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AB-1690 Community colleges: part-time, temporary employees. (2015-2016)

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Assembly Bill No. 1690

CHAPTER 877

An act to add Section 87482.3 to the Education Code, relating to community colleges.

[Approved by Governor September 30, 2016. Filed with Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1690, Medina. Community colleges: part-time, temporary employees.

(1) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state.

Existing law requires that a person employed to teach adult or community college classes for not more than 67% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee and not a contract employee.

This bill would require community college districts without a collective bargaining agreement with part-time, temporary faculty in effect as of January 1, 2017, to, on or after January 1, 2017, commence negotiations with the exclusive representatives for part-time, temporary faculty regarding the terms and conditions required by the bill. The bill would specify minimum standards for the treatment of part-time, temporary faculty to be met by community college collective bargaining agreements negotiated on or after January 1, 2017, that are not exempt, as specified. These standards would relate to, among other issues, evaluation procedures, workload distribution, and seniority rights.

To the extent that this bill would impose new duties on community college districts, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 87482.3 is added to the Education Code, to read:

87482.3. (a) (1) On or after January 1, 2017, community college districts that do not have a collective bargaining agreement with part-time, temporary faculty in effect as of January 1, 2017, shall commence negotiations with the exclusive representatives for part-time, temporary faculty regarding the terms and conditions required by subdivision (b). The parties shall negotiate these rights for part-time, temporary faculty.

(2) It is the intent of the Legislature that both of the following shall occur:

(A) The adoption of provisions in compliance with subdivision (b) shall be included as part of the usual and customary negotiations between the community college district and the exclusive representative for part-time, temporary faculty.

(B) A community college district shall meet the minimum standards established by this section through the negotiation process between the community college district and the exclusive representative for part-time, temporary faculty.

(b) (1) A community college district that enters into a collective bargaining agreement on or after January 1, 2017, shall comply with all of the following:

(A) Upon initial hire, and subsequently thereafter, a part-time, temporary faculty member shall be evaluated pursuant to the requirements of Section 87663.

(B) After six semesters or nine quarters of service, exclusive of summer and intersession terms, each part-time, temporary 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 or 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 community college district and the exclusive representative for part-time, temporary faculty.

(C) For semester seven or quarter 10 and beyond, each community college district shall endeavor to maintain the workload equivalent that the part-time, temporary 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 part-time, temporary faculty members who have qualified to be placed on the seniority list pursuant to subparagraph (B), 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 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 part-time, temporary faculty members who have not yet qualified to be placed on the seniority list, and thereafter in reverse seniority order, with the least senior part-time, temporary 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.

(iii) Each new assignment successfully completed shall be added to the part-time, temporary 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 community college district and the exclusive representative for part-time, temporary faculty.

(E) In cases where a part-time, temporary 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 community college district and the exclusive representative for part-time, temporary 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.

(F) In all cases, part-time faculty assignments are temporary in nature, contingent on enrollment and funding, and subject to program changes, and no part-time 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 part-time, temporary faculty member.

(2) (A) A community college district 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 pursuant to subparagraph (B), shall be exempt from this subdivision upon the expiration of that agreement:

(i) Part-time, temporary faculty assignment based on seniority up to the range of 60 to 67 percent of a full-time equivalent load.

(ii) A regular evaluation process for part-time, temporary faculty.

(iii) Due process for termination once a part-time, temporary faculty member has qualified for the negotiated provisions.

(B) A written agreement, confirming that provisions requiring the implementation of clauses (i) to (iii), inclusive, have been included in a collective bargaining agreement in effect as of January 1, 2017, shall be signed by the exclusive representative for part-time, temporary faculty and the community college district, who are subject to that agreement, in order for the district to be exempt from this subdivision pursuant to subparagraph (A).

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.