

What We Face Now: The Storms Ahead

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In the spring 2011 legislative session Florida faculty weathered storms unimaginable in the past. We know we always face threats to higher education in any given year. Economic issues are always there. Threats to job security and academic freedom sometimes appear, e.g. the so-called "Student Bill of Rights." What is different in this session, however, is that "they are coming at us from all sides," as Pat Dix, the Florida Education Association government relations specialist, said in March.

Suddenly faculty are under attack in job security, compensation, and the very commitment they have to an authentic academic curriculum and experience for students. Why?

After the November 2010 election, the new governor and majorities in both houses of the Legislature tilt toward the right. A dysfunctional down-sizing of government (along with privatization) is now the likely outcome of many proposed policies for higher education (as well as for everything else) by a self-proclaimed "conservative majority" in the legislature and governor's office. They say they have a mandate for "reforming" every aspect of Florida's public-funded life.

Their ultimate goal is to "reform" public higher education by casting it into the image of a (not very dynamic) business. Along the way, they are prepared to erase its distinctive characteristics and core missions, as determined by citizens and as evolved over decades. The Governor has even endorsed a plan to reduce all academic evaluations and decisions to a narrow set of calculations about productivity and customer satisfaction.

It is nothing less than amazing that faculty in Florida were able to fend off threats last spring in all but one area of concern (pensions), and even in that case, to change the terms of the debate as well as the outcome. What happened in this session? Why did faculty in Florida generally prevail while faculty in other states lost ground? What are we doing in Florida to get these results? What does this mean for the future, given the increasing threats that we face?

The Governor and top legislative leaders began by attacking job security for teachers. The Legislature actually passed a bill eliminating all forms of tenure, continuing contracts, and multi-year contracts -- substituting annual contracts that would depend on nothing but the "at will" approval of supervisors. Evaluations will depend mostly on student test scores and on a formula for so-called "value-added" measures that still cannot be explained by Department of Education officials. Even the Teacher of the Year can be non-renewed without any due process rights. (Our affiliate, the Florida Education Association, is challenging this in court.)

Then another bill on job security for educators was filed by Rep. Erik Fresen, R-Miami, the same legislator who sponsored the bill abolishing all forms of job security for teachers. The second bill would abolish all tenure, continuing contracts, and multi-year contracts in the state's colleges and community colleges. When asked why, he said it was because they were "next." When asked what evidence he had that there was a problem with tenure in the colleges, he replied that presidents, whom he refused to name, indicated to him that they had problems with tenure. Fortunately, the faculty union (UFF) and all the college and community college presidents joined

forces to object publically to a bill that was never vetted in the academic community, and the bill was withdrawn as soon as press reports of these objections appeared.

At the same time the legislative leadership, backed by the Governor, launched attacks on collective bargaining rights for public employees: (1) a bill to decertify any union with less than 50% membership; (2) a bill to require annual certification elections if even one union member asks for them; and (3) a bill abolishing payroll dues deduction for unions. These leadership bills were designed to wipe out most public employee unions and create financial hardships for those that survive.

Not one of the anti-union bills filed in the spring passed. The leadership delayed voting until they could count the votes, and they were always one or two votes short. A coalition of unions and civic groups managed to peel off just enough votes throughout the session to slow down and stop the bills, at least until January when the same legislators will have another run at it (with more time to prepare and greater motivation to succeed). The leadership vowed to reintroduce and pass all the anti-union bills in the next session.

How will these bills affect faculty, if they pass early next year? With unions gone, or rendered ineffective, collective bargaining agreements (CBAs) will be gone too. The CBA is what protects public employees, including faculty, from “arbitrary and capricious” decisions in lay-offs. With a CBA, a union actually has the power to reverse decisions through arbitration proceedings and thereby has the legal power to restore jobs. In fact, United Faculty of Florida has won back most of the jobs in its bargaining units in the last two years.

But the decertification bills give state officials the ultimate power to reduce all public employees to “at will employees,” including faculty at public institutions, with no rights and no power to reverse unfair decisions. If legislators reduce all faculty appointments to “at will” annual contracts, supervisors can cut faculty positions rapidly in order to cut costs, particularly if ordered to do so by a legislature intent on reducing the cost of government.

Another way the Governor and legislative leaders plan to cut costs is to eliminate all state contributions to pensions for public employees. They claim that the

Florida Retirement System is unsustainable and that it will be an increasing burden for the state to fund FRS as it heads toward insolvency. They also claim that no other state pays for the full annual costs of a pension and that Florida should not subsidize the expenses of a pension for public employees. The remedy, they say, is to force state employees to pay the costs of the pension along the lines of the Governor’s proposal to cut the salaries of employees 5% each year for two years in a row.

But the strategy of discrediting the solvency of the FRS was doomed from the beginning. FRS has continually been among the five or six soundest pension funds in the country. (See http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=85899358839). In fact, FRS had over 20% returns on investment in the fiscal year ending June 30, 2011. A statement of the evidence was prepared by UCF Professor Stan Smith, who is an expert on finance, and was hand-delivered by UFF members to offices of legislators. The evidence made a difference. Legislators stopped saying FRS is broken.

Testimony during the hearings from the unions with members affected came next and made the case that the pension compensation for state employees is justified, all things considered. A key point was that in 1974, when payments to FRS were taken over by the state, employees had gone without significant pay raises for years and were given an alternative form of compensation in the pension payments covered by the state. The situation for public employees has never changed. If there is any Florida public employee pension “premium,” it is still offset by lower pay.

Lower pay is also a problem for university faculty, who suffer from salary compression that is so severe they are \$10,000 behind their counterparts nationally for every ten years they are in Florida, leading to a “brain drain” from the system. Faculty who stay in Florida move from low salaries in their careers to low pensions in retirement (which are based on low salaries), not to the generous pensions politicians say educators are getting. Taken in context, pensions as a form of compensation are hardly a giveaway by the state.

The result of the testimony by unions (and the campaign they waged at the same time) was that the pension committee put a cap of 2% on the employee “contribution” in any year. But the legislative leadership used its power to impose a 3% pension payment by public employees this year, which was still less than the 5% it originally sought. (The Florida Education Association is also challenging this bill in court.)

The most ominous threat to higher education comes from the Governor. He plans to change higher education fundamentally so it operates like a business in every respect. He is already taking steps to implement the plan designed by the “right-leaning Texas Public Policy Foundation in 2008” and now advocated by Texas Gov. Rick Perry. (See http://www.newsserviceflorida.com/cgi/as_web.exe?rev2011+D+6380771 .)

What is the plan? The idea is to reduce all academic evaluations and decisions to whatever causes increases in productivity and customer satisfaction as elaborated in the “Seven Solutions” of the Foundation. (See <http://texashighered.com/7-solutions> .) The net effect of these solutions is to reduce compensation for faculty while claiming that a new system of rewards for “merit” will improve teaching and research dramatically.

The Foundation claims that the best faculty in the nation would want to work at a Texas university that offers “rewards” for merit. Gov. Perry wants to believe that the best faculty would find the full extent of their merit finally “recognized” in such a system and readily move to Texas. What are the rewards?

In Perry’s account, some of the best and the brightest researchers and teachers would be eager to give up tenured positions at the best universities in the nation in order to go to Texas so they can get a bonus (not a salary raise) if they are in the top 25% of faculty that year for teaching or research and providing they are willing to give up tenure. This is supposed to “recognize” them for the high achievers that they really are. If the best and brightest are non-tenure track faculty, they would supposedly also be grateful to be part of a system that while offering a typically low annual salary for contingent faculty, gives them a shot at getting up to a \$10,000 bonus. In order to get even a small bonus, they (like tenured faculty) must make it into the top 25% of all university teachers in student evaluations or in the top 25% of researchers in “sponsored research dollars attracted,” with tenure-track faculty entering the same competition.

Meanwhile Texas pockets what it saves in university costs and never has to raise appropriations for higher education. The state ends up with minimal investment. Texas universities end up with flat funding forever and nothing more than bonuses offered to attract talented faculty.

Although the first efforts to implement this in Texas have not been widely recognized as successful, and a growing and vocal opposition is emerging, Governor Rick Scott endorses it. He is enthusiastic about Rick Perry's plan and has already used the "Seven Solutions" to screen applicants for his appointments to the boards of trustees of universities and colleges in Florida. As part of the interview process he wants to know what applicants think of the "Solutions." He has decided to make this plan his plan -- unless he hears objections that are powerful enough to change his mind. He has already appointed university board members based on this conviction. Where Governor Scott is going with all of this is yet to be determined, but the direction is now clear.

Here we go again. When the Legislature meets in January, we will find the same cast of characters we encountered this year when we defeated the anti-collective bargaining bills. But some things have changed.

The leadership will have much more power to crack the whip over all members of the majority party, and as a result, get what they want when they want it. Money flowing from the political party in power to finance reelections of incumbents depends on whether the leadership agrees to hand it out. Legislators who resist the leadership will find themselves without money for their campaigns, and even worse, will find their party funding their opponents in primary elections, as it did successfully last time when we saw a distinctly "right-leaning" outcome.

The leadership has already made it clear that the anti-union bills will be introduced again. Sen. John Thrasher (R), who led the efforts last time, said point blank that we can expect to find every one of the bills reintroduced and passed. Patricia Levesque, who is an advisor to Gov. Scott and is the director of Jeb Bush's education foundation, underscored the point: "We'll tackle collective bargaining next year." What is different about their prospects in 2012 is that the power of money will stand behind their threat, and they can be expected to focus attention on this issue.

Although Jeb Bush is frequently cited as the inspirational leader of the movement to eliminate teachers' unions and convert education into preparation for test taking, his role has also been to gather political contributions that rival the Republican Party and the Chamber of Commerce campaign funds. All these funds combined mean that self-described "conservatives" can outspend by ten to one, and perhaps defeat in the 2012 elections, some of the pro-education candidates who would otherwise be the allies of teachers and faculty in future struggles.

Governor Scott, who is now allied with Jeb Bush, has made it clear that he plans to "up the ante" on Wisconsin in wiping out collective bargaining and that he favors a change in the Florida Constitution to eliminate collective bargaining altogether. He claims that unions are responsible for Florida's budget crisis.

The tropical storms faculty survived in the spring may turn out to be mild compared with the hurricane force winds that are building in Florida politics now.

If we are to survive the storms ahead, we need to redouble efforts to organize a majority faculty union on all campuses and at the same time contact legislators in local district offices in a concerted way across the state. Majority unions protect faculty against the 50% threshold rule,

and an effective system for contacting legislators is what helps us contain damage on higher education issues.

The experience of the spring shows we are already up to the task -- much to the amazement and delight of faculty in other states where the results were very different. Join the fight in Florida against attacks on public higher education, public employees, pensions, academic freedom, tenure and multi-year contracts, and the integrity of the curriculum. It is time to ask all colleagues to join UFF and our campaign to defend higher education.

[Link to article: "What We Face Now."](#)