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HOUSE BILL 2111

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Priest, Jarrett and Cox

Read first time 02/25/2003. Referred to Committee on Higher Education.

1 AN ACT Relating to performance contracts between the state and  
2 institutions of higher education; amending RCW 28B.50.090; adding a new  
3 section to chapter 28B.80 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that ten years  
6 have passed since the state attempted to redefine the relationship with  
7 its institutions of higher education based on trust, evidence, and a  
8 new alignment of responsibilities, as articulated in chapter 363, Laws  
9 of 1993.

10 (2) However, the legislature also finds that the intent to combine  
11 institutional flexibility and authority to make decisions at the local  
12 level with accountability for achieving statewide goals and objectives  
13 has never been fully achieved, in part because there has not been an  
14 operating mechanism through which to implement this relationship.

15 (3) Therefore, the legislature intends to authorize performance  
16 contracts between the state and each public four-year institution of  
17 higher education, as well as a performance contract between the state  
18 and the community and technical college system. These performance  
19 contracts will constitute a negotiated agreement between the state and

1 the governing boards of each institution and the community and  
2 technical college system where each party makes a multiyear commitment  
3 to operate under the terms of the agreement. It is through these  
4 performance contracts that the legislature intends to implement a new  
5 relationship between the state and its institutions of higher  
6 education, where the state's primary interest lies not in the  
7 management and operations of an institution, but in the institution's  
8 contribution to achieving agreed-upon statewide goals and objectives  
9 for higher education.

10 NEW SECTION. **Sec. 2.** (1) A joint legislative oversight committee  
11 on higher education performance contracts is created. The oversight  
12 committee shall consist of the following members:

13 (a) Three members from each caucus of the senate, appointed by the  
14 president of the senate, with at least two members of the higher  
15 education committee and at least two members of the ways and means  
16 committee of the senate. The president of the senate shall appoint one  
17 member to serve as cochair of the committee; and

18 (b) Three members from each caucus of the house of representatives,  
19 appointed by the speaker of the house of representatives, with two  
20 members each of the higher education, capital budget, and  
21 appropriations committees of the house of representatives. The speaker  
22 of the house of representatives shall appoint one member to serve as  
23 cochair of the committee.

24 (2) The oversight committee shall have the following  
25 responsibilities:

26 (a) Preparing a concurrent resolution to be introduced during the  
27 2004 legislative session that establishes clear and coherent statewide  
28 goals and objectives for the state's system of higher education and  
29 provides guidance for institutions, the governor, and the higher  
30 education coordinating board to negotiate performance contracts as  
31 provided under section 3 of this act;

32 (b) Identifying and recommending any additional legislation  
33 necessary to implement this act; and

34 (c) Monitoring the negotiation of performance contracts under  
35 section 3 of this act.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 28B.80 RCW  
2 to read as follows:

3        (1) After the effective date of a concurrent resolution containing  
4 the statewide goals and objectives necessary to implement this section,  
5 the state shall enter into negotiations with each four-year institution  
6 of higher education and the community and technical college system to  
7 create performance contracts under which the institutions and system  
8 shall operate for the duration of the contract.

9        (a) For four-year institutions, the governing board of the  
10 institution shall negotiate the performance contract.

11        (b) For the community and technical college system, the state board  
12 for community and technical colleges shall negotiate the performance  
13 contract. The state board shall then negotiate individual performance  
14 contracts with the governing board of each community and technical  
15 college as provided in RCW 28B.50.090.

16        (c) For the state, a team representing the office of the governor,  
17 the office of financial management, and the higher education  
18 coordinating board shall negotiate the performance contracts.

19        (d) The higher education coordinating board shall convene and  
20 manage the contract negotiations under this section.

21        (2) Performance contracts negotiated under this section shall:

22        (a) Be based on the legislatively approved statewide goals and  
23 objectives for the state's system of higher education;

24        (b) Include measurable performance indicators and benchmarks for  
25 gauging progress toward achieving the goals and objectives; and

26        (c) Reflect each institution's unique role and mission.

27        (3) Performance contracts negotiated under this section shall  
28 address institutional performance in at least the following areas:

29        (a) Student retention, graduation and completion rates, and  
30 graduation efficiency;

31        (b) Reduction of low-output and duplicative programs;

32        (c) Faculty productivity;

33        (d) Facility use, particularly for off-peak days and hours;

34        (e) Efficient fiscal and management practices; and

35        (f) Other areas identified through the contract negotiation  
36 process.

37        (4) Performance contracts negotiated under this section shall

1 address the state's commitment to the institutions in at least the  
2 following areas:

3 (a) Flexibility under or exemption from review or approval  
4 processes under the administrative authority of the state board for  
5 community and technical colleges or the higher education coordinating  
6 board;

7 (b) Flexibility under or exemption from review or approval  
8 processes for operating and capital budgeting under the administrative  
9 authority of the office of financial management; and

10 (c) Other waivers, exemptions, or commitments identified through  
11 the contract negotiation process that are permissible under statute.

12 (5) The higher education coordinating board shall submit the  
13 completed performance contracts under this section to the legislature  
14 by January 15, 2005. Following public hearings, the legislature shall,  
15 by concurrent resolution, approve or reject each performance contract  
16 as a whole.

17 (a) If the legislature rejects or fails to act on a submission, the  
18 performance contract shall be returned to the parties for  
19 renegotiation.

20 (b) All cost items contained within a performance contract shall be  
21 subject to legislative appropriation.

22 (6) No less than every four years after legislative approval of a  
23 performance contract under this section, the higher education  
24 coordinating board shall:

25 (a) Recommend to the legislature any revisions necessary to the  
26 statewide goals and objectives for higher education that are  
27 implemented through performance contracts under this section, which may  
28 be adopted by the legislature through concurrent resolution; and

29 (b) Reconvene the parties to determine whether performance contract  
30 terms should be modified. Performance contract modifications shall be  
31 submitted to the legislature for approval as provided under subsection  
32 (5) of this section.

33 **Sec. 4.** RCW 28B.50.090 and 1991 c 238 s 33 are each amended to  
34 read as follows:

35 The college board shall have general supervision and control over  
36 the state system of community and technical colleges. In addition to

1 the other powers and duties imposed upon the college board by this  
2 chapter, the college board shall be charged with the following powers,  
3 duties and responsibilities:

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

8 (2) Establish guidelines for the disbursement of funds; and receive  
9 and disburse such funds for adult education and maintenance and  
10 operation and capital support of the college districts in conformance  
11 with the state and district budgets, and in conformance with chapter  
12 43.88 RCW;

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

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

28 (b) That each college district shall maintain an open-door policy,  
29 to the end that no student will be denied admission because of the  
30 location of the student's residence or because of the student's  
31 educational background or ability; that, insofar as is practical in the  
32 judgment of the college board, curriculum offerings will be provided to  
33 meet the educational and training needs of the community generally and  
34 the students thereof; and that all students, regardless of their  
35 differing courses of study, will be considered, known and recognized  
36 equally as members of the student body: PROVIDED, That the  
37 administrative officers of a community or technical college may deny  
38 admission to a prospective student or attendance to an enrolled student

1 if, in their judgment, the student would not be competent to profit  
2 from the curriculum offerings of the college, or would, by his or her  
3 presence or conduct, create a disruptive atmosphere within the college  
4 not consistent with the purposes of the institution. This subsection  
5 (b) shall not apply to competency, conduct, or presence associated with  
6 a disability in a person twenty-one years of age or younger attending  
7 a technical college;

8 (4) Prepare a comprehensive master plan for the development of  
9 community and technical college education and training in the state;  
10 and assist the office of financial management in the preparation of  
11 enrollment projections to support plans for providing adequate college  
12 facilities in all areas of the state;

13 (5) Define and administer criteria and guidelines for the  
14 establishment of new community and technical colleges or campuses  
15 within the existing districts;

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

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

22 (a) Qualifications and credentials of instructional and key  
23 administrative personnel, except as otherwise provided in the state  
24 plan for vocational education,

25 (b) Internal budgeting, accounting, auditing, and financial  
26 procedures as necessary to supplement the general requirements  
27 prescribed pursuant to chapter 43.88 RCW,

28 (c) The content of the curriculums and other educational and  
29 training programs, and the requirement for degrees and certificates  
30 awarded by the colleges,

31 (d) Standard admission policies,

32 (e) Eligibility of courses to receive state fund support;

33 (8) Establish and administer criteria and procedures for all  
34 capital construction including the establishment, installation, and  
35 expansion of facilities within the various college districts;

36 (9) Encourage innovation in the development of new educational and  
37 training programs and instructional methods; coordinate research  
38 efforts to this end; and disseminate the findings thereof;

1 (10) Exercise any other powers, duties and responsibilities  
2 necessary to carry out the purposes of this chapter;

3 (11) Authorize the various community and technical colleges to  
4 offer programs and courses in other districts when it determines that  
5 such action is consistent with the purposes set forth in RCW 28B.50.020  
6 as now or hereafter amended;

7 (12) Notwithstanding any other law or statute regarding the sale of  
8 state property, sell or exchange and convey any or all interest in any  
9 community and technical college real and personal property, except such  
10 property as is received by a college district in accordance with RCW  
11 28B.50.140(8), when it determines that such property is surplus or that  
12 such a sale or exchange is in the best interests of the community and  
13 technical college system;

14 (13) In order that the treasurer for the state board for community  
15 and technical colleges appointed in accordance with RCW 28B.50.085 may  
16 make vendor payments, the state treasurer will honor warrants drawn by  
17 the state board providing for an initial advance on July 1, 1982, of  
18 the current biennium and on July 1 of each succeeding biennium from the  
19 state general fund in an amount equal to twenty-four percent of the  
20 average monthly allotment for such budgeted biennium expenditures for  
21 the state board for community and technical colleges as certified by  
22 the office of financial management; and at the conclusion of such  
23 initial month and for each succeeding month of any biennium, the state  
24 treasurer will reimburse expenditures incurred and reported monthly by  
25 the state board treasurer in accordance with chapter 43.88 RCW:  
26 PROVIDED, That the reimbursement to the state board for actual  
27 expenditures incurred in the final month of each biennium shall be less  
28 the initial advance made in such biennium;

29 (14) Notwithstanding the provisions of subsection (12) of this  
30 section, may receive such gifts, grants, conveyances, devises, and  
31 bequests of real or personal property from private sources as may be  
32 made from time to time, in trust or otherwise, whenever the terms and  
33 conditions thereof will aid in carrying out the community and technical  
34 college programs and may sell, lease or exchange, invest or expend the  
35 same or the proceeds, rents, profits and income thereof according to  
36 the terms and conditions thereof; and adopt regulations to govern the  
37 receipt and expenditure of the proceeds, rents, profits and income  
38 thereof;

1           (15) The college board shall have the power of eminent domain;  
2           (16) Provide general supervision over the state's technical  
3 colleges. The president of each technical college shall report  
4 directly to the director of the state board for community and technical  
5 colleges, or the director's designee, until local control is assumed by  
6 a new or existing board of trustees as appropriate, except that a  
7 college president shall have authority over program decisions of his or  
8 her college until the establishment of a board of trustees for that  
9 college. The directors of the vocational-technical institutes on March  
10 1, 1991, shall be designated as the presidents of the new technical  
11 colleges;  
12           (17) Negotiate a performance agreement with the governing board of  
13 each community and technical college that implements the performance  
14 contract between the state and the community and technical college  
15 system as provided under section 3 of this act.

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