Analysis:
WHY THE PERVERSE 60% LAW SHOULD BE REPEALED

~ Lantz Simpson, Santa Monica College

The sixty percent law created the thousands of freeway flyers across California, but perversely, it was never intended to do that. The original intent of the 60% law [Note: Since this was published in 2002, this cap is now at 67%] has been lost in the swampy murk of time and replaced by a dubious "tenure protection" argument to justify its existence. A little sleuthing by CPFA investigators has revealed the truth and made it even more clear why the 60% law should be repealed.

Education Code Sec. 87482.5 reads: "Notwithstanding any other provision of law, any person who is employed to teach adult or community college classes for not more than sixty percent of the hours per week considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee. . . "

The sixty percent law was passed in the mid-1960's while Edmund G. "Pat" Brown was governor. It was enacted to help then K-14 districts deal with personnel issues arising from the new Federal aid to education programs. Under the Johnson administration, the federal government began giving aid grants to local school districts around country. These grants continue to this day, but most federal grants come with a lot of strings, including time restrictions. Local school districts had to hire new teachers to implement the programs using federal money, but those districts did not know if the money would continue. Therefore, districts did not want to be forced to hire full-time teachers and grant them tenure only to have the federal government take away the money later. Since federal grants sometimes did not give enough program funds for even one full-time teacher, the sixty percent law was how the legislature decided to handle this problem.

Why didn't the legislature instead pass a law that said something like this: "teachers whose positions are funded by federal grants shall remain temporary employees"? Perhaps because the 60% law was a smokescreen for another agenda.

Indeed, a few years later Gov. Reagan signed into law a bill that established and defined temporary faculty in the community colleges. This law was passed without any debate or even a committee hearing. With the 60% law in one hand and the temporary faculty law in the other, administrators set out to crush the tenure system. They succeeded wildly. Within ten years there were 25,000 more temporary part-time faculty in the community colleges. (Another way to look at this is 15,000 tenured positions that were never created.)

In the 1970's collective bargaining came to the community colleges. Local unions began uncovering abuses of the 60% law, finding cases where faculty had worked more than 60% for long periods of time, but at part-time salaries and with no tenure. Unions sued and won tenure for a few part-time faculty. Courts ruled that faculty who were

employed over 60% for three consecutive semesters were entitled to full-time tenured positions. Suddenly the 60% law became hailed as a protector of tenure.

But is it really?

At Santa Monica College, in twenty years only four part-time teachers have won tenure because of sixty percent law violations. In those same twenty years, thousands of part-time faculty have come and gone at SMC, all denied tenure because of the 60% law. The truth is that the 60% law is the great tenure barrier for 99.9% of all part-time faculty.

Local district implementation of the 60% law is absurdly inconsistent. The Contra Costa district allows its temporary part-time faculty to work a full load during some semesters, while still carefully avoiding the "three semesters in a row" rule. At Santa Monica, hundreds of part-timers are allowed to work up to 60%, but never any more. Other districts draw the line at 59%, 50% or even 40%. In the Los Angeles district, part-time English teachers can only teach two classes, because a full-time English load in L. A. is four classes. On the other hand, many part-time counselors around the state can work 18 or even 24 hours per week at $50 an hour or more. Finally, add to all this the recent contradictory decision in the Balasubmaranian case (2000) that there are no tenure rights in the 60% law at all, followed by the most recent case (Stryker v. Antelope Valley [2002]) refusing to follow Balasubmaranian.

The 60% law is a cascading avalanche of absurdities. It should be repealed at once. It does not protect tenure. It is a powerful tenure preventative. Salary adjustments aside, such a repeal would still drastically curtail the amount of freeway flying. If temporary faculty have to work multiple assignments to make a living at lower salaries, at least they could do it at fewer venues. Repealing the 60% law would result in a better quality of life for faculty and students, and for everyone who drives the freeways and breathes the air.

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