

AMENDED IN SENATE AUGUST 5, 2014

AMENDED IN ASSEMBLY MAY 19, 2014

AMENDED IN ASSEMBLY APRIL 28, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2705

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

February 21, 2014

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

The bill would require the Employment Development Department to issue a new field office directive for purposes of determining eligibility for unemployment insurance benefits that reflects the substitution of the term “contingent faculty” for the terms “part-time faculty” and “temporary faculty.”

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 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) “Contingent faculty” is a more accurate and useful term with
 8 which to refer to these educators, who are so integral to the
 9 successful functioning of community colleges in this state.

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

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

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

21 87102. (a) As a condition for the receipt of funds pursuant to
 22 Section 87107, the governing board of a community college district
 23 that opts to participate under the article shall periodically submit
 24 to the board of governors an affirmation of compliance with this
 25 article. Each participating district’s equal employment opportunity
 26 program shall ensure participation in, and commitment to, the

1 program by district personnel. Each participating district's equal
2 employment opportunity plan shall include steps that the district
3 will take in eliminating improper discrimination or preferences in
4 its hiring and employment practices. Each plan shall address how
5 the district will make progress in achieving the ratio of full-time
6 to contingent faculty hiring, as indicated in Section 87482.6, while
7 still ensuring equal employment opportunity.

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

12 SEC. 3. Section 87151 of the Education Code is amended to
13 read:

14 87151. The Board of Governors of the California Community
15 Colleges shall annually allocate funds appropriated for the purposes
16 of this article to each community college district whose chief
17 executive officer has submitted to the chancellor an affidavit that
18 includes:

19 (a) A statement that each campus within the community college
20 district has an advisory committee, composed of administrators,
21 faculty, and staff representatives, which has assisted in the
22 assessment of the faculty and staff development needs and in the
23 design of the plan to meet those needs.

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

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

28 SEC. 4. Section 87415 of the Education Code is amended to
29 read:

30 87415. The following general provisions shall apply
31 irrespective of the date of employment:

32 (a) The order once determined by lot shall be permanent, and
33 shall be entered on the permanent records of the community college
34 district.

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

39 (c) In the absence of records as to any of the matters referred
40 to in the two preceding sections, the governing board of the

1 community college district, in accordance with evidence presented,
2 shall determine the order of employment after giving employees
3 a reasonable opportunity to present this evidence.

4 (d) The governing board of every community college district
5 shall establish the order of employment of all contract or regular
6 employees of the district in the manner prescribed by Sections
7 87400 to 87424, inclusive, and shall keep a roster of the order of
8 employment as a public record.

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

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

16 SEC. 5. Section 87424 of the Education Code is amended to
17 read:

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

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

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

37 SEC. 7. Section 87482.5 of the Education Code is amended to
38 read:

39 87482.5. (a) Notwithstanding any other law, a person who is
40 employed to teach adult or community college classes for not more

1 than 67 percent of the hours per week considered a full-time
2 assignment for regular employees having comparable duties shall
3 be classified as a contingent employee, and shall not become a
4 contract employee under Section 87604. If the provisions of this
5 section are in conflict with the terms of a collective bargaining
6 agreement in effect on or before January 1, 2009, the provisions
7 of this section shall govern the employees subject to that agreement
8 upon the expiration of the agreement.

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

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

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

21 SEC. 8. Section 87482.6 of the Education Code is amended to
22 read:

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

36 (1) Community college districts that, in the prior fiscal year,
37 had between 67 percent and 75 percent of their hours of credit
38 instruction taught by full-time instructors shall apply up to 33
39 percent of their program improvement allocation as necessary to
40 reach the 75 percent standard. If a district in this category chooses

1 instead not to improve its percentage, the board of governors shall
2 withhold 33 percent of the district’s program improvement
3 allocation.

4 (2) Community college districts that, in the prior fiscal year,
5 had less than 67 percent of their hours of credit instruction taught
6 by full-time instructors shall apply up to 40 percent of their
7 program improvement allocation as necessary to reach the 75
8 percent standard. If a district in this category chooses instead not
9 to improve its percentage, the board of governors shall withhold
10 40 percent of the district’s program improvement allocation.

11 (3) Community college districts that maintain 75 percent or
12 more of their hours of credit instruction taught by full-time
13 instructors shall otherwise be free to use their program
14 improvement allocation for any of the purposes specified in Section
15 84755.

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

19 (1) In computing the percentage of hours of credit instruction
20 taught by full-time instructors, the hours of overload teaching by
21 full-time instructors shall be excluded from both the total hours
22 of credit instruction taught by full-time or contingent instructors
23 and the total hours of instruction taught by full-time instructors.

24 (2) A full-time instructor shall be defined as any regular and
25 contract faculty member teaching credit instruction.

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

1 district as close as possible to, but in excess of, the 75 percent
2 standard.

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

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

17 SEC. 9. Section 87482.8 of the Education Code is amended to
18 read:

19 87482.8. Whenever possible:

20 (a) Contingent faculty should be informed of assignments at
21 least six weeks in advance.

22 (b) Contingent faculty should be paid for the first week of an
23 assignment when class is ~~cancelled~~ *cancelled* less than two weeks
24 before the beginning of a semester. If a class meets more than once
25 per week, contingent faculty should be paid for all classes that
26 were scheduled for that week.

27 (c) The names of contingent faculty should be listed in the
28 schedule of classes rather than just described as “staff.”

29 (d) Contingent faculty should be considered to be an integral
30 part of their departments and given all the rights normally afforded
31 to full-time faculty in the areas of book selection, participation in
32 department activities, and the use of college resources, including,
33 but not necessarily limited to, telephones, copy machines, supplies,
34 office space, mail boxes, clerical staff, library, and professional
35 development.

36 SEC. 10. Section 87482.9 of the Education Code is amended
37 to read:

38 87482.9. This section applies only to contingent faculty within
39 the meaning of Section 87482.5. The issue of earning and retaining
40 of annual reappointment rights shall be a mandatory subject of

1 negotiation with respect to the collective bargaining process
2 relating to any new or successor contract between community
3 college districts and contingent faculty occurring on or after
4 January 1, 2002.

5 SEC. 11. Section 87601 of the Education Code is amended to
6 read:

7 87601. For the purposes of this article:

8 (a) "Academic year" means that period between the first day of
9 a fall semester or quarter and the last day of the following spring
10 semester or quarter, excluding any intersession term that has been
11 excluded pursuant to an applicable collective bargaining agreement.

12 (b) "Contingent employee" means an employee of a district
13 who is employed in accordance with Section 87604.

14 (c) "Contract employee" means an employee of a district who
15 is employed on the basis of a contract in accordance with Section
16 87605, subdivision (b) of Section 87608, or subdivision (b) of
17 Section 87608.5.

18 (d) "District" means a community college district.

19 (e) "Positions requiring certification qualifications" are those
20 positions which provide the services for which certifications have
21 been established in this code.

22 (f) "Regular employee" means an employee of a district who
23 is employed in accordance with subdivision (c) of Section 87608,
24 subdivision (c) of Section 87608.5, or Section 87609.

25 SEC. 12. Section 87604 of the Education Code is amended to
26 read:

27 87604. The governing board of a community college district
28 shall employ each academic employee as a contract employee,
29 regular employee, or contingent employee.

30 SEC. 13. The heading of Article 9 (commencing with Section
31 87860) of Chapter 3 of Part 51 of Division 7 of Title 3 of the
32 Education Code is amended to read:

33

34 Article 9. Community College Contingent Faculty Health
35 Insurance Program
36

37 SEC. 14. Section 87860 of the Education Code is amended to
38 read:

1 87860. It is the intent of the Legislature that community college
2 contingent faculty and their eligible dependents have continuous
3 access to health insurance benefits.

4 SEC. 15. Section 87861 of the Education Code is amended to
5 read:

6 87861. For the purposes of this article:

7 (a) “Contingent faculty” refers to any faculty member whose
8 teaching assignment equals or exceeds 40 percent of the cumulative
9 equivalent of a minimum full-time teaching assignment.

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

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

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

23 87862. The governing board of a community college district
24 may provide a program of health insurance for contingent faculty
25 and their dependents.

26 SEC. 17. Section 87863 of the Education Code is amended to
27 read:

28 87863. (a) A contingent faculty member and his or her eligible
29 dependents are eligible to participate in the program established
30 pursuant to this article.

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

1 (c) Any changes made pursuant to this section to the Community
2 College Contingent Faculty Health Insurance Program shall not
3 affect any contingent health insurance program in effect on January
4 1, 2000.

5 SEC. 18. Section 87864 of the Education Code is amended to
6 read:

7 87864. No contingent faculty member or dependents whose
8 premiums for health insurance are paid by an employer other than
9 a community college district is eligible to participate in the program
10 established pursuant to this article.

11 SEC. 19. Section 87867 of the Education Code is amended to
12 read:

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

30 SEC. 20. The heading of Article 10 (commencing with Section
31 87880) of Chapter 3 of Part 51 of Division 7 of Title 3 of the
32 Education Code is amended to read:

33
34 Article 10. Community College Contingent Faculty Office
35 Hours Program
36

37 SEC. 21. Section 87880 of the Education Code is amended to
38 read:

39 87880. The Legislature finds and declares that community
40 college contingent faculty are required to fulfill the same teaching

1 responsibilities as full-time faculty although students have little
2 or no access to contingent faculty members outside of the
3 classroom. It is the intent of the Legislature that students have the
4 same opportunity for academic assistance and guidance without
5 regard to whether a course at a community college is taught by a
6 full-time or contingent faculty member. It is the further intent of
7 the Legislature that community college contingent faculty teaching
8 a minimum number of courses be compensated for providing
9 academic counseling and assistance to students outside of the
10 classroom.

11 SEC. 22. Section 87881 of the Education Code is amended to
12 read:

13 87881. There is hereby established the Community College
14 Contingent Faculty Office Hours Program for the purpose of
15 providing community college students equal access to academic
16 advice and assistance and to encourage community college districts
17 to provide opportunities by compensating contingent faculty who
18 hold office hours related to their teaching load.

19 SEC. 23. Section 87882 of the Education Code is amended to
20 read:

21 87882. For purposes of this article, “contingent faculty” means
22 any person who is employed to teach for not more than the hours
23 per week described in Section 87482.5.

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

26 87883. (a) The governing board of a community college district
27 may provide compensation for office hours to contingent faculty.

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

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

36 (d) The change made to subdivision (c) during the 1999 portion
37 of the 1999–2000 Regular Session of the Legislature shall be
38 operative in any fiscal year only if funds are appropriated for
39 purposes of that change in the annual Budget Act or in another
40 measure. If the amount appropriated in the annual Budget Act or

1 in another measure for purposes of this section is insufficient to
2 fully fund that change for the fiscal year, the chancellor shall
3 prorate the funds among the community college districts affected
4 by this section.

5 SEC. 25. Section 87884 of the Education Code is amended to
6 read:

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

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

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

24 (d) Any changes made by this section to the Community College
25 Contingent Faculty Office Hours Program shall not affect any
26 contingent faculty office hours program in effect on January 1,
27 2000.

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

30 87885. (a) The Contingent Faculty Office Hours Program
31 Fund is hereby established in the State Treasury as a continuation
32 of the Part-Time Faculty Office Hours Program Fund established
33 by this section.

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

1 proportionally based on each community college district's total
2 costs for office hours of contingent faculty pursuant to the
3 verification submitted by the community college district in
4 accordance with subdivision (c) of Section 87884 for that fiscal
5 year. In no event, however, shall the allocation to any district in a
6 fiscal year exceed 50 percent of the total costs of the compensation
7 paid for office hours of contingent faculty pursuant to this article.

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

10 *SEC. 27. The Employment Development Department shall issue*
11 *a new field office directive for purposes of determining eligibility*
12 *for unemployment insurance benefits that reflects the substitution*
13 *of the term "contingent faculty" for the terms "part-time faculty"*
14 *and "temporary faculty" in the Education Code by Assembly Bill*
15 *2705 of the 2013–14 Regular Session. The directive shall be*
16 *consistent with the holding of the Court of Appeals in the case of*
17 *Cervisi v. Unemployment Ins. Appeals Bd. (1989) 208 Cal.App.3d*
18 *635.*