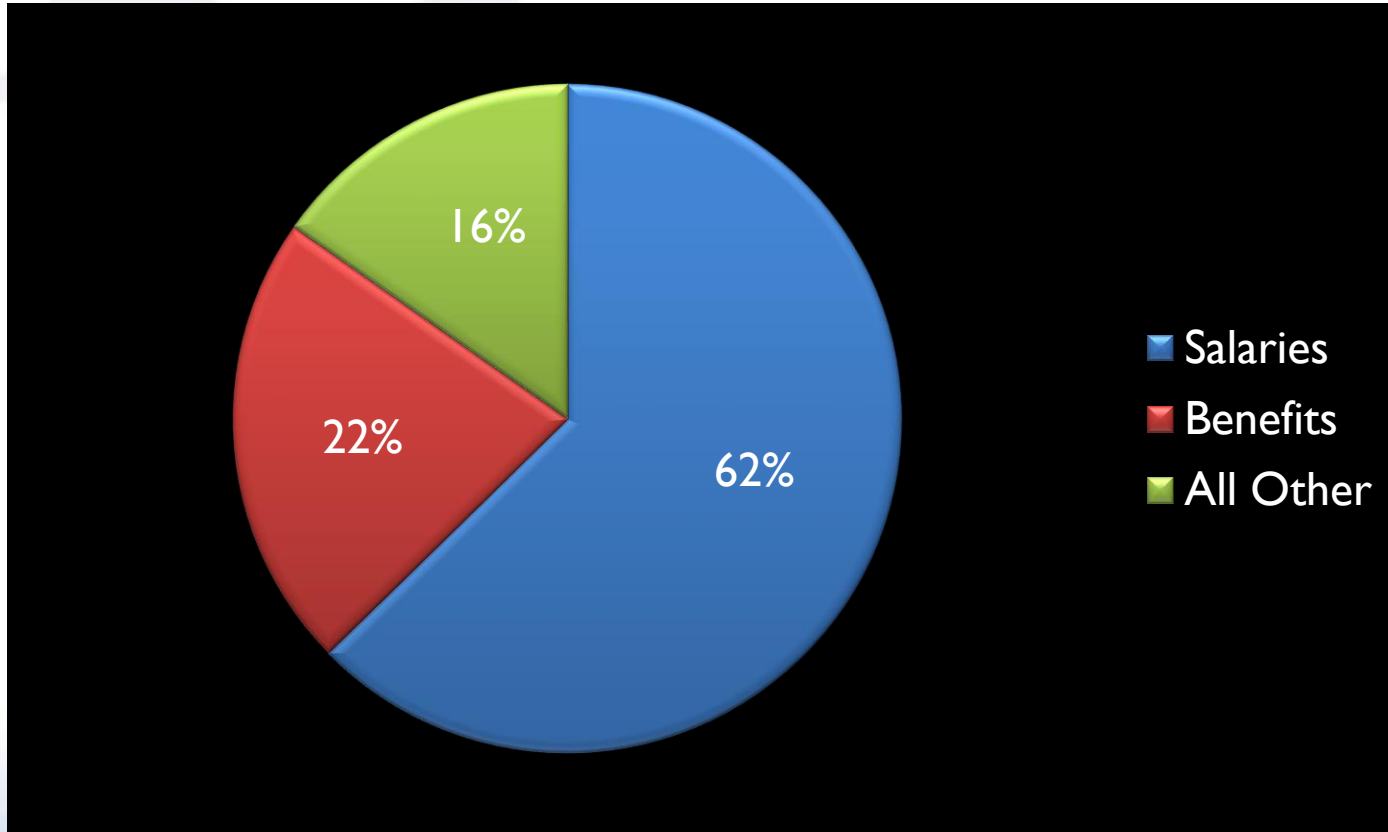


Collective Bargaining: Framework and Practice

October 18, 2017

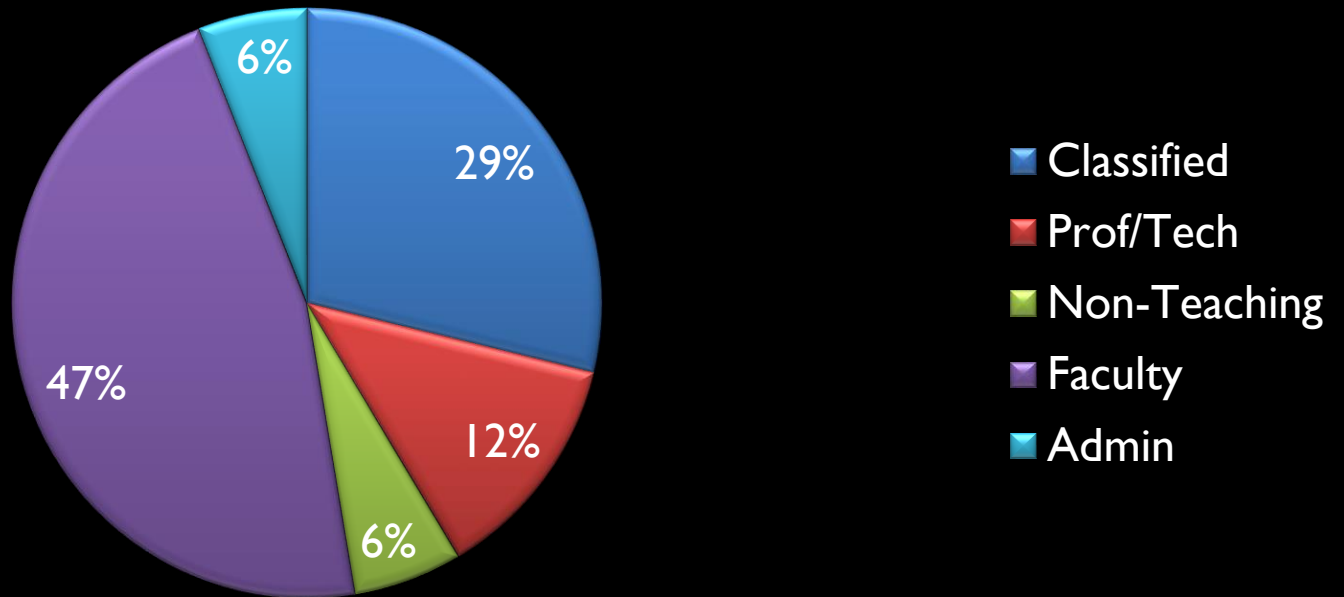
Prepared by John Boesenberg

FY 2016 Salary Expenditures as a Percent of Total Expenditures (State Only)



Staff Allocations

FTE Staff by Type



Who's Represented?

- All colleges have represented employees
 - All full- & part-time faculty are in a bargaining unit; individual college agreements may include/exclude CE faculty.
 - All 25 community colleges have civil service classified bargaining units, but all civil service employees may not be represented.
 - All 5 technical colleges have classified employees in bargaining units but all “classified” employees may not be represented.
 - 5 colleges have exempt employees in bargaining units.

RCWs

- **Faculty bargain under Chapter 28B.52 RCW**
 - Districts obligated by statute to negotiate with faculty representatives.
 - AFT represents faculty at 19 Districts (22 Colleges); WEA represents faculty at 11 Districts (12 Colleges).
 - Agreement duration is limited by law to 3 years; may be “rolled over.”
 - Obligated to bargain “wages, hours, and other terms and conditions of employment.” Most working conditions are locally bargained; however, some are in statute.
 - Salary structures and entry salary are set locally through bargaining; salary increases limited by law to those authorized in the Appropriations Act. Parties negotiate distribution of authorized increases.
- **Community College Classifieds bargain under Chapter 41.80 RCW**
 - WFSE represents employees at 9 Districts (12 Colleges – all are represented by Governor’s Office).
 - WPEA represents employees at 15 Districts (16 Colleges – 14 are represented by Governor’s Office; 2 bargain locally).
 - Agreement duration is limited to 2 years; aligned with biennial budget cycle.
 - Tentative agreement must be completed by 10/1; deemed economically feasible, included in the Governor’s biennial budget proposal and approved or rejected by the Legislature.

RCWs

- **Technical College Classified/Administrative & Professional employees bargain under Chapter 41.56 RCW**
 - A variety of unions represent classified employees, including SEIU, Teamsters, IUOE, IBEW, WEA and WFSE.
 - Salary and compensation bargaining limited to authority provided in Appropriations Act.
- **Exempt employees bargain under Chapter 41.56 RCW**
 - Small Bargaining units at 5 colleges (AFT at 4; WFSE at 1)
 - Although exempt from civil service law, TC employees are not governed by the exempt bargaining law, but retained K-12 bargaining rights.
 - Salary and compensation bargaining limited to authority provided in Appropriations Act.

Statutory Limitations

- RCW 28B.50.140 provides authority to Trustees to hire and set salary for Faculty and Administrators but limits “salary and compensation” increases to those provided in the Appropriations Act as allocated by the State Board.
- RCW 28B.52.035 (Faculty Collective Bargaining Act) limits bargained increases to the amount or percentage provided in the Appropriations Act. Clarifies that CBA salary terms are not binding on the legislature.
- RCW 28B.50.465 & .468 codify I-732, providing a funding allocation sufficient to provide faculty & TC classified with a COLA based on the CPI of highest populated county (King).
 - Provides for local distribution in accordance with salary schedule, CBA and other compensation policies.
- Sick leave (RCW 28B.50.551), sick leave cash-out (RCW 28B.50.553) and tenure (RCW 28B.50.850 -.873) are governed by statute. Colleges bargain details.

Appropriations Act

- This legislation is in effect for two years and may be amended during an intervening session – meaning that compensation language has and may be changed.
- Many college collective bargaining agreements make increases contingent upon authority and/or funding being given in the Act.

Appropriations Act

- Limits salary increases to those specifically provided in the Act and those associated with promotions or faculty and professional staff retention and those increases included in Part IX of the Act
 - “Promotion” and “retention” are not defined.
- The *State Board* is authorized to use faculty turnover savings to provide faculty increments and associated benefits.
 - “Turnover Savings” are defined by State Board.
 - Increments are allowed for faculty “who qualify through professional development and training.”
 - The current Act authorizes trustees to use “local resources” to fund increments.
- Exception to these limits for bargaining units governed by Chapter 41.56 RCW (TC Classified and represented exempts).

Appropriations Act

- Part IX includes provisions addressing
 - Community College civil service contracts.
 - I-732 increases for faculty and TC classified.
 - Increases for non-represented and represented employees not addressed elsewhere in the Act (i.e., exempts).
 - HC and retirement benefit premiums/contributions.
 - Temporary amendments to statute needed to implement the budget (i.e., the 2015-17 proviso allowing the use of “local resources” to pay faculty increments).

Good Faith Bargaining

- Focus is on mandatory subjects
- “Good faith” encompasses a duty to engage in full and frank discussions on disputed issues, and to explore possible alternatives that may achieve a mutually satisfactory accommodation of the interests.
- Although not compelled to agree or make concessions, a party is not entitled to reduce collective bargaining to an exercise in futility. (i.e., enter negotiations with a predetermined outcome.)
- Entering negotiations with a take-it-or-leave-it attitude on items of importance is risky but a party may maintain its firm position on a particular issue throughout bargaining, if the insistence is genuinely and sincerely held, and if the totality of the conduct does not reflect a rejection of the principle of collective bargaining.

Bargaining Process

NEGOTIATION PROCESS THE FIVE STEPS



Preparation is Key

- **Possible Steps**

- Collegial working relationship between management and union, build trust.
- Know current agreement.
- Identify key college issues and goals for bargaining.
- Identify internal and external factors.
- Review grievance logs; Get input from managers/supervisors.
- Bargaining Unit/team demographics.
- Salary data – internal and external; Construct financial model to proposal costs.
- Set management's priorities and collect supportive data.
- Anticipate union's/employee's needs. Anticipate response to mgmt. proposals.
- Formulate strategies on difficult issues (sequence & timing of offers and concessions).
- Identify the communication and need for climate setting.
- Build the team – Finance expert, subject matter expert, recorder, lead negotiator.
- Understand your authority; prepare trustees & president.

Strategies

- Be prepared.
- Ground rules – i.e., sharing information, exchanging proposals, last date to introduce new issues).
- Keep it simple.
- Recognize the political nature of bargaining.
- Have change language look similar to existing.
- Separate the monetary from the non-monetary.
- Share revenue and expenditure data.
- Proposal exchange.
- Understand the “interest” of each party (underlying reasons and needs).
- Listen carefully.
- Ask probing questions, for supporting data/information, for an explanation.
- “Sell” management proposals.
- Build momentum.
- Silence.
- Link or package proposals – useful at late stages. “Supposal” – if we do this, will you agree to that?
- Sidebar.
- Caucus & breaks.

Typical CB Articles – What to Watch for

- Preamble.
- Recognition/BU definition.
- Management Rights.
- Union Rights.
- Working Conditions – hiring, leave, work hours, performance, evaluation professional development, separation, tenure/job security, RIF, behavior.
- Seniority.
- Dues.
- Compensation.
- Disciplinary/corrective action.
- Strikes/lockouts.
- Zipper Clause.
- Savings Clause.
- Duration.
- Signature Page.

**QUESTIONS?
COMMENTS?
STORIES?**