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CHAPTER 46

[House Bill No. 234]

HIGHER EDUCATION, ADMINISTRATIVE

POWERS--COMMUNITY COLLEGES

AN ACT Relating to higher education; amending section 3, chapter 279, Laws of 1971 ex. sess. and RCW 28B.15.041; amending section 28B.15.600, chapter 223, Laws of 1969 ex. sess. as amended by section 15, chapter 279, Laws of 1971 ex. sess. and RCW 28B.15.600; amending section 17, chapter 36, Laws of 1969 ex. sess. and RCW 28B.16.180; amending section 4, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.040; amending section 11, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.110; amending section 12, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.120; amending section 28B.50.040, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.040; amending section 28B.50.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 14, chapter ... (HB No. ...), Laws of 1973 and RCW 28B.50.060; amending section 3, chapter 28, Laws of 1971 ex. sess. and RCW 28B.10.704; repealing sections 28B.50.560, 28B.50.620, 28B.50.630, 28B.50.650, 28B.50.670 and 28B.50.680, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.560, 28B.50.620, 28B.50.630, 28B.50.650, 28B.50.670 and 28B.50.680; creating new sections; and making effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 3, chapter 279, Laws of 1971 ex. sess. and RCW 28B.15.041 are each amended to read as follows:

The term "services and activities fees" as used in this chapter is defined to mean fees, other than general tuition and operating fees, charged to all students registering at the state's community colleges, state colleges, and universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's community colleges, state colleges or universities for the express purpose of funding student activities and programs of their particular institution.

Sec. 2. Section 28B.15.600, chapter 223, Laws of 1969 ex.

sess. as amended by section 15, chapter 279, Laws of 1971 ex. sess. and RCW 28B.15.600 are each amended to read as follows:

The boards of regents of the state's universities and the boards of trustees of the state colleges and community colleges may refund or cancel in full general tuition fees, operating fees, and services and activities fees if the student withdraws from the university or college prior to the sixth day of instruction of the quarter or semester for which said fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, said boards of regents and trustees may refund or cancel up to one-half of said fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. Said boards of regents and trustees may extend the refund or cancellation period for students called into the military service of the United States.

Said boards of regents and trustees may refund other fees pursuant to such rules as they may prescribe.

Sec. 3. Section 17, chapter 36, Laws of 1969 ex. sess. and RCW 28B.16.180 are each amended to read as follows:

(1) An employee who is terminated from service may request the institution or related board to place his name on an appropriate reemployment list and the institution shall grant this request where the circumstances are found to warrant reemployment.

(2) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement, and OASDI credits.

Sec. 4. Section 4, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.040 are each amended to read as follows:

If the institution of higher education finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and the observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the institution may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The institution's finding and a brief statement of the reasons for its finding shall accompany the emergency rule or amendment as filed with the code reviser. An emergency rule or amendment shall not remain in effect for longer than ninety days.

Emergency rules shall become effective ((when promulgated)) upon filing with the code reviser unless an effective date is specified in the rule.

Sec. 5. Section 11, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.110 are each amended to read as follows:

(1) The informal procedures heretofore established or

hereafter promulgated by rule by institutions of higher education for the disposition of contested cases, may be utilized by institutions, where authorized by the governing boards of the institutions.

(2) Any person who is charged with an offense potentially punishable by suspension, or termination of his relationship with the institution and (a) who elects to waive the opportunity for an informal hearing, or (b) who by his conduct in the judgment of the hearing officer or board makes it impossible to conduct an informal hearing, or (c) who deems himself aggrieved by the disposition of any contested case following an informal proceeding undertaken pursuant to subsection (1) above, may have charges against him adjudicated in a formal hearing pursuant to RCW 28B.19.120: PROVIDED, That any request for a formal hearing is directed to the president of the institution or his designee (i) within ten days after notification of the time and place of an informal hearing, or (ii) within five days after communication of the hearing officer or board chairman ruling that it is impossible to conduct an informal hearing for whatever reason, or (iii) within ten days after conclusion of the informal proceeding and notice of the final decision to the party charged with an offense.

(3) Formal procedures established or hereafter promulgated by rule by institutions of higher education for the disposition of contested cases may be utilized by such institutions where authorized by the governing board.

(4) Where a formal hearing is conducted following conclusion or termination of an informal hearing authorized by subsection (1) above, the formal hearing shall be conducted as if the informal hearing had not commenced or taken place.

Sec. 6. Section 12, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19.120 are each amended to read as follows:

(1) In any contested case where informal procedures authorized by RCW 28B.19.110(1) are not used and where the formal procedures are invoked because of necessity or request in accordance with RCW 28B.19.110(2), or by institutional rule in accordance with RCW 28B.19.110(3), as in section 6 of this 1973 amendatory act amended, all parties shall be afforded an opportunity for hearing after not less than ten days' notice. The notice shall include:

(a) A statement of the time, place, and nature of the proceeding;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular rules of the institution involved;

(d) A short and plain statement of the matters asserted. If the institution or other party is unable to state the matters in

detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Hearings may be held or conducted by any officer or committee authorized by the president of any institution of higher education. The hearing officer or committee shall determine whether the hearing shall be open to the educational community in which it takes place, or whether particular persons should be permitted in attendance or excluded from attendance.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved, and to examine and cross-examine witnesses.

(4) Statements, testimony, and all other evidence given at an informal proceeding authorized pursuant to RCW 28B.19.110(1) shall be confidential and shall not be subject to discovery or released to anyone, including the officer or committee conducting a formal hearing or the parties involved, or used for impeachment purposes, without permission of the person who divulged the information.

(5) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default, or other established informal procedure.

(6) The record in a contested case shall include:

- (a) All documents, motions, and intermediate rulings;
- (b) Evidence received or considered;
- (c) A statement of matters officially noticed;
- (d) Questions and offers of proof, objections, and rulings thereon;
- (e) Proposed findings and exceptions; and
- (f) Any decision, opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Oral proceedings shall be transcribed if necessary for the purposes of rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the costs thereof.

(8) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(9) Each institution shall adopt appropriate rules of procedure for notice and hearing informal contested cases.

(10) Institutions, or their authorized hearing officer or committee, may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the institution, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(f) Dispose of procedural requests or similar matters;

(g) Make decisions or proposals for decisions; and

(h) Take any other action authorized by rule consistent with this chapter.

Sec. 7. Section 28B.50.040, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.040 are each amended to read as follows:

The state of Washington is hereby divided into twenty-two community college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass the counties of Lewis and Thurston;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county.

Sec. 8. Section 28B.50.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 14, chapter ... (HB No. ...), Laws of 1973 and RCW 28B.50.060 are each amended to read as follows:

A director of the state system of community colleges shall be appointed by the college board and shall serve at the pleasure of the college board. He shall be appointed with due regard to his fitness and background in education, by his knowledge of and recent practical experience in the field of educational administration particularly in institutions beyond the high school level. The college board may also take into consideration an applicant's proven management background even though not particularly in the field of education.

The director shall devote his time to the duties of his office and shall not have any direct pecuniary interest in or any stock or bonds of any business connected with or selling supplies to the field of education within this state, in keeping with chapter ((42-22)) 42.18 RCW, the ((code of ethics for public officers and employees)) executive conflict of interest act.

He shall receive a salary to be fixed by the college board and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended.

He shall be the executive officer of the college board and serve as its secretary and under its supervision shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the state. He shall attend, but not vote at, all meetings of the college board. He shall be in charge of offices of the college board and responsible to the college board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community colleges. At the direction of the college board, he shall, together with the chairman of the college board, execute all contracts entered into by the college board.

The director shall, with the approval of the college board: (1) Employ necessary assistant directors of major staff divisions who shall serve at his pleasure on such terms and conditions as he determines, and (2) subject to the provisions of chapter 28B.16 RCW, the higher education personnel law, the director shall, with the approval of the college board, appoint and employ such field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the college board and for whose services funds have been appropriated.

The board may, by written order filed in its office, delegate to the director any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the college board.

Sec. 9. Section 3, chapter 28, Laws of 1971 ex. sess. and RCW 28B.10.704 are each amended to read as follows:

Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in intercollegiate athletics in accordance with RCW 28B.10.703 shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from athletic events, including gate receipts and revenues obtained from the licensing of radio and television broadcasts.

NEW SECTION. Sec. 10. The following acts or parts of acts thereof are each hereby repealed:

(1) Section 28B.50.560, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.560;

(2) Section 28B.50.620, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.620;

(3) Section 28B.50.630, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.630;

(4) Section 28B.50.650, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.650;

(5) Section 28B.50.670, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.670; and

(6) Section 28B.50.680, chapter 223, Laws of 1969 ex. sess. and RCW 28B.50.680: PROVIDED, That this section shall not be effective until June 30, 1974.

NEW SECTION. Sec. 11. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House March 17, 1973.

Passed the Senate April 8, 1973.

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CHAPTER 47

[Substitute House Bill No. 264]

LIENS--MECHANICS' AND MATERIALMEN'S--

CONSTRUCTION LOAN MORTGAGES--

DRAW REGULATIONS--PRIORITY

AN ACT Relating to mechanics' and materialmen's liens and construction loan mortgages; and adding new sections to chapter 60.04 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 60.04 RCW a new section to read as follows:

As used in this chapter, the following meanings shall apply:

(1) "Lender" means any person or entity regularly providing interim or construction financing.

(2) "Interim or construction financing" means that portion of money secured by mortgage, deed of trust, or other encumbrance to finance construction of improvements on, or development of, real property, but does not include:

(a) Funds to acquire real property;

(b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;

(c) Funds to pay loan, commitment, title, legal, closing, recording or appraisal fees;

(d) Funds to pay other customary fees; which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;

(e) Funds to acquire personal property for which the potential