

SUBJECT: Post-tenure review of university faculty

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 5 ayes — Rangel, Solis, Bailey, Cuellar, Dunnam
0 nays
3 absent — Kamel, Rabuck, E. Reyna

SENATE VOTE: On final passage, February 25 — 29-1 (Ogden)

WITNESSES: For — None
Against — Thomas E. Guild and Don W. Smith, American Association of University Professors; Tom Hoffman
On — Karl Galinsky; Robert Goad, American Association of University Professors; Glen H. Spencer; Charles Zucker; Angi Patton

DIGEST: CSSB 149 would require that the governing board of each public institution of higher education adopt rules and procedures for the periodic performance evaluation for all tenured faculty. The bill would provide that the board give the utmost consideration to the advice and comment of faculty before adopting any rules.

The review process would take place every one to six years. The evaluation would have to be based on the teaching, research, service, patient care, and administrative responsibilities of the faculty member and incorporate academic due process rights and be directed toward the professional development of the faculty member. A faculty member could not be subject to revocation of tenure or other discipline without determination of professional incompetency or other good cause.

A faculty member subject to termination would have to be allowed an opportunity for referring the matter to a nonbinding alternative dispute resolution process. The governing board could not waive the evaluation

process. Each institution's' rules would have to be filed with the coordinating board by September 1 of each year.

CSSB 149 would take effect January 1, 1998. Institutions would have to evaluate each faculty member tenured as of the effective date by January 1, 2004.

**SUPPORTERS
SAY:**

CSSB 149 would inject needed accountability to the system of higher education in Texas. Tenure, essentially a lifetime job guarantee, is out of sync with current trends toward efficiency and performance management in both the public and private sectors. Although means exist to remove individuals guilty of grievous offenses, they are rarely used. In the last 25 years, the University of Texas, Texas A&M, and the University of Houston have fired only eight tenured individuals for incompetence. Clearly, a more effective manner of identifying and removing incompetent individuals is needed.

A reasonable level of post-tenure accountability for faculty would ensure students that they would continue to receive the high level of service for which the professor was awarded tenure in the first place. It would raise the quality of participation by both students and faculty and improve the overall academic environment at the state's public institutions.

Furthermore, instituting post-tenure review would assure the public that their tax dollars would be used to support only the highest caliber of academic work and that state institutions did not support professors who had long since ceased to adequately perform their duties.

The post-tenure review process would not harm the state's ability to recruit or retain top-notch professors. Qualified professors have nothing to fear from post-tenure review; instead, such review could serve as a screening process for professors who might be less than desirable or have something to hide.

CSSB 149 would bring Texas up to speed with a growing national trend. The University of Texas and Texas A&M have approved post-tenure review plans, and 26 other states are examining the issue. The evaluations would not be burdensome to faculty or to administrators, as the bill would allow

for the development of rules that best fit the needs, goals, traditions, and culture of various institutions. In addition, utmost consideration would be given to the opinions of faculty members in the development of the review process, further ensuring that the process developed would be amenable to all parties involved.

OPPONENTS
SAY:

Instituting a post-tenure review process would threaten academic freedom and the quality of higher education in Texas. Eroding the security provided by the tenure system could result in faculty being fired for political or personal reasons. It could also expose various academic disciplines to attack according to the shifting trends of academia.

The individuals who would be affected by post-tenure review are not marginal characters, but rather the most successful, esteemed members of a hotly competitive academic community where even earning a junior position is difficult. To achieve tenure, a professor must demonstrate excellence in teaching, research, and community service. Evaluations are made by peers and students, as well as supervisors. Tenure, however, does not eliminate accountability. All institutions retain procedures for dismissing tenured professors for serious infractions. Furthermore, tenured faculty are reviewed annually under the process for allocating merit raises.

The university environment is unique in that it depends upon conducting open inquiry, asking difficult questions, and producing long-term studies of potentially unpopular topics. This type of work must be subject to different, more stringent protections, than that of the for-profit sector.

The academic freedom afforded by tenure has helped the United States develop the best university system in the world. Jeopardizing the state's tenure system would inhibit our institutions' ability to recruit top-notch professors and increase the incentive for those already in Texas to look elsewhere. In examining issues of accountability and efficiency, academia cannot be compared to private industry. Without tenure, there is little reason to believe that universities could play their essential functions as sanctuaries of study and debate.

CSSB 149 would not only sabotage the academic freedom of Texas' colleges and universities but also would subject faculty and administrators

alike to an additional bureaucratic hurdle, taking important time and energy away from the students, where it belongs.

**OTHER
OPPONENTS
SAY:**

Instituting post-tenure review would be an overly simplistic solution to a complex issue. Adequate study has not been done to determine the possible academic and legal ramifications of altering the long held compact between universities and faculty. Retroactively changing Texas' tenure policies could bring legal challenges resulting from changes in the contracts made with tenured professors.

NOTES:

The committee substitute changed the name of the evaluation process from “post-tenure review” to “performance evaluation of tenured faculty.” The substitute allowed institutions to design their rules to fit the institution, emphasized the role of faculty advice in developing the rules, provided for alternative dispute resolution with faculty subject to termination, deleted “unsatisfactory performance” as a criterion for disciplinary action, and established “professional incompetency” as a standard.