

AMENDED IN ASSEMBLY APRIL 28, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2705**

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**Introduced by Assembly Member Williams**  
*(Coauthor: Assembly Member Bonilla)*

February 21, 2014

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An act to amend Sections 87102, 87151, 87415, 87424, 87482.5, 87482.6, 87482.8, 87482.9, 87601, 87604, 87860, 87861, 87862, 87863, 87864, 87867, 87880, 87881, 87882, 87883, 87884, and 87885 of, to amend the headings of Article 9 (commencing with Section 87860) of, and Article 10 (commencing with Section 87880) of, Chapter 3 of Part 51 of Division 7 of Title 3 of, and to repeal Section 87482.4 of, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as amended, Williams. Community colleges: faculty.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Under existing law, community college districts are authorized, among other things, to maintain and operate campuses, employ faculty and other employees, and provide instruction to students. Existing law provides for several classifications of community college faculty, including full-time, contract, and part-time faculty.

This bill would revise numerous statutes related to community college faculty to change references from "part-time" faculty to "associate"

“contingent” faculty. The bill would also make nonsubstantive changes in these statutes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The terms “part-time faculty” and “temporary faculty” do  
4 not adequately describe the qualifications, contributions, and  
5 importance of the community college faculty to whom those terms  
6 have been applied.

7 (2) ~~“Associate faculty”~~ “Contingent faculty” is a more accurate  
8 and useful term with which to refer to these educators, who are so  
9 integral to the successful functioning of community colleges in  
10 this state.

11 (3) There are inconsistencies in the Education Code with regard  
12 to the definitions of community college faculty, and the Legislature  
13 seeks to standardize the terms “full-time faculty” and ~~“associate~~  
14 “contingent faculty.”

15 (b) It is the intent of the Legislature, in enacting this act, to act  
16 consistently with, and in no way to compromise or limit, the  
17 holding of the Court of Appeals in the case of Cervisi v.  
18 Unemployment Insurance Appeals Board (1989), 208 Cal.App.3d  
19 635.

20 SEC. 2. Section 87102 of the Education Code is amended to  
21 read:

22 87102. (a) As a condition for the receipt of funds pursuant to  
23 Section 87107, the governing board of a community college district  
24 that opts to participate under the article shall periodically submit  
25 to the board of governors an affirmation of compliance with this  
26 article. Each participating district’s equal employment opportunity  
27 program shall ensure participation in, and commitment to, the  
28 program by district personnel. Each participating district’s equal  
29 employment opportunity plan shall include steps that the district  
30 will take in eliminating improper discrimination or preferences in  
31 its hiring and employment practices. Each plan shall address how  
32 the district will make progress in achieving the ratio of full-time

1 to ~~associate~~ *contingent* faculty hiring, as indicated in Section  
2 87482.6, while still ensuring equal employment opportunity.

3 (b) Each participating district's equal employment opportunity  
4 plan is a public record within the meaning of the California Public  
5 Records Act (Chapter 3.5 (commencing with Section 6250) of  
6 Division 7 of Title 1 of the Government Code).

7 SEC. 3. Section 87151 of the Education Code is amended to  
8 read:

9 87151. The Board of Governors of the California Community  
10 Colleges shall annually allocate funds appropriated for the purposes  
11 of this article to each community college district whose chief  
12 executive officer has submitted to the chancellor an affidavit that  
13 includes:

14 (a) A statement that each campus within the community college  
15 district has an advisory committee, composed of administrators,  
16 faculty, and staff representatives, which has assisted in the  
17 assessment of the faculty and staff development needs and in the  
18 design of the plan to meet those needs.

19 (b) A campus human development resources plan has been  
20 completed for the current and subsequent fiscal years.

21 (c) A report of the actual expenditures for faculty and staff  
22 development for the preceding year.

23 SEC. 4. Section 87415 of the Education Code is amended to  
24 read:

25 87415. The following general provisions shall apply  
26 irrespective of the date of employment:

27 (a) The order once determined by lot shall be permanent, and  
28 shall be entered on the permanent records of the community college  
29 district.

30 (b) Records showing date of employment, whether kept by the  
31 community college district or by the county, shall be accessible,  
32 on demand, to any academic employee of the district or to his or  
33 her designated representative.

34 (c) In the absence of records as to any of the matters referred  
35 to in the two preceding sections, the governing board of the  
36 community college district, in accordance with evidence presented,  
37 shall determine the order of employment after giving employees  
38 a reasonable opportunity to present this evidence.

39 (d) The governing board of every community college district  
40 shall establish the order of employment of all employees of the

1 district in the manner prescribed by Sections 87400 to 87424,  
2 inclusive, and shall keep a roster of the order of employment as a  
3 public record.

4 (e) Whether or not a roster is kept in other community college  
5 districts, the order of employment in all community college  
6 districts, when required, shall be determined as prescribed by  
7 Sections 87400 to 87424, inclusive.

8 (f) The governing board of a community college district shall  
9 have power, and it shall be its duty, to correct any errors discovered  
10 from time to time in its records showing the order of employment.

11 SEC. 5. Section 87424 of the Education Code is amended to  
12 read:

13 87424. (a) If the employee from a community college district  
14 within the state who serves as an exchange instructor outside of  
15 the state and the governing board regularly employing him or her  
16 so agree, the district may pay his or her regular salary, making all  
17 deductions provided by law for retirement purposes, during the  
18 period of the exchange teaching. In this situation, the community  
19 college district shall not pay the salary of the exchange employee  
20 from outside of the state, serving the district in exchange for its  
21 regular instructor.

22 (b) If an employee from a community college district within  
23 this state serving as an exchange instructor outside of the state, to  
24 whom the governing board of that district is paying the regular  
25 salary of that instructor as herein provided, is compelled to absent  
26 himself or herself from his or her duties because of injury, illness,  
27 or quarantine, the governing board of the community college  
28 district within this state may pay the substitute employed to take  
29 the place of that instructor and shall deduct the amount paid to the  
30 substitute from the compensation of the employee.

31 SEC. 6. Section 87482.4 of the Education Code is repealed.

32 SEC. 7. Section 87482.5 of the Education Code is amended to  
33 read:

34 87482.5. (a) Notwithstanding any other law, a person who is  
35 employed to teach adult or community college classes for not more  
36 than 67 percent of the hours per week considered a full-time  
37 assignment for regular employees having comparable duties shall  
38 be classified as ~~an associate~~ *a contingent* employee, and shall not  
39 become a contract employee under Section 87604. If the provisions  
40 of this section are in conflict with the terms of a collective

1 bargaining agreement in effect on or before January 1, 2009, the  
2 provisions of this section shall govern the employees subject to  
3 that agreement upon the expiration of the agreement.

4 (b) Service as a substitute on a day-to-day basis by persons  
5 employed under this section shall not be used for purposes of  
6 calculating eligibility for contract or regular status.

7 (c) (1) Service in professional ancillary activities by persons  
8 employed under this section, including, but not necessarily limited  
9 to, governance, staff development, grant writing, and advising  
10 student organizations, shall not be used for purposes of calculating  
11 eligibility for contract or regular status unless otherwise provided  
12 for in a collective bargaining agreement applicable to a person  
13 employed under this section.

14 (2) This subdivision may not be construed to affect the  
15 requirements of subdivision (d) of Section 84362.

16 SEC. 8. Section 87482.6 of the Education Code is amended to  
17 read:

18 87482.6. (a) Until the provisions of Section 84750.5 regarding  
19 program-based funding are implemented by a standard adopted  
20 by the board of governors that establishes the appropriate  
21 percentage of hours of credit instruction that should be taught by  
22 full-time instructors, the Legislature wishes to recognize and make  
23 efforts to address longstanding policy of the board of governors  
24 that at least 75 percent of the hours of credit instruction in the  
25 California Community Colleges, as a system, should be taught by  
26 full-time instructors. To this end, community college districts that  
27 have less than 75 percent of their hours of credit instruction taught  
28 by full-time instructors shall apply a portion of the program  
29 improvement allocation received pursuant to Section 84755 as  
30 follows:

31 (1) Community college districts that, in the prior fiscal year,  
32 had between 67 percent and 75 percent of their hours of credit  
33 instruction taught by full-time instructors shall apply up to 33  
34 percent of their program improvement allocation as necessary to  
35 reach the 75 percent standard. If a district in this category chooses  
36 instead not to improve its percentage, the board of governors shall  
37 withhold 33 percent of the district's program improvement  
38 allocation.

39 (2) Community college districts that, in the prior fiscal year,  
40 had less than 67 percent of their hours of credit instruction taught

1 by full-time instructors shall apply up to 40 percent of their  
2 program improvement allocation as necessary to reach the 75  
3 percent standard. If a district in this category chooses instead not  
4 to improve its percentage, the board of governors shall withhold  
5 40 percent of the district's program improvement allocation.

6 (3) Community college districts that maintain 75 percent or  
7 more of their hours of credit instruction taught by full-time  
8 instructors shall otherwise be free to use their program  
9 improvement allocation for any of the purposes specified in Section  
10 84755.

11 (b) The board of governors shall adopt regulations for the  
12 effective administration of this section. Unless and until amended  
13 by the board of governors, the regulations shall provide as follows:

14 (1) In computing the percentage of hours of credit instruction  
15 taught by full-time instructors, the hours of overload teaching by  
16 full-time instructors shall be excluded from both the total hours  
17 of credit instruction taught by full-time or ~~associate~~ *contingent*  
18 instructors and the total hours of instruction taught by full-time  
19 instructors.

20 (2) (A) The chancellor shall compute and report to each  
21 community college district the number of full-time faculty to be  
22 secured through the use of the prescribed portion of program  
23 improvement revenue allocated to each district. This computation  
24 shall be made by dividing the applicable portion of program  
25 improvement revenue (0 percent, 33 percent, or 40 percent of the  
26 program improvement allocation), by the statewide average  
27 "replacement cost" (a figure which represents the statewide average  
28 faculty salary plus benefits, minus the statewide average hourly  
29 rate of compensation for ~~associate~~ *contingent* instructors times the  
30 statewide average full-time teaching load). If the quotient is not a  
31 whole number, then the quotient shall be rounded down to the  
32 nearest whole number. If this quotient, once applied, will result in  
33 the district exceeding the 75 percent standard, the chancellor shall  
34 further reduce the quotient to a whole number that will leave the  
35 district as close as possible to, but in excess of, the 75 percent  
36 standard.

37 (B) By March 15 of each year, the chancellor shall report to  
38 each community college district an estimate of the number of  
39 full-time faculty to be secured based upon the appropriation of  
40 revenues contained in the annual Budget Bill.

1 (3) On or before December 31, 1991, the chancellor shall  
2 determine the extent to which each community college district, by  
3 September 30, 1991, has hired the number of full-time faculty  
4 determined pursuant to paragraph (3) for the 1989–90 and 1990–91  
5 fiscal years. To the extent that the cumulative number of full-time  
6 faculty have not been retained, the chancellor shall reduce the  
7 community college district’s base budget for 1991–92 and  
8 subsequent fiscal years by an amount equivalent to the average  
9 replacement cost times the deficiency in the number of full-time  
10 faculty.

11 SEC. 9. Section 87482.8 of the Education Code is amended to  
12 read:

13 87482.8. Whenever possible:

14 (a) ~~Associate~~ *Contingent* faculty should be informed of  
15 assignments at least six weeks in advance.

16 (b) ~~Associate~~ *Contingent* faculty should be paid for the first  
17 week of an assignment when class is cancelled less than two weeks  
18 before the beginning of a semester. If a class meets more than once  
19 per week, ~~associate~~ *contingent* faculty should be paid for all classes  
20 that were scheduled for that week.

21 (c) The names of ~~associate~~ *contingent* faculty should be listed  
22 in the schedule of classes rather than just described as “staff.”

23 (d) ~~Associate~~ *Contingent* faculty should be considered to be an  
24 integral part of their departments and given all the rights normally  
25 afforded to full-time faculty in the areas of book selection,  
26 participation in department activities, and the use of college  
27 resources, including, but not necessarily limited to, telephones,  
28 copy machines, supplies, office space, mail boxes, clerical staff,  
29 library, and professional development.

30 SEC. 10. Section 87482.9 of the Education Code is amended  
31 to read:

32 87482.9. This section applies only to ~~associate~~ *contingent*  
33 faculty within the meaning of Section 87482.5. The issue of earning  
34 and retaining of annual reappointment rights shall be a mandatory  
35 subject of negotiation with respect to the collective bargaining  
36 process relating to any new or successor contract between  
37 community college districts and ~~associate~~ *contingent* faculty  
38 occurring on or after January 1, 2002.

39 SEC. 11. Section 87601 of the Education Code is amended to  
40 read:

1 87601. For the purposes of this article:

2 (a) “Academic year” means that period between the first day of  
3 a fall semester or quarter and the last day of the following spring  
4 semester or quarter, excluding any intersession term that has been  
5 excluded pursuant to an applicable collective bargaining agreement.

6 (b) ~~“Associate employee”~~ “Contingent employee” means an  
7 employee of a district who is employed in accordance with Section  
8 87604.

9 (c) “Contract employee” means an employee of a district who  
10 is employed on the basis of a contract in accordance with Section  
11 87605, subdivision (b) of Section 87608, or subdivision (b) of  
12 Section 87608.5.

13 (d) “District” means a community college district.

14 (e) “Positions requiring certification qualifications” are those  
15 positions which provide the services for which certifications have  
16 been established in this code.

17 (f) “Regular employee” means an employee of a district who  
18 is employed in accordance with subdivision (c) of Section 87608,  
19 subdivision (c) of Section 87608.5, or Section 87609.

20 SEC. 12. Section 87604 of the Education Code is amended to  
21 read:

22 87604. The governing board of a community college district  
23 shall employ each academic employee as a contract employee,  
24 regular employee, or ~~associate~~ *contingent* employee.

25 SEC. 13. The heading of Article 9 (commencing with Section  
26 87860) of Chapter 3 of Part 51 of Division 7 of Title 3 of the  
27 Education Code is amended to read:

28  
29 Article 9. Community College ~~Associate~~ *Contingent* Faculty  
30 Health Insurance Program  
31

32 SEC. 14. Section 87860 of the Education Code is amended to  
33 read:

34 87860. It is the intent of the Legislature that community college  
35 ~~associate~~ *contingent* faculty and their eligible dependents have  
36 continuous access to health insurance benefits.

37 SEC. 15. Section 87861 of the Education Code is amended to  
38 read:

39 87861. For the purposes of this article:

1 (a) ~~“Associate faculty”~~ “*Contingent faculty*” refers to any  
2 faculty member whose teaching assignment equals or exceeds 40  
3 percent of the cumulative equivalent of a minimum full-time  
4 teaching assignment.

5 (b) “Health insurance benefits” include medical benefits, but  
6 do not include vision or dental benefits.

7 (c) The changes made to subdivision (b) during the 1999 portion  
8 of the 1999–2000 Regular Session of the Legislature shall be  
9 operative in any fiscal year only if funds are appropriated for  
10 purposes of those changes in the annual Budget Act or in another  
11 measure. If the amount appropriated in the annual Budget Act or  
12 in another measure for purposes of this section is insufficient to  
13 fully fund those changes for the fiscal year, the chancellor shall  
14 prorate the funds among the community college districts affected  
15 by this section.

16 SEC. 16. Section 87862 of the Education Code is amended to  
17 read:

18 87862. The governing board of a community college district  
19 may provide a program of health insurance for ~~associate~~ *contingent*  
20 faculty and their dependents.

21 SEC. 17. Section 87863 of the Education Code is amended to  
22 read:

23 87863. (a) ~~An associate~~ *A contingent* faculty member and his  
24 or her eligible dependents are eligible to participate in the program  
25 established pursuant to this article.

26 (b) The changes made to subdivision (a) during the 1999 portion  
27 of the 1999–2000 Regular Session of the Legislature shall be  
28 operative in any fiscal year only if funds are appropriated for  
29 purposes of those changes in the annual Budget Act or in another  
30 measure. If the amount appropriated in the annual Budget Act or  
31 in another measure for purposes of this section is insufficient to  
32 fully fund those changes for the fiscal year, the chancellor shall  
33 prorate the funds among the community college districts affected  
34 by this section.

35 (c) Any changes made pursuant to this section to the Community  
36 College ~~Associate~~ *Contingent* Faculty Health Insurance Program  
37 shall not affect any ~~associate~~ *contingent* health insurance program  
38 in effect on January 1, 2000.

39 SEC. 18. Section 87864 of the Education Code is amended to  
40 read:

1 87864. No ~~associate~~ *contingent* faculty member or dependents  
2 whose premiums for health insurance are paid by an employer  
3 other than a community college district is eligible to participate in  
4 the program established pursuant to this article.

5 SEC. 19. Section 87867 of the Education Code is amended to  
6 read:

7 87867. By June 15 of each year, the Chancellor of the  
8 California Community Colleges shall apportion to each community  
9 college district that establishes a program pursuant to this article  
10 an amount that equals up to one-half of the total cost of the  
11 individual enrollment premiums required to be paid for the health  
12 insurance coverage of participating ~~associate~~ *contingent* faculty  
13 and their dependents in the district. The chancellor shall distribute  
14 funds that have been appropriated specifically for this purpose  
15 proportionally based on each community college district’s total  
16 costs for premiums for those community college districts that  
17 submit verification of the costs of premiums for eligible employees  
18 for a fiscal year, but in no event shall the allocation to any  
19 community college district exceed one-half of the cost of the  
20 verified premiums. If funds appropriated for this purpose exceed  
21 one-half of the verified cost of premiums for all participating  
22 community college districts statewide, the balance that exceeds  
23 that amount shall revert to the General Fund annually.

24 SEC. 20. The heading of Article 10 (commencing with Section  
25 87880) of Chapter 3 of Part 51 of Division 7 of Title 3 of the  
26 Education Code is amended to read:

27  
28 Article 10. Community College ~~Associate~~ *Contingent* Faculty  
29 Office Hours Program  
30

31 SEC. 21. Section 87880 of the Education Code is amended to  
32 read:

33 87880. The Legislature finds and declares that community  
34 college ~~associate~~ *contingent* faculty are required to fulfill the same  
35 teaching responsibilities as full-time faculty although students  
36 have little or no access to ~~associate~~ *contingent* faculty members  
37 outside of the classroom. It is the intent of the Legislature that  
38 students have the same opportunity for academic assistance and  
39 guidance without regard to whether a course at a community  
40 college is taught by a full-time or ~~associate~~ *contingent* faculty

1 member. It is the further intent of the Legislature that community  
2 college-~~associate~~ *contingent* faculty teaching a minimum number  
3 of courses be compensated for providing academic counseling and  
4 assistance to students outside of the classroom.

5 SEC. 22. Section 87881 of the Education Code is amended to  
6 read:

7 87881. There is hereby established the Community College  
8 ~~Associate~~ *Contingent* Faculty Office Hours Program for the  
9 purpose of providing community college students equal access to  
10 academic advice and assistance and to encourage community  
11 college districts to provide opportunities by compensating-~~associate~~  
12 *contingent* faculty who hold office hours related to their teaching  
13 load.

14 SEC. 23. Section 87882 of the Education Code is amended to  
15 read:

16 87882. For purposes of this article,—“~~associate faculty~~”  
17 “*contingent faculty*” means any person who is employed to teach  
18 for not more than the hours per week described in Section 87482.5.

19 SEC. 24. Section 87883 of the Education Code is amended to  
20 read:

21 87883. (a) The governing board of a community college district  
22 may provide compensation for office hours to-~~associate~~ *contingent*  
23 faculty.

24 (b) The compensation paid to-~~associate~~ *contingent* faculty under  
25 this article shall equal at least one paid office hour for every two  
26 classes or more taught each week or 40 percent of a full-time load  
27 as defined by the community college district.

28 (c) Nothing in this section precludes compensation under this  
29 program for paid office time for each 20 percent of a full-time  
30 load, or fraction thereof, as defined by the community college  
31 district.

32 (d) The change made to subdivision (c) during the 1999 portion  
33 of the 1999–2000 Regular Session of the Legislature shall be  
34 operative in any fiscal year only if funds are appropriated for  
35 purposes of that change in the annual Budget Act or in another  
36 measure. If the amount appropriated in the annual Budget Act or  
37 in another measure for purposes of this section is insufficient to  
38 fully fund that change for the fiscal year, the chancellor shall  
39 prorate the funds among the community college districts affected  
40 by this section.

1 SEC. 25. Section 87884 of the Education Code is amended to  
 2 read:

3 87884. (a) The governing board of each community college  
 4 district that establishes a program pursuant to this article shall  
 5 negotiate with the exclusive bargaining representative, or in  
 6 instances where there is no bargaining unit shall meet and confer  
 7 with the faculty, to establish a program to provide ~~associate~~  
 8 *contingent* faculty office hours.

9 (b) Any hours negotiated under this program shall not be applied  
 10 toward the maximum percentage-of-hours limitation for ~~associate~~  
 11 *contingent* faculty as specified in Section 87882. These hours shall  
 12 not be counted ~~towards~~ *toward* the hours per week of teaching  
 13 adult or community college classes for purposes of acquiring  
 14 eligibility for tenure or for purposes of fulfilling any probationary  
 15 hour requirements.

16 (c) On or before June 1 of each year, each community college  
 17 district participating in the program shall send a verification to the  
 18 Chancellor of the California Community Colleges specifying the  
 19 total costs of the compensation paid for office hours of ~~associate~~  
 20 *contingent* faculty participating in the program.

21 (d) Any changes made by this section to the Community College  
 22 ~~Associate Contingent~~ Faculty Office Hours Program shall not  
 23 affect any ~~associate contingent~~ faculty office hours program in  
 24 effect on January 1, 2000.

25 SEC. 26. Section 87885 of the Education Code is amended to  
 26 read:

27 87885. (a) The ~~Associate Contingent~~ Faculty Office Hours  
 28 Program Fund is hereby established in the State Treasury as a  
 29 continuation of the Part-Time Faculty Office Hours Program Fund  
 30 established by this section.

31 (b) On or before June 15 of each year, the Chancellor of the  
 32 California Community Colleges shall apportion to each community  
 33 college district that establishes a program pursuant to this article  
 34 an amount of up to 50 percent of the total costs of compensation  
 35 paid for office hours of ~~associate contingent~~ faculty, as defined in  
 36 Section 87882. The chancellor shall distribute funds that are  
 37 appropriated in the annual Budget Act specifically for this purpose  
 38 proportionally based on each community college district's total  
 39 costs for office hours of ~~associate contingent~~ faculty pursuant to  
 40 the verification submitted by the community college district in

1 accordance with subdivision (c) of Section 87884 for that fiscal  
2 year. In no event, however, shall the allocation to any district in a  
3 fiscal year exceed 50 percent of the total costs of the compensation  
4 paid for office hours of ~~associate~~ *contingent* faculty pursuant to  
5 this article.

6 (c) It is the intent of the Legislature that funding for the purposes  
7 of this article be included in the annual Budget Act.

O