

SUBJECT: Timetable for renewing faculty employment contracts

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Rangel, F. Brown, Farabee, J. Jones, Morrison, E. Reyna, Uher,
West

0 nays

1 absent — Goolsby

WITNESSES: For — Dr. Charles Zucker, Texas Faculty Association; *Registered but did not testify*: Rene Lara, Texas Federation of Teachers

Against — None

DIGEST: HB 1127 would amend the Education Code, Subchapter Z, Chapter 51, to establish a timetable for public institutions of higher education to issue employment contracts to full-time faculty members for the next academic year and a penalty for failure to meet that timetable.

A higher education institution that intended to retain a faculty member for the next academic year would have to offer that faculty member a written contract at least 60 days before the academic year began. An institution that could not comply with the 60-day requirement would have to notify the faculty member by certified mail of the reasons for noncompliance and specify a time by which the institution would offer a written contract.

An institution that failed to offer a faculty member a written contract within 60 days after the start of an academic year would have to retain the faculty member under terms and conditions at least as favorable as those that governed the faculty member's employment in the previous year. In this circumstance, the institution would have to pay the faculty member a penalty equal to 10 percent of the previous year's salary, regardless of whether the institution eventually entered into a written contract with the affected faculty member.

The bill would define “faculty member” to include professional librarians but would exclude persons who hold faculty rank but who spend a majority of their time in managerial or supervisory activities.

HB 1127 would take effect January 1, 2002, and would apply only to contracts for academic years beginning after that date.

**SUPPORTERS
SAY:**

HB 1127 would benefit higher education institutions as well as their faculty members, whether tenured or non-tenured, by establishing a time frame for institutions to issue employment contracts. Under current law, the time frame for an institution to issue a contract to a faculty member it intends to retain rests within the discretion of the administration. As a result, some full-time faculty members have received their employment agreements well after the start of the academic year, while others have had to work with no contract or employment agreement.

The current situation creates uncertainty and instability for faculty members and their families and for the higher education institutions that employ them. In many cases, faculty members do not know if they will have a job until the academic year begins, and they are expected to work without being “officially employed” and with questionable eligibility for employment-related benefits. Also, higher education institutions must contend, without recourse, with unexpected faculty resignations shortly before the start of the academic year, and institutions find it difficult to attract and recruit new faculty members who feel uncertain about working in an institution with no “up-front” employment contract.

HB 1127 would provide stability and certainty for full-time faculty members and their institutions and would improve faculty retention and recruitment. The notice requirements for faculty members’ employment contracts would resemble the existing 45-day notice requirement for public school teachers under Education Code, Chapter 21.

HB 1127 would not cause undue hardship or potential liability for higher education institutions but would require them to do what they should be doing already, namely planning ahead and providing their faculty members with employment contracts by a specific date or with an explanation for the delay in issuing the contract.

In addition, HB 1127 would address situations in which an institution may be unable to comply with the timetable for offering employment contracts. In such cases, the institution could notify the faculty member by mail of the reasons for noncompliance and could specify a time by which the institution would offer the contract.

Although HB 1127 would establish a penalty for an institution that failed to comply with the bill's requirements, the penalty would apply only in cases in which the institution failed to provide a written contract within 60 days after the start of the academic year. This time frame would provide ample opportunity for the institution to resolve uncertainties in budget, scheduling, or other matters and still provide faculty members with their contracts in a timely manner. Such a penalty would be necessary to encourage compliance with the bill's provisions. The bill would make it clear that the institution would be responsible for paying any penalty, regardless of the source of funds.

OPPONENTS
SAY:

HB 1127 would create hardship for higher education institutions through state regulation of an area that is better left to campus control. Also, it would require these institutions to take concrete actions under an absolute time frame in an area in which uncertainty exists. An institution typically prepares its faculty members' employment contracts after approving its budget. Often the budget is not set until late July or August, particularly in years when the Legislature is in session. As a result, many institutions could not comply with the requirement that they offer faculty members a written employment contract at least 60 days before the start of the academic year. In addition, higher education institutions cannot prepare faculty members' employment contracts reliably until the academic year has begun and class schedules and availability are determined. Although HB 1127 would establish an alternative "notice" procedure, compliance would result in a significant cost to these institutions.

The 10 percent penalty provision in HB 1127 is too onerous and would penalize universities that might comply with the bill's other requirements but, for whatever reason, might not be able to provide an employment contract within 60 days after the start of the academic year. In addition, this provision would result in confusion regarding the source of the funds to pay penalties. Finally, HB 1127 might subject higher education institutions to

increased legal challenges from their faculty members for failure to comply with the bill's requirements.

NOTES:

Rep. Uher plans to offer a floor amendment to delete the 10 percent penalty provision.

A similar bill in the 76th Legislature, HB 2079 by Rangel, was reported favorably as substituted by the House Higher Education Committee but died in the House Calendars Committee.