

Fiscal Estimate Narratives

UWS 2/24/2016

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|--|-----------|---------------------|---------|---------------|----------|
| LRB Number | 15-2559/1 | Introduction Number | AB-0898 | Estimate Type | Original |
| Description Faculty tenure and probationary appointments at University of Wisconsin System institutions and granting rule-making authority | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

Introduction

This bill would restore tenure and probationary appointment provisions for faculty of the University of Wisconsin (UW) System that were in effect just prior to the enactment of the 2015 biennial budget act (Act 55). The one exception being the language related to termination due to budget or program changes.

Analysis

Upon the enactment of Act 55, the Board of Regents of the UW System adopted the stricken tenure and probationary appointment language into Regent policy. No changes were made to the language that existed in statute prior to Act 55. Because there have been no substantive changes related to tenure policy, there will not be a fiscal impact on the UW System if this bill were to be enacted.

There is one difference that stems from the section addressing termination due to budget or program changes. This bill provides that the board may terminate any faculty or academic staff appointment if it is deemed necessary for a budget or program decision requiring program discontinuance, curtailment, modification, or redirection. Prior to Act 55, this was only permitted in the event of a financial emergency. However, adopting this change can be achieved without any significant fiscal impact on the System.

It should be noted that there are pending changes to the Regent policies on faculty tenure, post-tenure review, and procedures related to financial emergency and program discontinuance. These changes are likely to be voted on by the Board of Regents on March 10, 2016.

Material changes in the updated policies include the following:

1. Creation of a policy which delineates when a faculty member can be laid off by the university and provides the needed procedures for making a determination of financial emergency or program discontinuance which may result in faculty layoff at the campus level.
2. Creating an overarching process for periodic review of tenured faculty.

Even if these proposed changes are adopted, this bill will not result in a fiscal impact on the UW System as they would not contradict the bill. The provision addressing termination related to a financial emergency or program discontinuance would be narrower than that which is permitted by the bill. The process for periodic review is not addressed by the bill. This fiscal estimate assumes that the language being reintroduced is identical to Regent policy. If the statutory language were to differ from the language in Regent policy, there may be a non-zero fiscal impact on the UW System.

Below are two excerpts to illustrate the common language in question. The first is the current Regent policy addressing tenure. The second is the proposed language in this bill.

Language from Regent Policy Document 20-23

1. APPOINTMENTS

(a) Except as provided under par. (b), the board may grant a tenure appointment only upon the affirmative recommendation of the appropriate chancellor and the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendation upon impermissible factors, as defined by the board by rule.

(b) The board may grant a tenure appointment without the affirmative recommendation of the appropriate academic department or its functional equivalent if all of the following apply:

1. The board has the affirmative recommendation of the appropriate chancellor.
2. A faculty committee authorized by the board by rule to review the negative recommendation of the academic department or its functional equivalent finds that the decision of the academic department or its functional equivalent was based upon impermissible factors, as defined by the board by rule.
3. The board has the affirmative recommendation of a committee appointed according to the policies and procedures of the appropriate institution to review the individual's record with reference to criteria for tenure published by the institution under procedures established by the board by rule. No person may be appointed to the committee under this subdivision unless the person is knowledgeable or experienced in the individual's academic field or in a substantially similar academic field. No member of the committee appointed under this subdivision may be a member of the academic department, or its functional equivalent, that made the negative recommendation. The committee appointed under this subdivision may not base its tenure recommendation upon impermissible factors, as defined by the board by rule.

(c) A tenure appointment may be granted to any ranked faculty member who holds or will hold a half-time appointment or more. The proportion of time provided for in the appointment may not be diminished nor increased without the mutual consent of the faculty member and the institution subject only to Section 4, "Procedural Guarantees," and s. 36.21, Wis. Stats.

(d) A probationary appointment shall not exceed 7 consecutive academic years in a full-time position in an institution. A leave of absence, sabbatical or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7-year period. The board may promulgate rules specifying additional circumstances that do not constitute a break in continuous service and that shall not be included in the 7-year period.

2. RULES

The board and its several faculties after consultation with appropriate students shall promulgate rules for tenure and probationary appointments, for the review of faculty performance and for the nonretention and dismissal of faculty members. Such rules shall be promulgated under ch. 227, Wis. Stats.

3. CONTINUATION OF APPOINTMENT

(a) Any person who holds a tenure appointment under ch. 36, 1971 Stats. and ch. 37, 1971 Stats., and related rules on July 9, 1974 shall continue to hold tenure as defined under those chapters and related rules.

(b) Any person who holds the equivalent of a probationary appointment under ch. 36, 1971 Stats., and ch. 37, 1971 Stats., and related rules on July 9, 1974 shall continue to enjoy the contractual rights and guarantees as defined under those chapters and related rules, and may elect to be considered for tenure according to the procedures existing under that appointment or under Section 1, "Appointments."

(c) Any person who is not a ranked faculty member on August 15, 1991, and who is also described under subd. 1. or 2. shall be treated as a faculty member with the rank of associate professor for all purposes:

1. Any person who held an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment under ch. 37, 1971 Stats., prior to July 10, 1974.
2. Any person who held an unranked probationary appointment under ch. 37, 1971 Stats., prior to July 10, 1974, and who subsequently received an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment.

4. PROCEDURAL GUARANTEES

Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person's contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227, Wis. Stats. The board and its several faculties shall develop procedures for the notice and hearing which

shall be promulgated by rule under ch. 227.

5. LIMITATION

Tenure and probationary appointments are in a particular institution. A tenure appointment is limited to the institution in which the appointment is held.

Excerpted Statutory Language to be Introduced by AB 898

(2) APPOINTMENTS.

(a) Except as provided under par. (b), the board may grant a tenure appointment only upon the affirmative recommendation of the appropriate chancellor and the appropriate academic department or its functional equivalent. Neither the chancellor nor the academic department or its functional equivalent may base a tenure recommendation upon impermissible factors, as defined by the board by rule.

(b) The board may grant a tenure appointment without the affirmative recommendation of the appropriate academic department or its functional equivalent if all of the following apply:

1. The board has the affirmative recommendation of the appropriate chancellor.

2. A faculty committee authorized by the board by rule to review the negative recommendation of the academic department or its functional equivalent finds that the decision of the academic department or its functional equivalent was based upon impermissible factors, as defined by the board by rule.

3. The board has the affirmative recommendation of a committee appointed according to the policies and procedures of the appropriate institution to review the individual's record with reference to criteria for tenure published by the institution under procedures established by the board by rule. No person may be appointed to the committee under this subdivision unless the person is knowledgeable or experienced in the individual's academic field or in a substantially similar academic field. No member of the committee appointed under this subdivision may be a member of the academic department, or its functional equivalent, that made the negative recommendation. The committee appointed under this subdivision may not base its tenure recommendation upon impermissible factors, as defined by the board by rule.

(c) A tenure appointment may be granted to any ranked faculty member who holds or will hold a half-time appointment or more. The proportion of time provided for in the appointment may not be diminished nor increased without the mutual consent of the faculty member and the institution subject only to sub. (5) and ss. 36.21 and 36.22.

(d) A probationary appointment shall not exceed 7 consecutive academic years in a full-time position in an institution. A leave of absence, sabbatical, or a teacher improvement assignment does not constitute a break in continuous service and shall not be included in the 7-year period. The board may promulgate rules specifying additional circumstances that do not constitute a break in continuous service and that shall not be included in the 7-year period.

(3) RULES. The board and its several faculties, after consultation with appropriate students, shall promulgate rules for tenure and probationary appointments, for the review of faculty performance, and for the nonretention and dismissal of faculty members. Such rules shall be promulgated under ch. 227.

(4) CONTINUATION OF APPOINTMENT.

(a) Any person who holds a tenure appointment under ch. 36, 1971 stats., and ch. 37, 1971 stats., and related rules on July 9, 1974, shall continue to hold tenure as defined under those chapters and related rules.

(b) Any person who holds the equivalent of a probationary appointment under ch. 36, 1971 stats., and ch. 37, 1971 stats., and related rules on July 9, 1974, shall continue to enjoy the contractual rights and guarantees as defined under those chapters and related rules, and may elect to be considered for tenure according to the procedures existing under that appointment or under sub. (2).

(c) Any person who is not a ranked faculty member on August 15, 1991, and who is also described under subd. 1. or 2. shall be treated as a faculty member with the rank of associate professor for all purposes:

1. Any person who held an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment under ch. 37, 1971 stats., prior to July 10, 1974.

2. Any person who held an unranked probationary appointment under ch. 37, 1971 stats., prior to July 10, 1974, and who subsequently received an unranked faculty tenure appointment or unranked faculty concurrent tenure appointment.

(5) PROCEDURAL GUARANTEES. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person's contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227. The board and its several faculties shall develop procedures for the notice and hearing that shall be promulgated by rule under ch. 227.

(6) LIMITATION. Tenure and probationary appointments are in a particular institution. A tenure appointment is limited to the institution in which the appointment is held.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2015 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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| LRB Number 15-2559/1 | | Introduction Number AB-0898 | |
| Description Faculty tenure and probationary appointments at University of Wisconsin System institutions and granting rule-making authority | | | |
| I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): | | | |
| II. Annualized Costs: | | Annualized Fiscal Impact on funds from: | |
| | | Increased Costs | Decreased Costs |
| A. State Costs by Category | | | |
| State Operations - Salaries and Fringes | | \$ | \$ |
| (FTE Position Changes) | | | |
| State Operations - Other Costs | | | |
| Local Assistance | | | |
| Aids to Individuals or Organizations | | | |
| TOTAL State Costs by Category | | \$ | \$ |
| B. State Costs by Source of Funds | | | |
| GPR | | | |
| FED | | | |
| PRO/PRS | | | |
| SEG/SEG-S | | | |
| III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.) | | | |
| | | Increased Rev | Decreased Rev |
| GPR Taxes | | \$ | \$ |
| GPR Earned | | | |
| FED | | | |
| PRO/PRS | | | |
| SEG/SEG-S | | | |
| TOTAL State Revenues | | \$ | \$ |
| NET ANNUALIZED FISCAL IMPACT | | | |
| | | <u>State</u> | <u>Local</u> |
| NET CHANGE IN COSTS | | \$ | \$ |
| NET CHANGE IN REVENUE | | \$ | \$ |
| Agency/Prepared By | | Authorized Signature | |
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| | | Date | |
| | | 2/24/2016 | |