

Testimony of John T. McNay, PhD  
Before the House Higher Education Committee  
Rep. Tom Young, Chair

May 17, 2023

Chair Young, Ranking Member Miller, and Members of the Higher Education Committee:

My name is John McNay and I am a professor of history at the University of Cincinnati where I have taught for 23 years. I do not represent UC but I am an elected member of the AAUP National Council. I am submitting testimony in opposition to Substitute House Bill 151.

Hidden under all the verbiage in HB 151 is the fact that it is a union-busting bill.

For our faculty unions this is clear because it seeks to make it impossible for us to fairly represent our members in several ways.

The most obvious is that the bill seeks to cripple our unions by banning strikes. For those who lack knowledge of the way union/employer relations work this is the reality: real negotiations can only happen when there is skin in the game. The possibility of a work stoppage brings the administration to the table in a serious way.

Without the right to strike, it is only a conversation and our administrations will simply run out the clock until we are forced to binding arbitration. In arbitration, the arbiter will typically split the difference between the two sides. That means the faculty will lose something valuable in each contract. Over two or three contracts, much that is valuable to our faculty and to academic quality will be lost.

Strikes are rare so banning them cannot realistically be seen as trying to defend students. If this legislature cared about the students they would not have cut a half billion dollars mostly in student aid from the governor's budget. And there would not be a steady decline in funding that is just sticking the students with the bill.

HB 151 started out uninformed and misdirected and has gotten worse through the hearings. It now attacks several parts of our union contracts – agreements that have been negotiated over the years to preserve tenure, shared governance, and academic freedom, all of which are now under threat by the bill.

The key to understanding this is that the bill now takes many academic decisions out of the hands of qualified educators and puts them into the hands of Republican appointees – either boards of trustees or the chancellor. This, of course, is why we call this a Republican takeover of higher education.

Let me quote from the UC AAUP union contract, probably the oldest contract in the state.

*Article 3.3 The primary justification for academic freedom is service to*

*society's need for independent criticism and advice and a continual flow of new ideas vital in a democracy. The creation of knowledge is inherently threatening to the established order. Academic tenure, therefore, is vital to the nurturance of new ideas and new knowledge. Tenure is the bulwark against the application of economic and political power in limitation of the topics of inquiry and the publication of results.*

To be completely clear, tenure and academic freedom are protections from our administrations and from the state. To empower politicians, political appointees, and our administration to the extent the bill demands is to put the wolf in charge of the hen house. Obviously, the bill eliminates tenure protections by putting them solely in the hands of political appointees. And for politicians to impose a concept in the classroom like “intellectual diversity” – which is in opposition to academic freedom - is a direct attack on tenure and the academic freedom faculty are supposed to have.

HB 151 requires our politically-appointed trustees to develop policies on tenure and retrenchment and bans them as a topic of collective bargaining. These policies have already been agreed to in Article 7 and Article 28, respectively, so there no need for political intervention.

Article 7 is a beautiful design of the process for reappointment, promotion and tenure that both the union and the administration have agreed to. It is not broke. It doesn't need fixing.

Shockingly, the bill bars negotiations over annual performance reviews. The agreed process for those is in Article 33. To inject political appointees who are not experts in the various fields into determining performance reviews is another destructive idea.

I can't conceive of a role for the politically-appointed chancellor to micro-manage these issues that are based on a relationship between the faculty and the administration at each institution. The current chancellor is not an academic and lacks the expertise.

I feel as though I just awakened from a nap and it is 2011, this is SB 5, and we are going through that fight again. I was a veteran of that fight and was president of my faculty union at UC when faculty unions were slated for elimination. It seems that too many legislators either didn't go through that or have forgotten the outcome of that other union-busting effort.

The people of Ohio defended the public unions, including my own, by repealing SB 5 by a huge margin. Nothing has changed about the public's support for collective bargaining and the public unions. In fact all the signs make clear that public support for unions of all kinds is growing.

So what do we get - the worst attack on worker rights since SB 5 and the worst attack we have ever seen on academic freedom and tenure.

This bill can't be salvaged, deserves to be killed, and we need to start over to make a genuine effort to address the real problems in higher education.