
HOUSE BILL 2375

State of Washington 60th Legislature 2007 Regular Session

By Representatives Jarrett, Wallace and Priest

Read first time 03/01/2007. Referred to Committee on Higher Education.

1 AN ACT Relating to performance agreements; amending RCW 28B.50.090
2 and 28B.76.290; adding a new chapter to Title 28B RCW; creating a new
3 section; and repealing RCW 28B.76.270.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that, since 1997,
6 public institutions of higher education have developed and maintained
7 a system of performance measures to monitor progress in improving
8 graduation efficiency, faculty productivity, student achievement of
9 degrees and certifications, and other topics. However, the current
10 performance measurement system is too limited in scope and scale. Only
11 a few measures reflect the unique role and mission of an institution.
12 There is little dialogue between state policymakers and institution
13 leaders regarding the challenges facing our colleges and universities
14 and the outcomes expected by the public and the state.

15 (2) The legislature further finds that procedures for operating
16 budgets, enrollment management, and strategic planning for higher
17 education are not adequately coordinated. The state and institutions
18 must jointly discuss and establish clear priorities and acknowledge
19 potential trade-offs of funding decisions.

1 (3) Therefore, the legislature intends to explore a new
2 relationship between the state and public institutions of higher
3 education that includes dialogue and negotiation over goals,
4 priorities, performance, and resources, and also includes explicit
5 commitments made by each party aimed at achieving agreed-upon outcomes.
6 The mechanism to implement this relationship is a performance
7 agreement.

8 NEW SECTION. **Sec. 2.** As used in this chapter, a performance
9 agreement:

10 (1) Is an agreement reached between the state and the governing
11 board of an institution of higher education, or in the case of
12 community or technical colleges the state board for community and
13 technical colleges, as provided in section 4 of this act and approved
14 by the legislature as provided in section 7 of this act;

- 15 (2) Addresses statewide goals and priorities of the legislature;
- 16 (3) Specifies enrollment and resource levels;
- 17 (4) Contains goals and commitments from both the institution and
18 the state;
- 19 (5) Includes quantifiable performance measures and benchmarks; and
- 20 (6) Reflects the unique role and mission of the institution within
21 the state's higher education system.

22 NEW SECTION. **Sec. 3.** (1) The higher education coordinating board,
23 in consultation with the governor's office and the office of financial
24 management, shall enter into negotiations with the governing boards of
25 the state universities, the regional universities, and the state
26 college, as defined in RCW 28B.10.016, to create a performance
27 agreement with each institution.

28 (2) The governor's office with assistance from the higher education
29 coordinating board and the office of financial management shall enter
30 into negotiations with the state board for community and technical
31 colleges to create a master performance agreement with the system of
32 community and technical colleges created under chapter 28B.50 RCW.

33 (3) In developing an agreement, the negotiating team from an
34 institution of higher education must involve student and faculty
35 representatives.

1 (4) The term of a performance agreement negotiated under this
2 section is six years, however either party may request that an
3 agreement be renegotiated and updated on a biennial basis if necessary
4 to reflect changed circumstances. All performance agreements must
5 include a process for renegotiation or update.

6 (5) The institutions of higher education and state board for
7 community and technical colleges shall report all data necessary to
8 implement, evaluate, and monitor each performance agreement to the
9 office of financial management, the legislature, and the higher
10 education coordinating board.

11 NEW SECTION. **Sec. 4.** (1) Performance agreements shall contain:

12 (a) Indicators that measure outcomes concerning cost, quality,
13 timeliness of student progress toward degrees and certifications, and
14 articulation between and within the K-12 and higher education systems;

15 (b) Each institution's share of enrollments and degrees needed to
16 meet the state's goals and strategic direction;

17 (c) Indicators that measure the efficiency and effectiveness of
18 institutional processes; and

19 (d) Strategies, actions, and results committed to by the
20 institution in order to achieve statewide goals.

21 (2) Performance agreements shall also identify the level of
22 resources necessary to meet the performance objectives, subject to
23 approval by the legislature under section 7 of this act.

24 (3) The governor and institutional negotiating teams shall identify
25 indicators and levels of performance that are clearly linked to the
26 role, mission, and strategic plan of the institution.

27 NEW SECTION. **Sec. 5.** (1) Performance agreements shall include
28 grants to the institution, under the terms of the agreement, of
29 flexibility or waivers from state controls or rules.

30 (2) The negotiating teams shall identify areas where statutory
31 change is necessary to grant an institution flexibility or waivers of
32 state agency rules and submit any legislation necessary to implement a
33 performance agreement to the higher education committees of the senate
34 and house of representatives.

35 (3) The following areas may not be included in a performance
36 agreement:

1 (a) Flexibility or waivers of requirements in a collective
2 bargaining agreement negotiated under chapter 28B.52, 41.56, 41.59,
3 41.76, or 41.80 RCW;

4 (b) Flexibility or waivers of administrative rules or processes
5 governed by chapter 28B.52, 41.56, 41.59, 41.76, or 41.80 RCW;

6 (c) Rules, processes, duties, rights, and responsibilities of the
7 academic faculty as contained in the faculty codes of the four-year
8 institution;

9 (d) Flexibility or waivers of requirements under chapter 39.12 RCW;

10 (e) Flexibility or waivers of administrative rules or other
11 regulations that address health and safety, civil rights, and
12 nondiscrimination laws that apply to institutions of higher education;
13 and

14 (f) State laws covering terms and conditions of employment,
15 including but not limited to salaries, job security, and health,
16 retirement, unemployment, or any other employment benefits.

17 NEW SECTION. **Sec. 6.** (1) The higher education coordinating board
18 and the governor's office shall submit completed performance agreements
19 to the legislature by January 15, 2008, and every six years thereafter.
20 Following public hearings, the legislature shall have the opportunity,
21 by concurrent resolution, to approve or reject each performance
22 agreement as a whole.

23 (2) If the legislature rejects or fails to act on a submission, the
24 performance agreement shall be returned to the parties for
25 renegotiation.

26 (3) All cost items contained within a performance agreement are
27 subject to legislative appropriation.

28 NEW SECTION. **Sec. 7.** (1) Beginning December 2008, the higher
29 education coordinating board and the state board for community and
30 technical colleges shall provide annual progress reports to the higher
31 education committees of the senate and house of representatives on
32 implementation of the performance agreements and any short-term
33 outcomes. The overall purpose of the progress reports is to focus
34 attention on key measures of institutional performance and gain an
35 improved understanding of the causes of success or lack of success in
36 making progress in achieving the goals in the agreements.

1 (2) The joint legislative audit and review committee shall conduct
2 an evaluation and make recommendations regarding changes to the
3 substance or process of performance agreeing. The evaluation shall be
4 submitted to the governor and higher education committees of the senate
5 and house of representatives by January 15, 2014.

6 **Sec. 8.** RCW 28B.50.090 and 2004 c 275 s 57 are each amended to
7 read as follows:

8 The college board shall have general supervision and control over
9 the state system of community and technical colleges. In addition to
10 the other powers and duties imposed upon the college board by this
11 chapter, the college board shall be charged with the following powers,
12 duties and responsibilities:

13 (1) Review the budgets prepared by the boards of trustees, prepare
14 a single budget for the support of the state system of community and
15 technical colleges and adult education, and submit this budget to the
16 governor as provided in RCW 43.88.090;

17 (2) Establish guidelines for the disbursement of funds; and receive
18 and disburse such funds for adult education and maintenance and
19 operation and capital support of the college districts in conformance
20 with the state and district budgets, and in conformance with chapter
21 43.88 RCW;

22 (3) Ensure, through the full use of its authority:

23 (a) That each college district shall offer thoroughly comprehensive
24 educational, training and service programs to meet the needs of both
25 the communities and students served by combining high standards of
26 excellence in academic transfer courses; realistic and practical
27 courses in occupational education, both graded and ungraded; and
28 community services of an educational, cultural, and recreational
29 nature; and adult education, including basic skills and general,
30 family, and workforce literacy programs and services. However,
31 technical colleges, and college districts containing only technical
32 colleges, shall maintain programs solely for occupational education,
33 basic skills, and literacy purposes. For as long as a need exists,
34 technical colleges may continue those programs, activities, and
35 services they offered during the twelve-month period preceding May 17,
36 1991;

1 (b) That each college district shall maintain an open-door policy,
2 to the end that no student will be denied admission because of the
3 location of the student's residence or because of the student's
4 educational background or ability; that, insofar as is practical in the
5 judgment of the college board, curriculum offerings will be provided to
6 meet the educational and training needs of the community generally and
7 the students thereof; and that all students, regardless of their
8 differing courses of study, will be considered, known and recognized
9 equally as members of the student body: PROVIDED, That the
10 administrative officers of a community or technical college may deny
11 admission to a prospective student or attendance to an enrolled student
12 if, in their judgment, the student would not be competent to profit
13 from the curriculum offerings of the college, or would, by his or her
14 presence or conduct, create a disruptive atmosphere within the college
15 not consistent with the purposes of the institution. This subsection
16 (3)(b) shall not apply to competency, conduct, or presence associated
17 with a disability in a person twenty-one years of age or younger
18 attending a technical college;

19 (4) Prepare a comprehensive master plan for the development of
20 community and technical college education and training in the state;
21 and assist the office of financial management in the preparation of
22 enrollment projections to support plans for providing adequate college
23 facilities in all areas of the state. The master plan shall include
24 implementation of the vision, goals, priorities, and strategies in the
25 statewide strategic master plan for higher education under RCW
26 28B.76.200 based on the community and technical college system's role
27 and mission. The master plan shall also contain measurable performance
28 indicators and benchmarks for gauging progress toward achieving the
29 goals and priorities;

30 (5) Define and administer criteria and guidelines for the
31 establishment of new community and technical colleges or campuses
32 within the existing districts;

33 (6) Establish criteria and procedures for modifying district
34 boundary lines consistent with the purposes set forth in RCW 28B.50.020
35 as now or hereafter amended and in accordance therewith make such
36 changes as it deems advisable;

37 (7) Establish minimum standards to govern the operation of the
38 community and technical colleges with respect to:

- 1 (a) Qualifications and credentials of instructional and key
2 administrative personnel, except as otherwise provided in the state
3 plan for vocational education,
- 4 (b) Internal budgeting, accounting, auditing, and financial
5 procedures as necessary to supplement the general requirements
6 prescribed pursuant to chapter 43.88 RCW,
- 7 (c) The content of the curriculums and other educational and
8 training programs, and the requirement for degrees and certificates
9 awarded by the colleges,
- 10 (d) Standard admission policies,
- 11 (e) Eligibility of courses to receive state fund support;
- 12 (8) Establish and administer criteria and procedures for all
13 capital construction including the establishment, installation, and
14 expansion of facilities within the various college districts;
- 15 (9) Encourage innovation in the development of new educational and
16 training programs and instructional methods; coordinate research
17 efforts to this end; and disseminate the findings thereof;
- 18 (10) Exercise any other powers, duties and responsibilities
19 necessary to carry out the purposes of this chapter;
- 20 (11) Authorize the various community and technical colleges to
21 offer programs and courses in other districts when it determines that
22 such action is consistent with the purposes set forth in RCW 28B.50.020
23 as now or hereafter amended;
- 24 (12) Notwithstanding any other law or statute regarding the sale of
25 state property, sell or exchange and convey any or all interest in any
26 community and technical college real and personal property, except such
27 property as is received by a college district in accordance with RCW
28 28B.50.140(8), when it determines that such property is surplus or that
29 such a sale or exchange is in the best interests of the community and
30 technical college system;
- 31 (13) In order that the treasurer for the state board for community
32 and technical colleges appointed in accordance with RCW 28B.50.085 may
33 make vendor payments, the state treasurer will honor warrants drawn by
34 the state board providing for an initial advance on July 1, 1982, of
35 the current biennium and on July 1 of each succeeding biennium from the
36 state general fund in an amount equal to twenty-four percent of the
37 average monthly allotment for such budgeted biennium expenditures for
38 the state board for community and technical colleges as certified by

1 the office of financial management; and at the conclusion of such
2 initial month and for each succeeding month of any biennium, the state
3 treasurer will reimburse expenditures incurred and reported monthly by
4 the state board treasurer in accordance with chapter 43.88 RCW:
5 PROVIDED, That the reimbursement to the state board for actual
6 expenditures incurred in the final month of each biennium shall be less
7 the initial advance made in such biennium;

8 (14) Notwithstanding the provisions of subsection (12) of this
9 section, may receive such gifts, grants, conveyances, devises, and
10 bequests of real or personal property from private sources as may be
11 made from time to time, in trust or otherwise, whenever the terms and
12 conditions thereof will aid in carrying out the community and technical
13 college programs and may sell, lease or exchange, invest or expend the
14 same or the proceeds, rents, profits and income thereof according to
15 the terms and conditions thereof; and adopt regulations to govern the
16 receipt and expenditure of the proceeds, rents, profits and income
17 thereof;

18 (15) The college board shall have the power of eminent domain;

19 (16) Provide general supervision over the state's technical
20 colleges. The president of each technical college shall report
21 directly to the director of the state board for community and technical
22 colleges, or the director's designee, until local control is assumed by
23 a new or existing board of trustees as appropriate, except that a
24 college president shall have authority over program decisions of his or
25 her college until the establishment of a board of trustees for that
26 college. The directors of the vocational-technical institutes on March
27 1, 1991, shall be designated as the presidents of the new technical
28 colleges; and

29 (17) Enter into negotiations to create a master performance
30 agreement for the system of community and technical colleges as
31 provided in chapter 28B.-- RCW (sections 1 through 7 of this act).

32 **Sec. 9.** RCW 28B.76.290 and 1993 c 77 s 2 are each amended to read
33 as follows:

34 The board shall coordinate educational activities among all
35 segments of higher education taking into account the educational
36 programs, facilities, and other resources of both public and
37 independent two and four-year colleges and universities. The four-year

1 institutions and the state board for community and technical colleges
2 shall coordinate information and activities with the board. The board
3 shall have the following additional responsibilities:

4 (1) Promote interinstitutional cooperation;

5 (2) Establish minimum admission standards for four-year
6 institutions, including a requirement that coursework in American sign
7 language or an American Indian language shall satisfy any requirement
8 for instruction in a language other than English that the board or the
9 institutions may establish as a general undergraduate admissions
10 requirement;

11 (3) Establish transfer policies;

12 (4) Adopt rules implementing statutory residency requirements;

13 (5) Develop and administer reciprocity agreements with bordering
14 states and the province of British Columbia;

15 (6) Review and recommend compensation practices and levels for
16 administrative employees, exempt under chapter ((28B.16)) 41.06 RCW,
17 and faculty using comparative data from peer institutions;

18 (7) Monitor higher education activities for compliance with all
19 relevant state policies for higher education;

20 (8) Arbitrate disputes between and among four-year institutions or
21 between and among four-year institutions and community colleges at the
22 request of one or more of the institutions involved, or at the request
23 of the governor, or from a resolution adopted by the legislature. The
24 decision of the board shall be binding on the participants in the
25 dispute;

26 (9) Establish and implement a state system for collecting,
27 analyzing, and distributing information;

28 (10) Recommend to the governor and the legislature ways to remove
29 any economic incentives to use off-campus program funds for on-campus
30 activities; ((and))

31 (11) Make recommendations to increase minority participation, and
32 monitor and report on the progress of minority participation in higher
33 education; and

34 (12) Enter into negotiations to create performance agreements with
35 the governing boards of the public four-year institutions as provided
36 in chapter 28B.-- RCW (sections 1 through 7 of this act).

1 NEW SECTION. **Sec. 10.** RCW 28B.76.270 (Accountability monitoring
2 and reporting system--Institution biennial plans and performance
3 targets--Biennial reports to the legislature) and 2004 c 275 s 11 are
4 each repealed.

5 NEW SECTION. **Sec. 11.** Part headings used in this act are not any
6 part of the law.

7 NEW SECTION. **Sec. 12.** Sections 1 through 7 of this act constitute
8 a new chapter in Title 28B RCW.

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