completed the review process and exhibited teaching excellence through teaching awards available to full-time faculty.

(2) For part-time faculty represented by an exclusive bargaining representative, each institution of higher education shall develop its performance evaluation and process by means of collective bargaining.

NEW SECTION. **Sec.**  Institutions of higher education shall develop a job-based screening process for part-time faculty that applies the same or similar criteria used in hiring full-time faculty.

NEW SECTION. **Sec.**  In odd numbered years, institutions of higher education shall conduct a review of their actions related to improving the working conditions of part-time faculty.

NEW SECTION. **Sec.**  RCW 28B.50.4892 is recodified as a section in the new chapter created in section 12 of this act.

NEW SECTION. **Sec.**  For the purposes of determining eligibility of state-mandated insurance, retirement benefits under RCW 28B.10.400, and sick leave for part-time faculty, the following definitions shall be used:

(1) "Full-time academic workload" means the number of in-class teaching hours that a full-time instructor must teach to fulfill his or her employment obligations in a given discipline in a given institution of higher education. If full-time academic workload is defined in a contract adopted through the collective bargaining process, that definition shall prevail. If the full-time workload bargained in a contract includes more than in-class teaching hours, only that portion that is in-class teaching hours may be considered academic workload.

(2) "In-class teaching hours" means contact classroom and lab hours in which full or part-time faculty are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

(3) "Part-time academic workload" means any percentage of a full-time academic workload for which the part-time faculty is not paid on the full-time academic salary schedule.

NEW SECTION. **Sec.**  For the purposes of determining eligibility for receipt of state-mandated benefits for part-time faculty, each institution of higher education shall report to the appropriate agencies, the names of eligible part-time faculty who qualify for benefits based on calculating the hours worked by part-time faculty as a percentage of the part-time academic workload to the full-time academic workload in a given discipline in a given institution. Part-time faculty are identified as faculty for the purposes of health benefits under RCW 41.05.065.

NEW SECTION. **Sec.**  (1) Part-time faculty of institutions of higher education shall receive sick leave to be used for the same illnesses, injuries, bereavement, and emergencies as full-time faculty at an institution of higher education in proportion to the individual's teaching commitment at the institution of higher education.

(2) RCW 41.04.665 applies to leave sharing for part-time faculty who accrue sick leave under subsection (1) of this section.

(3) RCW 28B.50.553 applies to remuneration for unused sick leave for part-time faculty who accrue sick leave under subsection (1) of this section.

**Sec.**  RCW 41.05.065 and 2015 c 116 s 3 are each amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits; and

(f) Minimum standards for insuring entities.

(3) To maintain the comprehensive nature of employee health care benefits, benefits provided to employees shall be substantially equivalent to the state employees' health benefit((~~s~~)) plan in effect on January 1, 1993. Nothing in this subsection shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits or the administration of a high deductible health plan in conjunction with a health savings account. The board may establish employee eligibility criteria which are not substantially equivalent to employee eligibility criteria in effect on January 1, 1993.

(4) Except if bargained for under chapter 41.80 RCW, the board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria subject to the requirements of this chapter. Employer groups obtaining benefits through contractual agreement with the authority for employees defined in RCW 41.05.011(6)(a) (i) through ((~~(d)~~)) (iv) may contractually agree with the authority to benefits eligibility criteria which differs from that determined by the board. The eligibility criteria established by the board shall be no more restrictive than the following:

(a) Except as provided in (b) through (e) of this subsection, an employee is eligible for benefits from the date of employment if the employing agency anticipates he or she will work an average of at least eighty hours per month and for at least eight hours in each month for more than six consecutive months. An employee determined ineligible for benefits at the beginning of his or her employment shall become eligible in the following circumstances:

(i) An employee who works an average of at least eighty hours per month and for at least eight hours in each month and whose anticipated duration of employment is revised from less than or equal to six consecutive months to more than six consecutive months becomes eligible when the revision is made.

(ii) An employee who works an average of at least eighty hours per month over a period of six consecutive months and for at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period.

(b) A seasonal employee is eligible for benefits from the date of employment if the employing agency anticipates that he or she will work an average of at least eighty hours per month and for at least eight hours in each month of the season. A seasonal employee determined ineligible at the beginning of his or her employment who works an average of at least eighty hours per month over a period of six consecutive months and at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period. A benefits-eligible seasonal employee who works a season of less than nine months shall not be eligible for the employer contribution during the off season, but may continue enrollment in benefits during the off season by self-paying for the benefits. A benefits-eligible seasonal employee who works a season of nine months or more is eligible for the employer contribution through the off season following each season worked.

(c) Faculty are eligible as follows:

(i) Faculty who the employing agency anticipates will work half–time or more for the entire instructional year or equivalent nine-month period are eligible for benefits from the date of employment. Eligibility shall continue until the beginning of the first full month of the next instructional year, unless the employment relationship is terminated, in which case eligibility shall cease the first month following the notice of termination or the effective date of the termination, whichever is later.

(ii) Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period are eligible for benefits at the beginning of the second consecutive quarter or semester of employment in which he or she is anticipated to work, or has actually worked, half-time or more. Such an employee shall continue to receive uninterrupted employer contributions for benefits if the employee works at least half-time in a quarter or semester. Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period, but who actually work half-time or more throughout the entire instructional year, are eligible for summer or off-quarter or off-semester coverage. Faculty who have met the criteria of this subsection (4)(c)(ii), who work at least two quarters or two semesters of the academic year with an average academic year workload of half-time or more for three quarters or two semesters of the academic year, and who have worked an average of half-time or more in each of the two preceding academic years shall continue to receive uninterrupted employer contributions for benefits if he or she works at least half-time in a quarter or semester or works two quarters or two semesters of the academic year with an average academic workload each academic year of half-time or more for three quarters or two semesters. Eligibility under this section ceases immediately if this criteria is not met.

(iii) Faculty may establish or maintain eligibility for benefits by working for more than one institution of higher education. When faculty work for more than one institution of higher education, those institutions shall prorate the employer contribution costs, or if eligibility is reached through one institution, that institution will pay the full employer contribution. Faculty working for more than one institution must alert his or her employers to his or her potential eligibility in order to establish eligibility.

(iv) The employing agency must provide written notice to faculty who are potentially eligible for benefits under this subsection (4)(c) of their potential eligibility.

(v) To be eligible for maintenance of benefits through averaging under (c)(ii) of this subsection, faculty must provide written notification to his or her employing agency or agencies of his or her potential eligibility.

(vi) For the purposes of this subsection (4)(c):

(A) "Academic year" means summer, fall, winter, and spring quarters or summer, fall, and spring semesters;

(B) "Half-time" means one-half of the full-time academic workload as determined by each institution according to section 9 of this act; except that for community and technical college faculty, half-time academic workload is calculated according to RCW 28B.50.489.

(d) A legislator is eligible for benefits on the date his or her term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible for benefits on the date his or her term begins or they take the oath of office, whichever occurs first.

(e) A justice of the supreme court and judges of the court of appeals and the superior courts become eligible for benefits on the date he or she takes the oath of office.

(f) Except as provided in (c)(i) and (ii) of this subsection, eligibility ceases for any employee the first of the month following termination of the employment relationship.

(g) In determining eligibility under this section, the employing agency may disregard training hours, standby hours, or temporary changes in work hours as determined by the authority under this section.

(h) Insurance coverage for all eligible employees begins on the first day of the month following the date when eligibility for benefits is established. If the date eligibility is established is the first working day of a month, insurance coverage begins on that date.

(i) Eligibility for an employee whose work circumstances are described by more than one of the eligibility categories in (a) through (e) of this subsection shall be determined solely by the criteria of the category that most closely describes the employee's work circumstances.

(j) Except for an employee eligible for benefits under (b) or (c)(ii) of this subsection, an employee who has established eligibility for benefits under this section shall remain eligible for benefits each month in which he or she is in pay status for eight or more hours, if (i) he or she remains in a benefits-eligible position and (ii) leave from the benefits-eligible position is approved by the employing agency. A benefits-eligible seasonal employee is eligible for the employer contribution in any month of his or her season in which he or she is in pay status eight or more hours during that month. Eligibility ends if these conditions are not met, the employment relationship is terminated, or the employee voluntarily transfers to a noneligible position.

(k) For the purposes of this subsection, the board shall define "benefits-eligible position."

(5) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(6)(a) For any open enrollment period following August 24, 2011, the board shall offer a health savings account option for employees that conforms to section 223, Part VII of subchapter B of chapter 1 of the internal revenue code of 1986. The board shall comply with all applicable federal standards related to the establishment of health savings accounts.

(b) By November 30, 2015, and each year thereafter, the authority shall submit a report to the relevant legislative policy and fiscal committees that includes the following:

(i) Public employees' benefits board health plan cost and service utilization trends for the previous three years, in total and for each health plan offered to employees;

(ii) For each health plan offered to employees, the number and percentage of employees and dependents enrolled in the plan, and the age and gender demographics of enrollees in each plan;

(iii) Any impact of enrollment in alternatives to the most comprehensive plan, including the high deductible health plan with a health savings account, upon the cost of health benefits for those employees who have chosen to remain enrolled in the most comprehensive plan.

(7) Notwithstanding any other provision of this chapter, for any open enrollment period following August 24, 2011, the board shall offer a high deductible health plan in conjunction with a health savings account developed under subsection (6) of this section.

(8) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(9) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall adopt rules setting forth criteria by which it shall evaluate the plans.

(10) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments, political subdivisions, and tribal governments not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(11) The board may establish penalties to be imposed by the authority when the eligibility determinations of an employing agency fail to comply with the criteria under this chapter.

NEW SECTION. **Sec.**  Sections 2 through 6 and 8 through 10 of this act constitute a new chapter in Title 28B RCW.

**Sec.**  RCW 28B.50.4894 and 2006 c 308 s 3 are each amended to read as follows:

Health care benefits for part-time academic employees are governed by RCW ((~~41.05.053~~)) 41.05.065 and section 9 of this act.

**Sec.**  RCW 28B.50.489 and 2000 c 128 s 2 are each amended to read as follows:

For the purposes of determining eligibility of state-mandated insurance, retirement benefits under RCW 28B.10.400, and sick leave for part-time academic employees in community and technical colleges, the following definitions shall be used:

(1) "Full-time academic workload" means the number of in-class teaching hours that a full-time instructor must teach to fulfill his or her employment obligations in a given discipline in a given college. If full-time academic workload is defined in a contract adopted through the collective bargaining process, that definition shall prevail. If the full-time workload bargained in a contract includes more than in-class teaching hours, only that portion that is in-class teaching hours may be considered academic workload.

(2) "In-class teaching hours" means contact classroom and lab hours in which full or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

(3) "Academic employee" in a community or technical college means any ((~~teacher,~~)) counselor, librarian, or department head who is employed by a college district, whether full or part-time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(4) "Part-time academic workload" means any percentage of a full-time academic workload for which the part-time academic employee is not paid on the full-time academic salary schedule.

**--- END ---**