On Sep 3, 2013, at 10:14 PM, Mike Ditchen <mditchen@BRIDGEMONT.EDU> wrote:

I have been asked to comment on SB 330 by several people. It is referred to in the ACF 2013-2014 Issues. I have not commented before hoping that there would be indications of this bill being modified by the legislature. Unfortunately, at this time, I do not see any action in this direction which is highly discouraging. I believe this bill will negatively impact faculty salaries and possibly job security for the forseeable future. I apologize for the length of this report. I believe this may be the best way to present this information in an objective way.

SB 330 was passed in the 2011 Legislature. It was a far reaching bill with certain elements to appeal to Marshall and WVU as well as mute criticism from the HEPC. It also included provisions for needed raises for classified staff.  It was a bill with enough positives that it seemed guranteed passage. It was hoped by the ACF the bill would evolve. Unfortunately that has not been the case.

**Please read the attached report from Sylvia Shurbutt, ACF President:**

              Faculty Concerns about SB330: There are many long-overdue issues that will finally be addressed in the new system rule or series that implements SB330,  consistency among personnel practices for classified staff, for example.  Faculty strongly support these changes. Likewise, the old 2001 Classified Staff Salary Schedule for Classified Staff was grossly out of date.  However, faculty are concerned about aspects of the apparent methodology used by Fox Lawson, the firm charged to produce the relative market equity report that will serve the system in determining salary raises.  The complexity of the issue is challenging, including the classifications that will be necessary for each of the constituent groups (non-classified staff, classified staff, and faculty)—in particular the complexity of faculty classifications with the differentials in traditional disciplines, faculty ranks, and institutions.  Perhaps most important is that the philosophy underpinning higher education in the state is in conflict with the charge of SB330—specifically that our central mission is the education of students, with faculty inarguably at the center of that mission (as teachers, advisors, program managers, accreditation overseers, researchers, MDs, and extension agents to name a few).  The real crux of the problem with SB330 then lies in the specific mandate that the 5% differential allowed between the three constituent groups is unattainable, since, according to Mark Toor, there is a plus or minus10% margin of error built into any report such as the one Fox Lawson will create for us.  Fears that Classified Staff may actually lose ground in the unrealistic and over-simplified formula have been expressed.  Likewise, since WV faculty are already in the lowest salary rankings among SREB institutions, we are concerned we will lose the ability to hire and to retain qualified faculty with the implementation of SB330 as currently drafted.  Thus we advocate that SB330 be refined and strengthened so that it accomplishes its original intent, specifically by changing the unrealistic 5% salary differential goal between constituent groups (non-classified staff, classified staff, and faculty) to a more realistic average salary relationship, in  order to accommodate the margin of error.

**A bit of follow-up from the ACF Retreat Minutes:**

 Mark Toor told the ACF that he has been serving as Vice Chancellor for Human Resources since January 1, 2013.  His primary responsibility has been to implement the provisions of SB 330.  He described SB 330 as having been a complete overhaul of the human resource function throughout the entire state system of higher education with a special emphasis on the restructuring of the classified staff salary schedule.  Mark noted that there had probably not been much faculty discussion or interest in SB 330 but he suggested that this may now change due to the potential impact of the implementation of the “relative market equity” provision.

 Mark then discussed what is meant by relative market equity, which he characterized as a new and untested philosophy of compensation.  Based upon market salary studies which are to be conducted for each of the three categories—faculty, classified staff, non-classified staff—at each institution of higher education,  information will be available concerning where the salaries of employees in each category rank, on average, relative to their “relevant recruitment market.”  According to SB 330, the maximum differential allowed between the three categories is 5%.  He then used the following hypothetical illustration:  Suppose at College X, the faculty salaries are at 110 % of their market, the non-classified staff salaries at 105 % of their market, and the classified staff salaries at 90 % for their market.  During the next three fiscal years, College X would have to structure their salary increases so that at the end of the three years, the classified staff salaries would be at 105% of their market.  [Special “dispensations” would be required if the gap could not be closed during the three year period due to financial constraints.]  It is likely that employees in the other two categories at College X would not be able to receive salary increases until the gap between the highest and lowest category is reduced to 5%.

 Mr. Toor expressed two problems which he has with relative market equity:  (1) Due to several sources of variability and the complexity of the studies involved, the margin of error in the results obtained is likely to be at least   10%. [He reminded us that 60 studies are to be done—one for each of three categories at twenty different institutions.]  (2) Human resource theory suggests that an institution’s philosophy of compensation should correspond to its mission.  Since the mission of all institutions of higher education is to educate students and since faculty play the central role in accomplishing that mission, institutions of higher education require sufficient flexibility in their salary practices to recruit and retain quality faculty. Relative market equity is a new and untested philosophy of compensation in higher education which has the potential to interfere with compensation practices based upon mission.

 Mark Toor reported that he found stiff resistance to relative market equity from Human Resources personnel throughout the system.  He had discussed the problems surrounding relative market equity with Senator Plymale who is open to ideas to revise the legislation to address these problems.  He noted that work on the implementation of SB 330 has been proceeding for about two and one half years and characterized the first two years as a series of “fits and starts.”  Of many compliance reports required by SB 330, one which he submitted last week was the first one on deadline.  Since it is his goal to have the salary studies completed by January 1, 2014, he said that it was important that contacts with legislators concerning addressing the problems with relative market equity should take place soon.

 Sylvia Shurbutt asked about the impact of SB 330 on plans to designate a percentage of tuition increases to fund increases in salary.  Mark Toor stressed that salary plans would have to close the differential between categories to no more than 5 %.  Sue Kelley asked about plans to raise salaries to peer averages.  Mark noted that the aggregate average for classified staff salaries will set a new minimum classified staff salary schedule.  Each school will pay at or above that minimum as they choose subject to the 5 % differential between categories.

 In response to an inquiry from Roy Nutter concerning the great range in faculty salaries, Mr. Toor discussed the complexities of the salary studies and some of the history of what has taken place to date.  The consultants for the project, Fox Lawson, are “higher education compensation specialists.”  When the RFP for the project had been issued, few firms had expressed any interest in the project.  Fox Lawson had been awarded a contract for $88,000 to survey 75 benchmark jobs across the system.  This number was not adequate for the purposes of the study and had been increased to 206 benchmark jobs.  The size of the contract had been doubled.  [These events occurred before Mark Toor became Vice Chancellor.] Mark indicated that he expects Fox Lawson to complete the project without any additional allocation.  He said that he may hire a second consultant to review Fox Lawson’s work.  He also told the ACF, that a person with significant human resources experience in the West Virginia system has been hired as Director of Classification and Compensation.

 Fox Lawson had proposed looking at salaries in 15 faculty disciplines.  This number is not appropriate for all schools.  As an example, WVU has 45 academic departments and some departments incorporate more than one discipline.  Standard practice indicates that a salary survey should look at 50 to 75 % of the work force involved.  Fox Lawson has now increased the number of disciplines to 29.  [This number may reflect the number of disciplines reported in CUPA data.]  SB 330 indicates that the studies should look at a college’s peer group of institutions.  It was suggested that some further customization of the studies might be necessary for WVU and Marshall; it was also noted in connection with the West Virginia School of Osteopathic Medicine that there are no regular surveys for schools of osteopathic medicine.

 SB 330 did not specify a due date for relative market equity which was to be based upon a three year average.  Mark Toor has taken the position that the system must move now—upon the completion of the market studies.  He had convened a Common Grounds committee with human resource representatives from around the system, a higher education faculty representative, and ACCE representatives to work on a legislative rule to implement SB 330.  He noted that each school will be required to model future salary increases in accordance with the legislative rule.

 Roy Nutter asked about how ACF or the colleges should seek to change the law.  Mark Toor noted again that relative market equity “is a theory which has never been tested.”  He suggested that individual schools might attack the creditability of the Fox Lawson study as a way of getting at relative market equity.  He recalled the 2008 Mercer Study which had been “deep-sixed” because of opposition from some of the colleges to the implication of its findings.  Mark Toor’s recommendation was to revise SB 330 to make relative market equity more defensible by changing the 5 % differential to 20 %.

 Betty Dennison asked why any new faculty member would want to come to West Virginia if our higher education system is the only one moving to relative market equity.  Elizabeth Campbell asked if pay cuts could occur as the result of the implementation of the relative market equity provision.  Mark Toor said that some schools had said that they might reduce “staff” as a consequence of the implementation.

 Mark Toor then stressed that he wants to get the legislative rule in place before the Fox Lawson results are available so that no institution or group has tailored the results to its benefit.

 Shirley Davis commented that a gap of 20 % made no sense to her.  Mark Toor agreed that the figure of 20% had no more objective basis than the 5 % in SB 330 but would make relative market equity more defensible.

 Sue Kelley commented that this process seems to be more subjective than prior salary plans and thus to be inconsistent with previous state initiatives.

 Mark Toor suggested that revision of SB 330 to address the concerns about relative market equity might be considered in a special legislative session this fall.  He said that Senator Plymale had asked him to work with the ACCE Chair to draft a resolution on the matter for LOCEA.  He also offered to review any language which the ACF might adopt for technical accuracy.

 Sylvia Senften asked if the Fox Lawson study was looking at compensation including benefits or salary only.  Mark Toor said that the survey involves “salary only.”

 Mark Toor then noted another complication and source of variability in the survey of faculty salaries.  Each of the schools has 20 peers identified by the system, but these peers not been chosen for purposes of salary comparison.  Fox Lawson will use CUPA data from the identified peers for each college; however, if some peers do not submit data to CUPA, Fox Lawson will select other schools to replace them which “resemble the compensation patterns” of the West Virginia college.

 Mark Toor stressed several times during his presentation that despite his concerns about the philosophy of relative market equity and its possible impact on West Virginia’s institutions of higher education, he is fulfilling his job description and the requirements of state law by moving as quickly as possible to secure a defensible study and to implement the law.  He also expressed his willingness to receive invitations for campus visits to explain to constituent groups the implications of SB 330.

**In closing, By using these reports, I have tried to explain the complex issues with SB 330. SB 330 has the potential to raise classified staff salaries at the expense of future faculty raises until a degree of equity between different skills and education levels is attained. I do not see how this bill can be considered anything less than divisive between faculty and classified staff. I can not identify anything about SB 330 that is positive for faculty.**