

HOUSE BILL REPORT

SHB 2111

As Passed Legislature

Title: An act relating to performance contracts between the state and institutions of higher education.

Brief Description: Exploring opportunities to create performance contracts between the state and institutions of higher education.

Sponsors: By House Committee on Higher Education (originally sponsored by Representatives Priest, Jarrett and Cox).

Brief History:

Committee Activity:

Higher Education: 3/4/03, 3/5/03 [DPS].

Floor Activity:

Passed House: 3/13/03, 96-0.

Senate Amended.

Passed Senate: 4/11/03, 49-0.

House Concurred.

Passed House: 4/22/03, 97-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Creates a workgroup composed of legislators from the Higher Education and Fiscal committees of the House and Senate and eight representatives of higher education and the executive branch to consider the feasibility of implementing performance contracts between institutions of higher education and the state.
- Requires the workgroup to develop guidelines and possible models of performance contracts and report its findings and recommendations to the Legislature by December 15, 2003.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Kenney, Chair; Fromhold, Vice Chair; Cox, Ranking Minority Member; Priest, Assistant Ranking Minority Member; Berkey, Boldt, Buck, Chase, Clements, Condotta, Gombosky, Jarrett, Lantz, McCoy and Morrell.

Staff: Barbara McLain (786-7383).

Background:

During 2002 the Washington State Institute for Public Policy (Institute) conducted interviews with more than 70 key stakeholders as part of a legislatively-directed study of the Higher Education Coordinating Board (HECB). According to the Institute's report, many stakeholders view the state as "struggling to impose and maintain a regulatory relationship with its colleges and universities." The report also noted that tension between state centralization and institutional autonomy is not a new phenomenon.

For example in 1993 the Legislature enacted a law declaring a "need to redefine the relationship between the state and its postsecondary education institutions through a compact based on trust, evidence, and a new alignment of responsibilities." The law intended to create a state policy where institutions would have authority and flexibility to meet statewide goals through locally-based decisions. In return for evidence of achieving desired results, the state would reduce its micromanagement of institutions. According to the Institute's report, the idea of this compact relationship has faded from view, possibly because it lacked an explicit mechanism to put it into operation.

Several other states, however, are experimenting with creating new relationships with one or more public institutions through performance compacts. In Kansas the Board of Regents has been directed by the Legislature to negotiate performance agreements with public institutions. West Virginia and Virginia are implementing compacts. Maryland and Colorado have chosen single institutions to pilot compacts (St Mary's College and the Colorado School of Mines).

A compact is a contractual agreement negotiated between the state (typically by the state governing board) and an institution's governing board. The agreement specifies measurable performance objectives which the institution commits to meet over the term of the compact and outlines the types of flexibility the state will offer in return.

Summary of Substitute Bill:

A workgroup on higher education performance contracts is created. The group includes legislative members representing the Higher Education and Fiscal committees of the House and Senate. The HECB and the State Board for Community and Technical Colleges (SBCTC) each appoint one representative. The Council of Presidents (for the four-year institutions) and the Washington Administrative Council (for the two-year institutions) each appoint two representatives. There is also a representative from the Governor's Office and the Office of Financial Management (OFM).

The workgroup will examine the experience of other states in developing and

implementing contracts; consider the feasibility of implementing contracts in Washington; and identify whether amendments to current laws are needed. The workgroup will also develop guidelines and possible models for contracts, including the types of institutional performance indicators and benchmarks that could be in a contract and the types of flexibility, exemptions, or commitments from the state that could be in a contract.

A report with findings and recommendations is due to the Senate and House higher education and fiscal committees by December 15, 2003. The task force expires June 30, 2004.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The state is at a critical crossroads in higher education. Meeting looming enrollment, facilities, and financial demands requires clear goals and a strategic plan. For the past five weeks, the Higher Education Committee has been hearing about the lack of such a plan and the lack of a coherent framework for decision-making. Merely creating a plan that sits on a shelf is not sufficient. There is a need to implement the state's goals within the framework of a true partnership between institutions and the state. Contracts empower individuals and organizations and enable them to carry out their responsibilities without unnecessary interference.

(Concerns) There is some interest in pursuing a contract negotiation, but the institutions want to ensure it is not a one-sided conversation. The state must be prepared to commit to its part of the deal. It is not clear from the bill what happens to legally-authorized collective bargaining agreements under the performance contracts.

Testimony Against: Institutions already have performance indicators that are monitored and reported to the HECB and the Legislature. There is another bill before the Committee that is a better vehicle for strengthening goal-setting and strategic planning. A contract implies obligations on the part of both parties and it is not apparent in this bill what the state is committing to the institutions. The bill includes faculty productivity within a performance contract, but that topic is already addressed in collective bargaining agreements.

Testified: (In support) Representative Priest, prime sponsor; and Jim Huckabay, Council of Faculty Representatives.

(With concerns) Sandy Wall, State Board for Community and Technical Colleges; Dick

Thompson, University of Washington; Marc Gaspard, Higher Education Coordinating Board; Wendy Rader-Konofalski, Washington Federation of Teachers; and Gary King, Washington Education Association.

(Opposed) Edie Harding, The Evergreen State College.

(Neutral) William Chance, Northwest Education Research Center.