# HOUSE BILL REPORT

# ESHB 1509

As Passed Legislature

**Title:** An act relating to increasing flexibility of institutions of higher education to manage personnel, construction, purchasing, printing, and tuition.

**Brief Description:** Increasing flexibility of institutions of higher education.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Locke, Sommers, Silver, Jacobsen, Ludwig and Bray.)

**Brief History:**
Reported by House Committee on:
Appropriations, March 6, 1993, DPS;
Passed House, March 11, 1993, 98-0;
Amended by Senate;
Conference Committee Report Adopted;
Passed Legislature, April 25, 1993, 97-0.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Linville; Peery; Rust; Sehlin; Sommers; Talcott; Wang; Wineberry; and Wolfe.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Sheahan and Stevens.

**Staff:** Sherie Story (786-7142) and Chris Cordes (786-7117).

**Background:**

**Part I: Purchasing, Printing and Construction Authority**

The state Department of General Administration establishes requirements for the purchasing activities of all state agencies, including the institutions of higher education. Agencies are required to purchase from Central Stores and state mandatory contracts. Purchase of other items must comply with the public bid requirements requiring formal, sealed bids for items costing more than $6,000. The bid requirement threshold for purchases from non-state funds is $15,000 for institutions of higher education.

The public printer provides all printing, printing supplies, and paper for state agencies. For paper, stock, and binding materials, the public printer charges agencies the purchase price plus 5 percent for handling. The public printer may contract with private sources on behalf of agencies, and may charge agencies up to an additional 5 percent for handling.

Multiple-trade construction projects over $15,000 at community and technical colleges, and over $25,000 at four-year institutions, must be publicly bid rather than done by college employees. Single-trade construction projects over $10,000 at four-year institutions must be publicly bid. A small works roster process may be used for the purpose of competitively awarding construction projects costing up to $50,000 at all higher education institutions. Projects costing more than $50,000 must be awarded using a formal, publicly advertised, sealed-bid process. The Department of General Administration manages construction projects, including the bid process, at the community and technical colleges.

**Part II: Tuition Authority**

Student tuition is comprised of three parts: operating fees; building fees; and student services and activities fees. Revenue from building and operating fees is transmitted to the state treasurer. The treasurer maintains separate operating fees and building fees accounts for each institution. They are subject to appropriation by the Legislature. Interest earnings are retained in the general fund.

The operating fees amounts are established in statute as a fixed percentage of educational costs. The percentage varies according to type of student and type of institution attended. Building fees are fixed at a dollar amount in statute.

**Part III: Employment Relations**

The higher education personnel law is administered by the Higher Education Personnel Board (HEPB). The HEPB is responsible for civil service rules, classification for all higher education classified personnel, and collective bargaining procedures for classified personnel. Classified employees have the right to collectively bargain on grievance procedures and personnel matters over which the institution may "lawfully exercise discretion." Because the higher education personnel law administered by the HEPB provides rules for most major personnel functions, collective bargaining is limited. The HEPB is paid for by charges to each institution against the salary base of classified employees.

Certain employees in higher education are exempt from civil service. Exempt employees include faculty, heads of administrative or academic divisions and their principal assistants, and employees involved in research, counseling, continuing education, and graphic arts.

The Public Employment Relations Commission is responsible for the administration of collective bargaining statutes that cover many public employees, such as the employees of cities, counties, municipal corporations, and political subdivisions; public school teachers; academic employees of community colleges; public utility districts; port district employees; and the Washington State Patrol.

**Summary of Bill:**

**Part I: Purchasing, Printing and Construction Authority**

Institutions may choose to manage competitive purchasing procedures independent of the Department of General Administration for a commodity or group of commodities. Purchasing policies established independently by institutions must comply with statutes regarding: minority and women's business enterprises; personal services contracts; employee expenses; leases; competitive bidding; equipment inventory requirements; acceptance of gifts by persons making purchasing decisions; purchases from inmate programs; energy conservation requirements for leases; in-state vendor preferences; and state-owned motor vehicles. If an institution can demonstrate to the Office of Financial Management that the costs of compliance are greater than the benefits, then it shall be exempted from requirements for: purchases from inmate programs; energy conservation requirements for leases; or clean fuel vehicles. Community and technical colleges must continue to purchase engineering and architectural services from the Department of General Administration. Institutions must continue to participate in the state's Risk Management Program, except for the University of Washington which does not currently participate. The institutions are required to develop property disposition policies that are consistent with those of the Department of General Administration.

The requirement to use a formal sealed bid process is raised from $6,000 to $15,000 for institutions of higher education.

Limits are to be adjusted biennially for inflation by the Office of Financial Management.

Institutions may choose to perform or contract printing jobs independent of the public printer.  If institutions contract with the public printer through an interlocal agreement, the 5 percent handling charges do not apply.  Institutions are required to develop vendor selection procedures comparable to those used by the public printer.

Community and technical colleges may use their own employees for construction projects costing up to $25,000 for multiple-trade projects, and $10,000 for single-trade projects.

Four-year institutions, and the Department of General Administration for construction projects at community and technical colleges, may use a small works roster for construction projects costing up to $100,000.

**Part II:  Tuition Authority**

Institutions are required to deposit operating fees in a local account containing only operating fees revenue and related interest.  The local accounts are not subject to appropriation by the Legislature.

Beginning in 1995-96, the building fee is changed from a fixed amount to a percentage of total tuition.  The percentages reflect what percent the 1994-95 fixed dollar building fee amounts are of tuition.

**Part III:  Employment Relations**

Bargaining units within the higher education personnel system are given an option to leave the civil service system and have their relationship and corresponding obligations governed by the Public Employees' Collective Bargaining Act (PECBA) as administered by the Public Employees Relations Commission (PERC).  The Higher Education Personnel Board (HEPB) or its successor board will continue to administer the civil service system, including collective bargaining over matters within agency discretion, for employees who do not opt out.

The parties choosing to exercise the option will file notice of intent with the HEPB or its successor board and the PERC. The bargaining unit as certified by the HEPB or its successor board will be recognized by the PERC and any union security agreement in effect for that unit will continue to apply to the unit.  The scope of bargaining will be governed by the PECBA, and includes wages, hours, and working conditions. However, the scope of bargaining does not include retirement benefits, or health or insurance benefits except for the related cost of these insurances or additional or supplemental health benefits as permitted under health care reform legislation. The option is effective, and the civil service system ceases to apply to the employees in the bargaining unit, when the parties have executed a collective bargaining agreement recognizing the notice of intent.

Compensation for employees who opt out of civil service is appropriated by the Legislature in the manner as it is appropriated for employees still covered by civil service. If a bargaining agreement includes salary increases that are additional to or different from those authorized by the Legislature, the salary base used to calculate future legislative increases may not include these different or additional increases. Bargaining units are authorized to meet with the governor over the compensation amounts that will be included in the governor's proposed budget.

For a period of six months after the option is exercised, charges to institutions of higher education for personnel services will continue to be based on a classified employee salary base that includes any employees who opt out of civil service. After six months, the Office of Financial Management will make across-the-board reductions so that the charge to the institutions does not increase during the biennium unless authorized by the Legislature.

New categories of personnel are made statutorily exempt from civil service, including managerial and professional employees with substantial responsibility for: (1) directing or controlling program operations; (2) formulating institution policy; or (3) carrying out personnel functions, legislative relations, public information, and internal audits.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 1993.

**Testimony For:** Making the laws less bureaucratic is a move toward decentralized decision making and will save the colleges and universities considerable money. College construction projects will be more timely and efficient without time-consuming and costly bid restrictions. Private sector principles are applied to the public sector by changing the incentives. Colleges are given more opportunity to enroll students, manage locally, and contract with small and local businesses. The collective bargaining option for classified employees is unique in that it provides an option to bargain and leave civil service. This is a civil service reform measure in which there is no overlap between civil service and collective bargaining.

**Testimony Against:** Delegation of tuition setting authority to institutions is disruptive and potentially undermines the philosophy of public institutions. Regental tuition setting authority without a requirement to raise financial aid is contrary to the legislative goal of access to higher education. Regental tuition setting authority that may set rates differently depending on future income is unfair. Students on financial aid will not be able to get increased aid because aid decisions are made in the spring, and tuition rates will be set later.

**Witnesses:** Tallman Trask, University of Washington (pro); Sallie Giffen, Washington State University (pro); Earl Hale and Phil Hayes, Community and Technical Colleges (pro); Ken Gamon, Council of Faculty Representatives (pro); Jim Sainsbury, Higher Education Coordinating Board (pro); Bob Edie, University of Washington (pro); Susan Johnson, Service Employees Union International (pro); Wendy Rader-Konofalski, Washington Federation of Teachers (pro); Eugene St. John, Washington Public Employees Association (pro with reservations); Keith Boyd, Caroleen Dineen, Alicia Higham, and Karen Turner, Washington Student Lobby (pro with concerns); and Mark W. Sherman, Academic Common Market (con section 11).