
SENATE BILL 6888

State of Washington 60th Legislature 2008 Regular Session

By Senators Sheldon and Delvin

Read first time 01/31/08. Referred to Committee on Higher Education.

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 workforce
19 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 at least fifty percent of a full-time load
11 for at least nine quarters.

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

14 (a) The right of first refusal on available departmental courses
15 based on seniority;

16 (b) The right to bump less senior nontenure track faculty in the
17 event 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 that are presumed to be
24 automatically renewable;

25 (f) The right to their accustomed minimum teaching workload as part
26 of their annual contracts;

27 (g) The right to increase this accustomed minimum workload up to a
28 full-time teaching workload when additional teaching hours become
29 available for which the associate faculty is qualified; and

30 (h) The right to be considered qualified to teach available
31 teaching hours in the same manner that tenured faculty are considered
32 qualified in the same department.

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

1 (5) All nontenure track faculty who have taught at least fifty
2 percent of a full-time load for at least nine quarters before June 30,
3 2008, shall automatically be conferred associate faculty status.

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

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

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

1 The hearing required by this section shall be an adjudicative
2 proceeding pursuant to chapter 34.05 RCW, the administrative procedure
3 act, conducted by a hearing officer appointed by the board of trustees
4 and shall be concluded by the hearing officer within sixty days after
5 written notice of the reduction in force has been issued. Ten days
6 written notice of the formal hearing will be given to faculty members
7 who have requested such a hearing by the president or district
8 president as the case may be. The hearing officer within ten days
9 after conclusion of such formal hearing shall prepare findings,
10 conclusions of law and a recommended decision which shall be forwarded
11 to the board of trustees for its final action thereon. Any such
12 determination by the hearing officer under this section shall not be
13 subject to further tenure review committee action as otherwise provided
14 in this chapter.

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

28 When more than one faculty member is notified of termination
29 because of a reduction in force as provided in this section, hearings
30 for all such faculty members requesting formal hearing shall be
31 consolidated and only one such hearing for the affected faculty members
32 shall be held, and such consolidated hearing shall be concluded within
33 the time frame set forth herein.

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

37 It is the intent of the legislature by enactment of this section
38 and in accordance with RCW 28B.52.035, to modify any collective

1 bargaining agreements in effect, or any conflicting board policies or
2 rules, so that any reductions in force which take place after December
3 21, 1981, whether in progress or to be initiated, will comply solely
4 with the provisions of this section: PROVIDED, That any applicable
5 policies, rules, or provisions contained in a collective bargaining
6 agreement related to lay-off units, seniority and re-employment rights
7 shall not be affected by the provisions of this paragraph.

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

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

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

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

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