

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
AB 2705 (Williams) – As Amended: April 28, 2014

SUBJECT: Community colleges: faculty.

SUMMARY: Revises numerous statutes related to California Community College (CCC) faculty to change references from "part-time" and "temporary" faculty to "contingent" faculty; makes several nonsubstantive changes to existing law; and, makes several legislative findings and declarations. Specifically, this bill:

- 1) Expresses that the Legislature finds and declares the following:
 - a) The terms “part-time faculty” and “temporary faculty” do not adequately describe the qualifications, contributions, and importance of the CCC faculty to whom those terms have been applied;
 - b) "Contingent faculty" is a more accurate and useful term with which to refer to these educators, who are so integral to the successful functioning of community colleges in this state; and,
 - c) There are inconsistencies in the Education Code (EC) with regard to the definitions of community college faculty, and the Legislature seeks to standardize the terms “full-time faculty” and “contingent faculty.”
- 2) Declares that it is the intent of the Legislature that, in enacting this measure, to act consistently with, and in no way to compromise or limit, the holding of the Court of Appeals in the case of *Cervisi v. Unemployment Insurance Appeals Board* (1989), 208 Cal.App.3d635.
- 3) Changes all references of "part-time" and "temporary" faculty and/or employee to "contingent" faculty and/or employee.
- 4) Makes several nonsubstantive changes to existing law.

EXISTING LAW:

- 1) Uses specific terms and definitions for academic employees (EC § 87400-87488 and § 87660-87683).
- 2) Defines a person who teaches at a CCC not more than 67% of the hours per week considered a full-time assignment for a regular employee having comparable duties as a temporary employee (EC § 87482.5).

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. This measure is keyed non-fiscal by Legislative Counsel.

COMMENTS: Background. According to the Center for Community College Student Engagement's (CCCSE) April 2014 report, entitled, "Contingent Commitments: Bringing Part-Time Faculty Into Focus," 70% of the 400,000 faculty members of public, two-year colleges hired in 2009 were part-time instructors. The CCCSE report found that the part-time faculty teach 58% of community college classes; and, 53% of community college students. Additionally, the report found that for many part-time 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 part-time 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."

Purpose of this measure. According to the author, the current terms "part-time" and "temporary" do not adequately describe the role that part-time/temporary faculty have come to fill within the CCC system. Current law (as described above) defines faculty who teach 67% or less of full-time faculty, as "part-time". The author contends that this suggests these faculty members are only temporary; resulting in CCC departments using this as an excuse to prevent part-time faculty from engaging in decisions.

The author argues that, "Current statute contributes to part of the problem and the necessity for legislation. The statute regarding CCC faculty is convoluted and inconsistent; the terms "part-time" and "temporary" are used interchangeably and haphazardly throughout the code. The lack of a standardized term in the Education Code contributes to the confusion about the role of part-time faculty at our community colleges."

This bill will change the references of "part-time" and "temporary" faculty in the EC to "contingent" faculty.

Cervisi decision? A concern has been expressed by some stakeholders that this bill could have legal ramifications in the *Cervisi v. Unemployment Insurance Appeals Board* (1989, 208 Cal.App.3d635) ruling.

In 1989, an American Federation of Teachers (AFT) Local in San Francisco won an important victory in the California Court of Appeals. In its precedent-setting decision, the Court affirmed AFT's view that part-time faculty do not have "reasonable assurance" of assignment rights in the next school term and therefore should not be ineligible for unemployment benefits during periods of lay off. Since the decision, known as the "Cervisi Decision," part-time faculty around the state who have no job security, whose assignments are contingent upon adequate funding, enrollment, and program changes, should be eligible for unemployment benefits. To note, part-time faculty who are unemployed after the end of any semester or summer session can therefore apply for and receive benefits provided they are otherwise eligible for benefits.

Arguments in support. According to the California Part-time Faculty Association, "AB 2705 is a significant first step in giving "contingent faculty" a name that is more reflective of our role in

students' education and in our desire to more fully participate in the life and culture of our community colleges."

Arguments in opposition. According to the California Federation of Teachers, attempting to change the definition of "temporary" faculty to another term could potentially render the Cervisi Decision "moot, and at the least give Administrative Law Judges throughout the state a basis upon which not to apply the findings in *Cervisi*."

REGISTERED SUPPORT / OPPOSITION:

Support

California Conference of the American Association of University Professors
California Part Time Faculty Association
University Professional and Technical Employees (UPTE-CWA Local 9119) (sponsor)

Opposition

California Federation of Teachers

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