

Date of Hearing: April 5, 2016

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1690 (Medina) – As Amended March 14, 2016

**SUBJECT:** Community colleges: part-time, temporary employees

**SUMMARY:** Requires all community college districts (CCDs) to have collective bargaining agreements with part-time (P/T) faculty that include specified conditions of employment.

Specifically, **this bill:**

- 1) Requires CCDs, on or after January 1, 2017, if a CCD does not have a collective bargaining agreement with P/T faculty in effect as of January 1, 2017, to begin negotiations with the exclusive representatives for P/T faculty regarding the terms and conditions required, as specified; and requires that the parties shall negotiate these rights for P/T faculty.
- 2) Expresses that the Legislature intends that both of the following occur: a) the adoption of the provisions, as specified, shall be included as part of the usual and customary negotiations between the CCD and the exclusive representative for P/T faculty; and, b) that a CCD meet the minimum standards established, as specified, through the negotiation process between the CCD and the exclusive representative for P/T faculty.
- 3) Requires a CCD that enters into a collective bargaining agreement on or after January 1, 2017, to comply with all of the following:
  - a) Upon initial hire, and subsequently thereafter, a P/T faculty member shall be evaluated, as specified in Education Code (EC) Section 87663;
  - b) After six semesters or nine quarters of service, exclusive of summer and intersession terms, each P/T faculty member who has not received a less-than-satisfactory evaluation during the preceding six semesters or nine quarters of service shall be placed on a seniority list for each assignment at each college where he/she holds a current assignment during the seventh semester or 10th quarter of service, irrespective of how many times he or she has completed each unique assignment. The seniority for all assignments shall be determined based on the first date of hire at the applicable college. Seniority lists shall be by campus unless otherwise locally negotiated between the CCD and the exclusive representative for P/T faculty;
  - c) For semester seven or quarter 10 and beyond, each CCD shall endeavor to maintain the workload equivalent that the P/T faculty member was assigned during semester six or quarter nine, subject to all of the following:
    - i) As new assignments become available due to growth or attrition, these assignments shall be offered in seniority order to those P/T faculty members who have qualified to be placed on the seniority list, as specified, and previously successfully completed that same assignment. These assignments may be made up to a maximum annualized load, exclusive of summer and intersession terms, in the range of 60 percent to 67 percent of a full-time equivalent load,

- ii) In cases where a reduction in assignment needs to occur due to program needs, budget constraints, or more contract faculty hires, the reduction shall occur first from among those P/T faculty members who have not yet qualified to be placed on the seniority list, and thereafter in reverse seniority order, with the least P/T faculty member reduced first. Any rights to a certain workload equivalent shall be maintained for a period of 18 months. In cases of class cancellation due to low enrollment, faculty members shall displace faculty members who are lower than they are on the seniority list, if the class cancellation occurs prior to the first class meeting day, and,
  - iii) Each new assignment successfully completed shall be added to the P/T faculty member seniority list.
  - d) Procedures governing refusal or rejection of offered assignments, diminution or loss of seniority rights, and additional leave or break-in-service provisions shall be locally negotiated between the CCD and the exclusive representative for P/T faculty;
  - e) In cases where a P/T faculty member, subsequent to qualifying to be placed on the seniority list, receives a less-than-satisfactory evaluation, as that term is defined in the collective bargaining agreement between the CCD and the exclusive representative for P/T faculty, the faculty member shall be provided a written plan of remediation with concrete suggestions for improvement. The faculty member shall be evaluated again the following semester. If the outcome of this subsequent evaluation is also less than satisfactory, the faculty member shall lose all seniority rights, and may be dismissed at the discretion of the district. Appeal and grievance rights and procedures, if any, shall be subject to local collective bargaining; and,
    - a) In all cases, P/T faculty assignments are temporary in nature, contingent on enrollment and funding, and subject to program changes, and no P/T faculty member has a reasonable assurance of continued employment at any point, irrespective of the status, length of service, or reemployment preference seniority of that P/T faculty member.
- 4) Specifies that a CCD that has a collective bargaining agreement in effect as of January 1, 2017, that has provisions in place that require implementation of all of the following, and executes a signed written agreement, as specified, shall be exempt, as specified, upon the expiration of that agreement:
- a) P/T faculty assignment based on seniority up to the range of 60 percent to 67 percent of a full-time equivalent load;
  - b) A regular evaluation process for P/T faculty; and,
  - c) Due process for termination once a P/T faculty member has qualified for the negotiated provisions.
- 5) Specifies that a written agreement, confirming that clauses (a) to (c) (above), inclusive, have been included in a collective bargaining agreement in effect as of January 1, 2017, shall be signed by the exclusive representative for P/T faculty and the CCD, who are subject to that agreement, in order for the district to be exempt, as specified.

**EXISTING LAW:**

- 1) Defines "faculty" as those employees of a CCD who are employed in academic positions that are not designated as supervisory or management, as specified. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, and extended opportunity programs and services professionals (EC Section 87003).
- 2) Defines any person who is employed to teach for not more than 67 percent of the hours per week considered a full-time assignment to be a temporary (P/T) employee (EC Sections 87482.5 and 87882).
- 3) Requires the California Community Colleges (CCC) Board of Governors (BOG) to adopt regulations regarding the percent of credit instruction taught by full-time (F/T) faculty and authorizes CCDs with less than 75 percent F/T instructors to apply a portion of their "program improvement" funds toward reaching the 75 percent goal (commonly referred as "75/25") (EC Section 87482.6). To note, the state has stopped providing program improvement funds and the BOG has since required CCDs to provide a portion of their growth funds to hiring more F/T faculty.
- 4) Requires that contract employees shall be evaluated at least once in each academic year, that regular employees shall be evaluated at least once in every three academic years, and that temporary employees shall be evaluated within the first year of employment. Specifies that thereafter, evaluation shall be at least once every six regular semesters, or once every nine regular quarters, as applicable. Stipulates that whenever an evaluation is required of a faculty member by a CCD, the evaluation shall be conducted in accordance with the standards and procedures established by the rules and regulations of the governing board of the employing CCD (EC Section 87663).

A complete summary of existing law regarding the employment of CCC faculty is beyond the scope of this analysis; however, it is important to note there are extensive, complex statutes, many of which apply to "full-time", "part-time", "temporary", "contract" and other academic employees, in a wide array of situations related to multiple aspects of district employment.

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Need for this measure.* According to the author, "Job instability continues to be one of the greatest concerns for part-time/temporary faculty. The inability to negotiate reemployment policies at most community college districts has resulted in unreliable reemployment practices." The author contends that this leaves many part-time faculty wondering if they will have a job the following semester.

Additionally, many part-time/temporary faculty are left with no option but to piece together full-time teaching schedules through employment in two or more CCDs. The author argues that, "The varying reemployment policies in these community college districts make it difficult for part-time/temporary faculty to plan their upcoming teaching schedules."

*Part-time faculty.* According to the Center for Community College Student Engagement's (CCCSE) April 2014 report, entitled, "Contingent Commitments: Bringing Part-Time Faculty Into Focus," 70 percent of the 400,000 faculty members of public, two-year colleges hired in

2009 were part-time instructors. The CCCSE report found that the P/T faculty teach 58 percent of community college classes; and, 53 percent of community college students. Additionally, the report found that for many P/T faculty, contingent employment goes "hand-in-hand" with being marginalized within the faculty. The CCCSE report also found that differences in the actions of part-time and full-time faculty cannot necessarily be attributed to differences in the will or abilities of P/T faculty. The report contends that, "Most likely, they [the differences] exist at least in part because colleges too often are not fully supporting part-time faculty or engaging them in critical elements of the faculty experience."

According to the California Federation of Teachers, nearly 50 percent of the CCC course selections are taught by part-time faculty and part-time faculty outnumber full-time faculty by 2 to 1.

*Community college districts' reemployment policies.* AB 1245 (Alquist), Chapter 850, Statutes of 2001, required the issue of reappointment rights for temporary faculty be a subject of negotiation during collective bargaining and provided that reappointment rights may be based on whatever factors are agreed to by both parties. Many districts have established reappointment rights policies under existing law. Similar models (as to those contained in this bill) have already been successfully negotiated in the following CCDs: Grossmont-Cuyamaca, Los Angeles, San Diego, San Francisco, and Ventura.

This measure provides guidelines forming a basis enabling P/T faculty to establish job security, providing consistency for both students and instructors, and accountability to ensuring that P/T faculty retained under the provisions of this measure are providing the highest level of instruction and demonstrated commitment to student success.

*Related legislation.* AB 1010 (Medina) of 2015, which was held under submission in the Senate Appropriations Committee, is similar in nature to this measure.

AB 1807 (Fong) of 2010, which was held under submission in the Assembly Appropriations Committee, would among others, require CCDs to establish and implement seniority rights and preference lists for P/T faculty.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Board of Trustees, San Diego Community College District  
 California Federation of Teachers (co-sponsor)  
 California Part Time Faculty Association  
 California Teachers Association (co-sponsor)  
 Faculty Association of California Community Colleges  
 Student Senate for California Community Colleges  
 University of Professional and Technical Employees  
 6 Individuals

### **Opposition**

Community College League of California  
 National Right to Work Committee

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