
SENATE BILL 5826

State of Washington**54th Legislature****1995 Regular Session****By Senator A. Anderson**

Read first time 02/08/95. Referred to Committee on Higher Education.

1 AN ACT Relating to the higher education options program; amending
2 RCW 41.06.070, 41.06.382, and 43.88.150; reenacting and amending RCW
3 28B.15.402 and 28B.15.502; adding new sections to chapter 28B.10 RCW;
4 creating new sections; providing an effective date; providing an
5 expiration date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 improve the quality of and access to our institutions of higher
9 education by expanding flexibility within the institutions of higher
10 education through strategies that foster cost controls and increase
11 quality and service levels through the use of free market enterprise
12 competition.

13 NEW SECTION. **Sec. 2.** This act shall be known as the higher
14 education options program.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10 RCW
16 to read as follows:

1 (1) The higher education options program, hereby created,
2 establishes that all institutions of higher education located in any
3 county in the state that contains a regional university, a community
4 college, and a technical college may set tuition within a statutory
5 limit and determine the enrollment levels at their respective
6 institutions and purchase services or the delivery of services through
7 contracts with individuals or business entities in the most efficient
8 and cost-effective manner.

9 (2) The director of general administration, through the state
10 purchasing and material control director established in RCW 43.19.180,
11 shall be provided the highest level of flexibility in the purchase of
12 all materials, supplies, services, and equipment necessary for the
13 efficient support, maintenance, repair, and use of all agencies and
14 departments under RCW 43.19.190.

15 (3) Institutions of higher education located in counties described
16 in subsection (1) of this section shall not be subject to any current
17 purchasing, personnel, and contracting limitations.

18 **Sec. 4.** RCW 41.06.070 and 1994 c 264 s 13 are each amended to read
19 as follows:

20 (1) The provisions of this chapter do not apply to:

21 (a) The members of the legislature or to any employee of, or
22 position in, the legislative branch of the state government including
23 members, officers, and employees of the legislative council,
24 legislative budget committee, statute law committee, and any interim
25 committee of the legislature;

26 (b) The justices of the supreme court, judges of the court of
27 appeals, judges of the superior courts or of the inferior courts, or to
28 any employee of, or position in the judicial branch of state
29 government;

30 (c) Officers, academic personnel, and employees of technical
31 colleges;

32 (d) The officers of the Washington state patrol;

33 (e) Elective officers of the state;

34 (f) The chief executive officer of each agency;

35 (g) In the departments of employment security and social and health
36 services, the director and the director's confidential secretary; in
37 all other departments, the executive head of which is an individual

1 appointed by the governor, the director, his or her confidential
2 secretary, and his or her statutory assistant directors;

3 (h) In the case of a multimember board, commission, or committee,
4 whether the members thereof are elected, appointed by the governor or
5 other authority, serve ex officio, or are otherwise chosen:

6 (i) All members of such boards, commissions, or committees;

7 (ii) If the members of the board, commission, or committee serve on
8 a part-time basis and there is a statutory executive officer: The
9 secretary of the board, commission, or committee; the chief executive
10 officer of the board, commission, or committee; and the confidential
11 secretary of the chief executive officer of the board, commission, or
12 committee;

13 (iii) If the members of the board, commission, or committee serve
14 on a full-time basis: The chief executive officer or administrative
15 officer as designated by the board, commission, or committee; and a
16 confidential secretary to the chair of the board, commission, or
17 committee;

18 (iv) If all members of the board, commission, or committee serve ex
19 officio: The chief executive officer; and the confidential secretary
20 of such chief executive officer;

21 (i) The confidential secretaries and administrative assistants in
22 the immediate offices of the elective officers of the state;

23 (j) Assistant attorneys general;

24 (k) Commissioned and enlisted personnel in the military service of
25 the state;

26 (l) Inmate, student, part-time, or temporary employees, and part-
27 time professional consultants, as defined by the Washington personnel
28 resources board;

29 (m) The public printer or to any employees of or positions in the
30 state printing plant;

31 (n) Officers and employees of the Washington state fruit
32 commission;

33 (o) Officers and employees of the Washington state apple
34 advertising commission;

35 (p) Officers and employees of the Washington state dairy products
36 commission;

37 (q) Officers and employees of the Washington tree fruit research
38 commission;

39 (r) Officers and employees of the Washington state beef commission;

1 (s) Officers and employees of any commission formed under chapter
2 15.66 RCW;

3 (t) Officers and employees of the state wheat commission formed
4 under chapter 15.63 RCW;

5 (u) Officers and employees of agricultural commissions formed under
6 chapter 15.65 RCW;

7 (v) Officers and employees of the nonprofit corporation formed
8 under chapter 67.40 RCW;

9 (w) Liquor vendors appointed by the Washington state liquor control
10 board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted
11 by the Washington personnel resources board pursuant to RCW 41.06.150
12 regarding the basis for, and procedures to be followed for, the
13 dismissal, suspension, or demotion of an employee, and appeals
14 therefrom shall be fully applicable to liquor vendors except those part
15 time agency vendors employed by the liquor control board when, in
16 addition to the sale of liquor for the state, they sell goods, wares,
17 merchandise, or services as a self-sustaining private retail business;

18 (x) Executive assistants for personnel administration and labor
19 relations in all state agencies employing such executive assistants
20 including but not limited to all departments, offices, commissions,
21 committees, boards, or other bodies subject to the provisions of this
22 chapter and this subsection shall prevail over any provision of law
23 inconsistent herewith unless specific exception is made in such law;

24 (y) In each agency with fifty or more employees: Deputy agency
25 heads, assistant directors or division directors, and not more than
26 three principal policy assistants who report directly to the agency
27 head or deputy agency heads;

28 (z) All employees of the marine employees' commission;

29 (aa) Up to a total of five senior staff positions of the western
30 library network under chapter 27.26 RCW responsible for formulating
31 policy or for directing program management of a major administrative
32 unit. This subsection shall expire on June 30, 1997.

33 (2) The following classifications, positions, and employees of
34 institutions of higher education and related boards are hereby exempted
35 from coverage of this chapter:

36 (a) Members of the governing board of each institution of higher
37 education and related boards, all presidents, vice-presidents and their
38 confidential secretaries, administrative and personal assistants;
39 deans, directors, and chairs; academic personnel; and executive heads

1 of major administrative or academic divisions employed by institutions
2 of higher education; principal assistants to executive heads of major
3 administrative or academic divisions; other managerial or professional
4 employees in an institution or related board having substantial
5 responsibility for directing or controlling program operations and
6 accountable for allocation of resources and program results, or for the
7 formulation of institutional policy, or for carrying out personnel
8 administration or labor relations functions, legislative relations,
9 public information, development, senior computer systems and network
10 programming, or internal audits and investigations; and any employee of
11 a community college district whose place of work is one which is
12 physically located outside the state of Washington and who is employed
13 pursuant to RCW 28B.50.092 and assigned to an educational program
14 operating outside of the state of Washington;

15 (b) Student, part-time, or temporary employees, and part-time
16 professional consultants, as defined by the Washington personnel
17 resources board, employed by institutions of higher education and
18 related boards;

19 (c) The governing board of each institution, and related boards,
20 may also exempt from this chapter classifications involving research
21 activities, counseling of students, extension or continuing education
22 activities, graphic arts or publications activities requiring
23 prescribed academic preparation or special training as determined by
24 the board((~~: PROVIDED, That no nonacademic employee engaged in office,~~
25 ~~clerical, maintenance, or food and trade services may be exempted by~~
26 ~~the board under this provision~~));

27 (d) Printing craft employees in the department of printing at the
28 University of Washington.

29 (3) In addition to the exemptions specifically provided by this
30 chapter, the Washington personnel resources board may provide for
31 further exemptions pursuant to the following procedures. The governor
32 or other appropriate elected official may submit requests for exemption
33 to the Washington personnel resources board stating the reasons for
34 requesting such exemptions. The Washington personnel resources board
35 shall hold a public hearing, after proper notice, on requests submitted
36 pursuant to this subsection. If the board determines that the position
37 for which exemption is requested is one involving substantial
38 responsibility for the formulation of basic agency or executive policy
39 or one involving directing and controlling program operations of an

1 agency or a major administrative division thereof, the Washington
2 personnel resources board shall grant the request and such
3 determination shall be final as to any decision made before July 1,
4 1993. The total number of additional exemptions permitted under this
5 subsection shall not exceed one percent of the number of employees in
6 the classified service not including employees of institutions of
7 higher education and related boards for those agencies not directly
8 under the authority of any elected public official other than the
9 governor, and shall not exceed a total of twenty-five for all agencies
10 under the authority of elected public officials other than the
11 governor. The Washington personnel resources board shall report to
12 each regular session of the legislature during an odd-numbered year all
13 exemptions granted under subsections (1) (x) and (y) and (2) of this
14 section, together with the reasons for such exemptions.

15 The salary and fringe benefits of all positions presently or
16 hereafter exempted except for the chief executive officer of each
17 agency, full-time members of boards and commissions, administrative
18 assistants and confidential secretaries in the immediate office of an
19 elected state official, and the personnel listed in subsections (1) (j)
20 through (v) and (2) of this section, shall be determined by the
21 Washington personnel resources board.

22 Any person holding a classified position subject to the provisions
23 of this chapter shall, when and if such position is subsequently
24 exempted from the application of this chapter, be afforded the
25 following rights: If such person previously held permanent status in
26 another classified position, such person shall have a right of
27 reversion to the highest class of position previously held, or to a
28 position of similar nature and salary.

29 Any classified employee having civil service status in a classified
30 position who accepts an appointment in an exempt position shall have
31 the right of reversion to the highest class of position previously
32 held, or to a position of similar nature and salary.

33 A person occupying an exempt position who is terminated from the
34 position for gross misconduct or malfeasance does not have the right of
35 reversion to a classified position as provided for in this section.

36 **Sec. 5.** RCW 41.06.382 and 1979 ex.s. c 46 s 1 are each amended to
37 read as follows:

1 (1) Except as provided in subsection (2) of this section, nothing
2 contained in this chapter shall prohibit any institution of higher
3 education, as defined in RCW 28B.10.016, or related board from
4 purchasing services by contract with individuals or business entities
5 if such services were regularly purchased by valid contract at such
6 institution prior to April 23, 1979: PROVIDED, That no such contract
7 may be executed or renewed if it would have the effect of terminating
8 classified employees or classified employee positions existing at the
9 time of the execution or renewal of the contract.

10 (2) An institution of higher education participating in the higher
11 education options program under section 3 of this act may purchase
12 services or the delivery of services through contracts with individuals
13 or business entities. The execution or renewal of the contract must be
14 in compliance with the provisions of RCW 43.19.1906.

15 **Sec. 6.** RCW 43.88.150 and 1991 c 284 s 3 are each amended to read
16 as follows:

17 (1) For those agencies that make expenditures from both
18 appropriated and nonappropriated funds for the same purpose, the
19 governor shall direct such agencies to charge their expenditures in
20 such ratio, as between appropriated and nonappropriated funds, as will
21 conserve appropriated funds. This subsection does not apply to
institutions of higher education, as defined in RCW 28B.10.016.

22 (2) Unless otherwise provided by law, if state moneys are
23 appropriated for a capital project and matching funds or other
24 contributions are required as a condition of the receipt of the state
25 moneys, the state moneys shall be disbursed in proportion to and only
26 to the extent that the matching funds or other contributions have been
27 received and are available for expenditure.

28 (3) The office of financial management shall adopt guidelines for
29 the implementation of this section. The guidelines may account for
30 federal matching requirements or other requirements to spend other
31 moneys in a particular manner.

32 **Sec. 7.** RCW 28B.15.402 and 1993 sp.s. c 18 s 11 and 1993 c 379 s
33 203 are each reenacted and amended to read as follows:

34 Tuition fees and maximum services and activities fees at the
35 regional universities and The Evergreen State College for other than
36 the summer term shall be as follows:

1 (1) For full time resident undergraduate students and all other
2 full time resident students not in graduate study programs, the total
3 tuition fees for the 1993-94 academic year shall be twenty-seven and
4 seven-tenths percent and thereafter total tuition fees shall be thirty-
5 one and five-tenths percent of the per student undergraduate
6 educational costs at the regional universities computed as provided in
7 RCW 28B.15.067 and 28B.15.070: PROVIDED, That for the 1996-97 through
8 1998-99 academic years, for regional universities in counties having at
9 least one community college and one technical college, the governing
10 board of the regional university may set tuition fees at up to five
11 percent per year above tuition fees at other regional universities and
12 the general fund state appropriation may not be reduced by the amount
13 of operating fees revenue collected as a result of institutionally set
14 tuition fees: PROVIDED FURTHER, That the building fees for each
15 academic year shall be seventy-six dollars and fifty cents. Beginning
16 with the 1995-96 academic year the building fee for each academic year
17 shall be a percentage of total tuition fees. This percentage shall be
18 calculated by the higher education coordinating board and be based on
19 the actual percentage the building fee is of total tuition in the 1994-
20 95 academic year, rounded up to the nearest half percent.

21 (2) For full time resident graduate students, the total tuition
22 fees for the 1993-94 academic year shall be twenty-five and three-
23 tenths percent and thereafter total tuition fees shall be twenty-eight
24 and six-tenths percent of the per student graduate educational costs at
25 the regional universities computed as provided in RCW 28B.15.067 and
26 28B.15.070: PROVIDED, That for the 1996-97 through 1998-99 academic
27 years, for regional universities in counties having at least one
28 community college and one technical college, the governing board of the
29 regional university may set tuition fees at up to five percent per year
30 above tuition fees at other regional universities and the general fund
31 state appropriation may not be reduced by the amount of operating fees
32 revenue collected as a result of institutionally set tuition fees:
33 PROVIDED FURTHER, That the building fees for each academic year shall
34 be seventy-six dollars and fifty cents. Beginning with the 1995-96
35 academic year the building fee for each academic year shall be a
36 percentage of total tuition fees. This percentage shall be calculated
37 by the higher education coordinating board and be based on the actual
38 percentage the building fee is of total tuition in the 1994-95 academic
39 year, rounded up to the nearest half percent.

1 (3) For full time nonresident undergraduate students and all other
2 full time nonresident students not in graduate study programs, the
3 total tuition fees for the 1993-94 academic year shall be one hundred
4 nine and four-tenths percent and thereafter total tuition fees shall be
5 one hundred twenty-three percent of the per student undergraduate
6 educational costs at the regional universities computed as provided in
7 RCW 28B.15.067 and 28B.15.070: PROVIDED, That for the 1996-97 through
8 1998-99 academic years, for regional universities in counties having at
9 least one community college and one technical college, the governing
10 board of the regional university may set tuition fees at up to five
11 percent per year above tuition fees at other regional universities and
12 the general fund state appropriation may not be reduced by the amount
13 of operating fees revenue collected as a result of institutionally set
14 tuition fees: PROVIDED FURTHER, That the building fees for each
15 academic year shall be two hundred and ninety-five dollars and fifty
16 cents. Beginning with the 1995-96 academic year the building fee for
17 each academic year shall be a percentage of total tuition fees. This
18 percentage shall be calculated by the higher education coordinating
19 board and be based on the actual percentage the building fee is of
20 total tuition in the 1994-95 academic year, rounded up to the nearest
21 half percent.

22 (4) For full time nonresident graduate students, the total tuition
23 fees for the 1993-94 academic year shall be eighty-two percent and
24 thereafter total tuition fees shall be ninety-two percent of the per
25 student graduate educational costs at the regional universities
26 computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That
27 for the 1996-97 through 1998-99 academic years, for regional
28 universities in counties having at least one community college and one
29 technical college, the governing board of the regional university may
30 set tuition fees at up to five percent per year above tuition fees at
31 other regional universities and the general fund state appropriation
32 may not be reduced by the amount of operating fees revenue collected as
33 a result of institutionally set tuition fees: PROVIDED FURTHER, That
34 the building fees for each academic year shall be two hundred and
35 ninety-five dollars and fifty cents. Beginning with the 1995-96
36 academic year the building fee for each academic year shall be a
37 percentage of total tuition fees. This percentage shall be calculated
38 by the higher education coordinating board and be based on the actual

1 percentage the building fee is of total tuition in the 1994-95 academic
2 year, rounded up to the nearest half percent.

3 (5) The governing boards of each of the regional universities and
4 The Evergreen State College shall charge to and collect from each
5 student, a services and activities fee. The governing board may
6 increase the existing fee annually, consistent with budgeting
7 procedures set forth in RCW 28B.15.045, by a percentage not to exceed
8 the annual percentage increase in resident undergraduate tuition fees:
9 PROVIDED, That such percentage increase shall not apply to that portion
10 of the services and activities fee previously committed to the
11 repayment of bonded debt. For the 1993-94 academic year, services and
12 activities fees shall not exceed two hundred ((~~eight~~ four ~~eighty-~~
13 ~~four~~)) eighty-four dollars per student. For the 1994-95 academic
14 year, services and activities fees shall not exceed two hundred ninety
15 dollars per student. The services and activities fee committee
16 provided for in RCW 28B.15.045 may initiate a request to the governing
17 board for a fee increase.

18 **Sec. 8.** RCW 28B.15.502 and 1993 sp.s. c 18 s 12 and 1993 c 379 s
19 204 are each reenacted and amended to read as follows:

20 Tuition fees and maximum services and activities fees at each
21 community college for other than the summer term shall be set by the
22 state board for community and technical colleges as follows:

23 (1) For full time resident students, the total tuition fees for the
24 1993-94 academic year shall be twenty-five and four-tenths percent and
25 thereafter total tuition fees shall be twenty-eight and eight-tenths
26 percent of the per student educational costs at the community colleges
27 computed as provided in RCW 28B.15.067 and 28B.15.070: PROVIDED, That
28 for the 1996-97 through 1998-99 academic years, for community colleges
29 in counties having a regional university and a technical college, the
30 governing board of the community college may set tuition fees at up to
31 five percent per year above the per student educational costs computed
32 as provided in RCW 28B.15.067 and 28B.15.070 and the general fund state
33 appropriation may not be reduced by the amount of operating fees
34 revenue collected as a result of institutionally set tuition fees:
35 PROVIDED FURTHER, That the building fees for each academic year shall
36 be one hundred and twenty-seven dollars and fifty cents. Beginning
37 with the 1995-96 academic year the building fee for each academic year
38 shall be a percentage of total tuition fees. This percentage shall be

1 calculated by the higher education coordinating board and be based on
2 the actual percentage the building fee is of total tuition in the 1994-
3 95 academic year, rounded up to the nearest half percent.

4 (2) For full time nonresident students, the total tuition fees for
5 the 1993-94 academic year shall be one hundred nine and three-tenths
6 percent and thereafter total tuition fees shall be one hundred twenty-
7 two and seven-tenths percent of the per student educational costs at
8 the community colleges computed as provided in RCW 28B.15.067 and
9 28B.15.070: PROVIDED, That for the 1996-97 through 1998-99 academic
10 years, for community colleges in counties having a regional university
11 and a technical college, the governing board of the community college
12 may set tuition fees at up to five percent per year above the per
13 student educational costs computed as provided in RCW 28B.15.067 and
14 28B.15.070 and the general fund state appropriation may not be reduced
15 by the amount of operating fees revenue collected as a result of
16 institutionally set tuition fees: PROVIDED FURTHER, That the building
17 fees for each academic year shall be four hundred and three dollars and
18 fifty cents. Beginning with the 1995-96 academic year the building fee
19 for each academic year shall be a percentage of total tuition fees.
20 This percentage shall be calculated by the higher education
21 coordinating board and be based on the actual percentage the building
22 fee is of total tuition in the 1994-95 academic year, rounded up to the
23 nearest half percent.

24 (3) The governing boards of each of the state community colleges
25 shall charge to and collect from each student a services and activities
26 fee. Each governing board may increase the existing fee annually,
27 consistent with budgeting procedures set forth in RCW 28B.15.045, by a
28 percentage not to exceed the annual percentage increase in resident
29 student tuition fees: PROVIDED, That such percentage increase shall
30 not apply to that portion of the services and activities fee previously
31 committed to the repayment of bonded debt. For the 1993-94 academic
32 year, services and activities fees shall not exceed one hundred twenty-
33 eight dollars per student. For the 1994-95 academic year, services and
34 activities fees shall not exceed one hundred thirty-one dollars per
35 student. The services and activities fee committee provided for in RCW
36 28B.15.045 may initiate a request to the governing board for a fee
37 increase.

38 (4) Tuition and services and activities fees consistent with
39 subsection (3) of this section shall be set by the state board for

1 community and technical colleges for summer school students unless the
2 community college charges fees in accordance with RCW 28B.15.515.

3 Subject to the limitations of RCW 28B.15.910, each governing board
4 may charge such fees for ungraded courses, noncredit courses, community
5 services courses, and self-supporting courses as it, in its discretion,
6 may determine, consistent with the rules and regulations of the state
7 board for community and technical colleges.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.10 RCW
9 to read as follows:

10 Institutions of higher education participating in the higher
11 education options program under section 3 of this act are exempt from
12 RCW 28B.10.025 and 28B.10.027 for the duration of the higher education
13 options program.

14 NEW SECTION. **Sec. 10.** This act shall expire August 1, 1999.

15 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect July 1, 1995.

---- END ----