
SUBSTITUTE HOUSE BILL 2681

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Priest, Morrell, Jarrett, Anderson, O'Brien, McIntire, Rockefeller, Edwards and Haigh; by request of Governor Locke)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to performance contracts with institutions of
2 higher education; adding a new chapter to Title 28B RCW; and providing
3 an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the higher
6 education system in Washington state has historically provided
7 opportunities for advanced study for thousands of residents, produced
8 high quality scholars and graduates, and facilitated world class
9 research and innovation. But the new global economy demands even more
10 from our colleges and universities in terms of highly trained and
11 skilled workers and research to fuel future economic growth.

12 (2) The legislature further finds that, since 1997, public
13 institutions of higher education have developed and maintained a system
14 of performance measures to monitor progress in improving graduation
15 efficiency, faculty productivity, student achievement of degrees and
16 certifications, and other topics. However, the current performance
17 measurement system is too limited in scope and scale. Only a few
18 measures reflect the unique role and mission of an institution. There

1 is little dialog between state policymakers and institution leaders
2 regarding the challenges facing our colleges and universities and the
3 outcomes expected by the public and the state.

4 (3) The legislature further finds that procedures for operating
5 budgets, enrollment management, and strategic planning for higher
6 education are not adequately coordinated. The state and institutions
7 must jointly discuss and establish clear priorities and acknowledge
8 potential trade-offs of funding decisions.

9 (4) Therefore, the legislature intends to explore a new
10 relationship between the state and public institutions of higher
11 education that includes dialog and negotiation over goals, priorities,
12 performance, and resources, and also includes explicit commitments made
13 by each party aimed at achieving agreed-upon outcomes. The mechanism
14 to implement this relationship is a performance contract, to be
15 initiated on a pilot basis with selected institutions beginning in
16 2004.

17 NEW SECTION. **Sec. 2.** As used in this chapter, a performance
18 contract:

19 (1) Is an agreement reached between the governor and the governing
20 board of an institution of higher education, or in the case of
21 community or technical colleges the state board for community and
22 technical colleges, as provided in section 3 of this act and approved
23 by the legislature as provided in section 6 of this act;

24 (2) Addresses statewide goals and priorities of the legislature;

25 (3) Addresses resident undergraduate enrollment levels;

26 (4) Contains goals and commitments from both the institution and
27 the state;

28 (5) Includes quantifiable performance measures and benchmarks; and

29 (6) Reflects the unique role and mission of the institution within
30 the state's higher education system.

31 NEW SECTION. **Sec. 3.** (1) The governor's office with assistance
32 from the higher education coordinating board shall enter into
33 negotiations with the governing boards of one state research university
34 and one state regional university, as defined in RCW 28B.10.016, to
35 create a performance contract on a pilot basis with each institution.
36 A governing board of a four-year institution may nominate its

1 institution for the pilot performance contract by communicating to the
2 governor and higher education coordinating board that it is ready and
3 willing to participate in the contract process. If more than one
4 research and one regional university are nominated, the governor's
5 office with assistance from the higher education coordinating board
6 shall select those institutions that offer the best opportunity for a
7 pilot test of the feasibility of performance contracts.

8 (2) The governor's office with assistance from the higher education
9 coordinating board shall enter into negotiations with the state board
10 for community and technical colleges to create performance contracts on
11 a pilot basis with one state community or technical college, as defined
12 in RCW 28B.10.016. A governing board of a community or technical
13 college may nominate its college for the pilot performance contract by
14 communicating to the state board that it is ready and willing to
15 participate in the contract process. If more than one college is
16 nominated, the state board shall select the college that offers the
17 best opportunity for a pilot test of the feasibility of a performance
18 contract.

19 (3) In developing a contract, the negotiating team from an
20 institution of higher education must involve student and faculty
21 representatives.

22 (4) The term of a performance contract negotiated under this
23 section is six years, beginning with the 2005-06 academic year and
24 ending with the 2010-11 academic year.

25 (5) During the contract negotiation process, the governor's office
26 shall consult with the contract evaluator under section 7 of this act
27 to ensure the contract terms and indicators are suitable for evaluation
28 by 2008.

29 (6) The institutions shall report all data necessary to implement,
30 evaluate, and monitor each performance contract to the office of
31 financial management, the legislature, and the higher education
32 coordinating board.

33 NEW SECTION. **Sec. 4.** (1) Performance contracts shall contain:

34 (a) Indicators that measure outcomes concerning cost, price,
35 quality, improvements in faculty salaries and faculty ratios, and
36 timeliness of student progress toward degrees and certifications;

1 (b) Indicators that measure the efficiency and effectiveness of
2 institutional processes; and

3 (c) Strategies, actions, and results committed to by the
4 institution in order to achieve statewide goals.

5 (2) Examples of possible topics that could be addressed in a
6 performance contract include student retention, graduation, and
7 completion rates; graduation efficiency; student learning outcomes;
8 postgraduation employment in field of study; faculty productivity;
9 facilities stewardship; efficient and effective fiscal and management
10 practices; cost of degrees; and research productivity.

11 (3) The governor and institutional negotiating teams shall identify
12 indicators and levels of performance that are clearly linked to the
13 role, mission, and strategic plan of the institution.

14 NEW SECTION. **Sec. 5.** (1) Performance contracts shall include
15 grants to the institution, under the terms of the contract, of
16 flexibility or waivers from state controls or regulations.

17 (2) The higher education coordinating board and institutional
18 negotiating teams shall identify areas where statutory change is
19 necessary to grant an institution flexibility or waivers of state
20 regulations. The governor shall submit legislation necessary to
21 implement a performance contract to the higher education committees of
22 the senate and house of representatives for the 2005 legislative
23 session.

24 (3) The following areas may not be included in a performance
25 contract:

26 (a) Flexibility or waivers of requirements in a collective
27 bargaining agreement negotiated under chapter 28B.52, 41.56, 41.59,
28 41.76, or 41.80 RCW;

29 (b) Flexibility or waivers of administrative rules or processes
30 governed by chapter 28B.52, 41.56, 41.59, 41.76, or 41.80 RCW;

31 (c) Rules, processes, duties, rights, and responsibilities of the
32 academic faculty as contained in the faculty codes of the four-year
33 institution;

34 (d) Flexibility or waivers of requirements under chapter 39.12 RCW;

35 (e) Flexibility or waivers of administrative rules or other
36 regulations that address health and safety, civil rights, and

1 nondiscrimination laws that apply to institutions of higher education;
2 and

3 (f) State laws covering terms and conditions of employment,
4 including but not limited to salaries, job security, and health,
5 retirement, unemployment, or any other employment benefits.

6 (4) Unlimited authority for institutions to establish tuition for
7 resident undergraduate students under the terms of a contract may not
8 be a subject of negotiation. The terms of a contract must include
9 assurance that the proportion of tuition revenue allocated to
10 institutional financial aid for needy students will be maintained or
11 increased. In turn, it is the legislature's intent to maintain state
12 support for higher education during the term of the contract and not
13 have students bear a disproportionate share of any increase in tuition.

14 (5) Under the terms of the contract with the research university,
15 return from technology transfer shall be maximized to generate
16 increased investment in undergraduate and graduate instruction.

17 NEW SECTION. **Sec. 6.** (1) The governor shall present a preliminary
18 draft of the performance contracts at a joint meeting of the higher
19 education committees of the senate and house of representatives in
20 December 2004 for their review and input. The governor shall submit
21 the completed performance contracts to the legislature by January 15,
22 2005. Following public hearings, the legislature shall have the
23 opportunity, by concurrent resolution, to approve or reject each
24 performance contract as a whole.

25 (2) If the legislature rejects a submission, the performance
26 contract shall be returned to the parties for renegotiation. If the
27 legislature fails to act on a submission, the performance contract
28 shall be terminated and the pilot process concluded for that
29 institution.

30 (3) All cost items contained within a performance contract shall be
31 subject to legislative appropriation.

32 NEW SECTION. **Sec. 7.** (1) Beginning September 2005, the higher
33 education coordinating board shall provide annual progress reports to
34 the higher education committees of the senate and house of
35 representatives on implementation of the performance contracts and any
36 short-term outcomes. The overall purpose of the progress reports is to

1 focus attention on key measures of institution performance and gain an
2 improved understanding of the causes of success or lack of success in
3 making progress in achieving the goals in the contract.

4 (2) The Washington state institute for public policy shall conduct
5 an evaluation of the pilot performance contracts and make
6 recommendations regarding change, continuation, or expansion of the
7 contract process to include additional colleges and universities. The
8 evaluation shall be submitted to the governor and higher education
9 committees of the senate and house of representatives by January 15,
10 2008.

11 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
12 a new chapter in Title 28B RCW.

13 NEW SECTION. **Sec. 9.** This act expires July 1, 2011.

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