

ASSEMBLY BILL

No. 1719

Introduced by Committee on Higher Education (Alquist (Chair), Richman (Vice Chair), Jackson, Liu, Lowenthal, Matthews, Negrete McLeod, Robert Pacheco, Strickland, and Wyman)

March 14, 2001

An act to amend Sections 89036, 89045, 89048, and 89923 of the Education Code, to repeal Section 18598 of the Government Code, and to amend Sections 10430, 10705, 10710, and 10760 of the Public Contract Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1719, as introduced, Committee on Higher Education. Public postsecondary education.

(1) Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. Under existing law, the trustees are authorized to enter into agreements with any public or private agency, officer, or institution for the performance of acts or for the furnishing of services, facilities, materials, or equipment.

This bill would require the trustees to prescribe policies and procedures for the acquisition of services, facilities, materials, goods, supplies, or equipment. The bill would also require these policies and procedures to include competitive means for obtaining best value, and authorize the inclusion of financing arrangements.

(2) Existing law requires the Trustees of the California State University to establish an internal audit staff with prescribed duties, including auditing, reviewing, cost and systems analysis, analyzing, and recommending operating procedures for the university. Existing

law also requires the university's internal audit staff to perform audits, at least once every 5 years, of the activities of the university pursuant to specified statutes.

This bill would add a reference to the statute authorizing the trustees to enter into agreements for the performance of acts or for the furnishing of services, facilities, materials, or equipment. The bill would delete references to 3 of these statutes contained in the Public Contract Code.

(3) Existing law authorizes the Trustees of the California State University to perform certain functions without prior approval of any other state department or agency when necessary to carry out the purposes of the university. These functions include the sale or exchange of personal property belonging to the university and the leasing of real property for the use of the university.

This bill would also authorize the trustees to lease personal property belonging to the university and to lease personal property for the use of the university.

(4) Existing law authorizes the establishment of auxiliary organizations in connection with the operations of the campuses of the California State University, and generally requires these organizations to conduct their business in public meetings. Existing law authorizes the governing board or subboard of an auxiliary organization to hold closed sessions under prescribed circumstances.

This bill would also authorize a governing board or subboard to hold a closed session to protect donor or prospective donor confidentiality, to consider financial information of a donor or prospective donor, and to consider donation solicitation strategies with respect to a donor or prospective donor.

(5) An existing provision of the Government Code define "state civil service" to include all personnel appointed or employed at the state nautical school except personnel whose duties consist of instructing students or supervising instructional personnel and except for students enrolled at the school who are working part-time as student assistants.

This bill would delete this provision.

(6) Existing provisions of the Public Contract Code generally govern the procurement of materials, supplies, equipment, and services by state agencies. These provisions do not apply to the Regents of the University of California.

This bill would provide that these provisions also do not apply to the Trustees of the California State University.



(7) Existing law, known as the California State University Contract Law, provides, among other things, that, where the nature of the work in the opinion of the Trustees of the California State University is such that the application of the law is not required, the trustees may carry out the project if the estimated cost does not exceed \$250,000.

This bill would instead provide that this estimated cost may not exceed \$400,000.

(8) An existing provision of the California State University Contract Law prohibits the trustees from awarding annual contracts for repair or other repetitive work, or renovation or modification, on capital outlay projects where the total cost of the project exceeds \$250,000.

This bill would raise that limit to \$400,000.

(9) An existing provision of the California State University Contract Law requires the trustees to obtain specified financial information from prospective bidders for contracts estimated to exceed \$300,000.

This bill would raise that limit to \$400,000.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 89036 of the Education Code is
2 amended to read:

3 89036. (a) (1) The trustees may enter into agreements with
4 any public or private agency, officer, person, or institution,
5 corporation, association, or foundation for the performance of acts
6 or for the furnishing of services, facilities, materials, *goods*,
7 *supplies*, or equipment by or for the trustees or for the joint
8 performance of an act or function or the joint furnishing of services
9 and facilities by the trustees and the other party to the agreement.

10 ~~The~~

11 (2) *Notwithstanding any other provision of law, the trustees*
12 *shall prescribe policies and procedures for the acquisition of*
13 *services, facilities, materials, goods, supplies, or equipment. The*
14 *policies and procedures of the trustees shall include competitive*
15 *means for obtaining best value in accordance with Section 1 of*
16 *Chapter 932 of the Statutes of 1995, and may include the use of*
17 *financing arrangements.*

18 (3) *The trustees may enter into agreements with the federal*
19 *government or any agency thereof in accordance with the*



1 procedures prescribed by the federal government or agency in
2 order to receive the benefits of any federal statute extending
3 benefits to the California State University or to the California State
4 University students, including, but not *necessarily* limited to, *both*
5 *of the following*:

6 ~~(1)~~

7 (A) Agreements with any agency of the federal government for
8 the education of persons in the service of the federal government.

9 ~~(2)~~

10 (B) Agreements with any agency of the federal government for
11 the education of veterans. These agreements shall provide for
12 payment of the maximum amount permitted under the act, or acts,
13 of Congress under which the agreement is entered into.

14 ~~Notwithstanding~~

15 (4) *Notwithstanding* any other *provision of* law, the trustees
16 have all power necessary to perform ~~such~~ *any* acts, and comply
17 with conditions, required or imposed by the federal government
18 in order to receive the benefits. The trustees are vested with all
19 necessary power and authority to cooperate with any ~~such~~ agency
20 of the federal government in the administration of any applicable
21 act of Congress and rules and regulations adopted thereunder.

22 (b) *Notwithstanding* any other *provision of* law, the trustees
23 have all power necessary to award contracts to one or more
24 contractors, at any one or more campuses, for the collection of
25 delinquent education loans required to be repaid under federal law.

26 SEC. 2. Section 89045 of the Education Code is amended to
27 read:

28 89045. (a) The trustees shall establish an internal audit staff,
29 which shall include the staff positions authorized for internal
30 auditing. The internal auditing staff shall report directly to the
31 trustees, and shall be available for consultation with any audit
32 committee of the trustees which may be established by the trustees.

33 (b) The duties of the internal audit staff shall include, but shall
34 not *necessarily* be limited to, auditing, reviewing, cost and
35 systems analysis, analyzing, and recommending operating
36 procedures for the California State University.

37 (c) Management audits shall be made to determine the
38 effectiveness and efficiency of the organization, operation, and
39 procedures of each state university, each auxiliary organization,
40 and the office of the chancellor. Officials and employees of each



1 state university, each auxiliary organization, and the office of the
2 chancellor shall furnish all books, papers, contracts, management
3 charts, and related information necessary for management audits.

4 (d) In addition, the internal audit staff shall perform audits, at
5 least once every five years, of the activities of the California State
6 University pursuant to Sections 89031.5, 89036, 89046, and
7 89048 ~~of the Education Code~~, and Section 11007.7, of the
8 Government Code, ~~and Section 10295, 10389, and 12100.5 of the~~
9 ~~Public Contract Code~~.

10 SEC. 3. Section 89048 of the Education Code is amended to
11 read:

12 89048. Notwithstanding Article 1 (commencing with Section
13 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section
14 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with
15 Section 15850), of Division 3 of Title 2 of the Government Code,
16 or any other provision of law ~~to the contrary~~, the trustees may
17 perform the following functions, without prior approval of any
18 other state department or agency, when necessary to carry out the
19 purposes of the California State University:

20 (a) Acquire easements or rights-of-way necessary for the
21 proper utilization of real property of the California State
22 University.

23 (b) Grant and convey in the name of the California State
24 University easements and rights-of-way across property
25 belonging to the California State University subject to the
26 conditions, limitations, restrictions, and reservations the trustees
27 determine are in the best interests of the California State
28 University.

29 (c) Quitclaim the right, title, and interest of the California State
30 University in and to easements and rights-of-way owned by the
31 California State University which the trustees determine are no
32 longer needed for California State University purposes.

33 (d) Sell, *lease*, or exchange any personal property belonging to
34 the California State University, if the trustees determine that the
35 sale, *lease*, or exchange is in the best interests of the California
36 State University. Transactions under this subdivision shall be for
37 consideration based on fair market values.

38 (e) Lease any real *or personal* property for the use of the
39 California State University.



1 (f) Sell, exchange, or otherwise dispose of real property
2 acquired from revenues generated by the parking and housing
3 programs in the California State University, to a recognized
4 auxiliary organization of the California State University, as
5 authorized by Section 89901 ~~of the Education Code~~. The sale,
6 exchange, or other disposition shall be consistent with the
7 requirements of any indenture or other agreement to which the
8 trustees are a party. Transactions under this subdivision shall be for
9 consideration based on the fair market value of the property to be
10 sold, exchanged, or otherwise disposed of, and shall be subject to
11 the following conditions:

12 (1) Where more than one auxiliary organization of the
13 California State University expresses interest in acquiring the
14 property, the sale, exchange, or other form of disposal shall be
15 awarded to the highest responsible bidder. The net present value
16 of the projected proceeds of a bid shall be used to determine the
17 highest responsible bidder, where applicable.

18 (2) When the real property for sale is an improvement situated
19 on land purchased with funds not generated by the parking or
20 housing programs of the California State University, rights to the
21 land upon which the improvement is situated, and access thereto,
22 shall be leased and not sold or exchanged to the acquiring party.

23 (3) When the real property for sale includes land purchased
24 with funds generated by the parking or housing programs of the
25 California State University, the property shall have at least one
26 border with property that is not owned by the California State
27 University.

28 (g) Acquire, when it is in the best interests of the state, real
29 property with revenues generated by the parking and housing
30 programs of the California State University.

31 (1) Any acquisition of real property carried out pursuant to this
32 subdivision shall be reported annually to the Joint Legislative
33 Budget Committee and to the Department of Finance by January
34 5 of each year.

35 (2) Any acquisition carried out pursuant to this subdivision
36 shall include relocation assistance, when appropriate.

37 SEC. 4. Section 89923 of the Education Code is amended to
38 read:

39 89923. Any governing board or subboard may hold closed
40 sessions to consider matters relating to litigation, collective



1 bargaining, or the appointment, employment, evaluation of
2 performance, or dismissal of an employee, or to hear complaints
3 or charges brought against an employee by another person or
4 employee, unless the employee requests a public hearing. For the
5 purposes of this section, “employee” does not include any person
6 elected or appointed to an office. A board or subboard, upon a
7 favorable majority vote of its members, may also hold a closed
8 session to discuss investments where a public discussion could
9 have a negative impact on the auxiliary organization’s financial
10 situation. In this case, a final decision shall only be made during
11 public sessions. *A board or subboard may also hold closed*
12 *sessions to protect donor or prospective donor confidentiality, to*
13 *consider financial information of a donor or prospective donor,*
14 *and to consider donation solicitation strategies with respect to a*
15 *donor or prospective donor.*

16 SEC. 5. Section 18598 of the Government Code is repealed.

17 ~~18598. The “state civil service” shall include all personnel~~
18 ~~appointed or employed at the state nautical school except~~
19 ~~personnel whose duties consist of instructing students or~~
20 ~~supervising such instructional personnel and except students~~
21 ~~enrolled at the school who are working part time as student~~
22 ~~assistants.~~

23 SEC. 6. Section 10430 of the Public Contract Code is
24 amended to read:

25 10430. This chapter does not apply to any of the following:

26 (a) The Regents of the University of California *and the Trustees*
27 *of the California State University.*

28 (b) Transactions covered under Chapter 3 (commencing with
29 Section 12100).

30 (c) Except as otherwise provided in this chapter, any entity
31 exempted from ~~the provisions of~~ Section 10295 ~~or 10295.1.~~
32 However, ~~the Trustees of the California State University and the~~
33 ~~Board of Governors of the California Community Colleges shall~~
34 ~~be governed by this chapter, except with regard to transactions~~
35 ~~covered under the California State University and Colleges~~
36 ~~Contract Law, and except as provided in Sections 10295, 10335,~~
37 ~~10356, and 10389.~~

38 (d) Transactions covered under Chapter 10 (commencing with
39 Section 4525) of Division 5 of Title 1 of the Government Code.



1 (e) Except as provided for in subdivision (c), members of
2 boards or commissions who receive no payment other than
3 payment for each meeting of the board or commission, payment
4 for preparatory time, and payment for per diem.

5 (f) The emergency purchase of protective vests for correctional
6 peace officers whose duties require routine contact with state
7 prison inmates. This subdivision shall remain operative only until
8 January 1, 1987.

9 (g) Spouses of state officers or employees and individuals and
10 entities that employ spouses of state officers and employees, that
11 are vendored to provide services to regional center clients pursuant
12 to Section 4648 of the Welfare and Institutions Code if the vendor
13 of services, in that capacity, does not receive any material financial
14 benefit, distinguishable from the benefit to the public generally,
15 from any governmental decision made by the state officer or
16 employee.

17 SEC. 7. Section 10705 of the Public Contract Code is
18 amended to read:

19 10705. (a) Where the nature of the work in the opinion of the
20 trustees is such that the application of all of the provisions of this
21 chapter in connection therewith is not required, the trustees may
22 carry out the project pursuant to this section if the estimated cost
23 does not exceed ~~two~~ *four* hundred ~~fifty~~ thousand dollars
24 (~~\$250,000~~)(\$400,000).

25 (b) If the estimated total cost of any construction project or
26 work carried out under this section exceeds five thousand dollars
27 (\$5,000), the trustees shall solicit bids in writing and shall award
28 the work to the lowest responsible bidder or reject all bids. The
29 trustees may carry out work in excess of five thousand dollars
30 (\$5,000) under this section by day labor if the trustees deem that
31 the award of a contract, the acceptance of bids, or the acceptance
32 of further bids is not in the best interests of the state, but the amount
33 of work performed by day labor under this section shall not exceed
34 the sum of twenty thousand dollars (\$20,000).

35 SEC. 8. Section 10710 of the Public Contract Code is
36 amended to read:

37 10710. (a) Notwithstanding any other provisions of this
38 chapter, the trustees may award annual contracts that do not exceed
39 three million dollars (\$3,000,000) for repair or other repetitive
40 work, or renovation or modification, to be done according to unit



1 prices. The contracts shall be awarded to the lowest responsible
2 bidder and shall be based primarily on plans and specifications for
3 typical work. No project shall be performed under a contract of this
4 type except by order of the trustees. No annual contracts may be
5 awarded under these provisions for capital outlay projects, where
6 the total cost of the project exceeds ~~two~~ *four* hundred ~~forty~~
7 thousand dollars (~~\$250,000~~) (*\$400,000*) or the limit on minor
8 capital outlay projects as determined in the annual Budget Act,
9 whichever is greater.

10 (b) For purposes of this section, “unit price” means the amount
11 paid for a single unit of an item of work, and “typical work” means
12 a work description applicable universally or applicable to a large
13 number of individual projects, as distinguished from work
14 specifically described with respect to an individual project.

15 SEC. 9. Section 10760 of the Public Contract Code is
16 amended to read:

17 10760. The trustees may, and on contracts the estimated cost
18 of which exceeds ~~three~~ *four* hundred thousand dollars (~~\$300,000~~)
19 (*\$400,000*) the trustees shall, require from prospective bidders
20 answers to questions contained in a standard form of questionnaire
21 and financial statement including a complete statement of the
22 prospective bidder’s financial ability and experience in
23 performing public works. When completed, the questionnaire and
24 financial statement shall be verified under oath by the bidder in the
25 manner in which pleadings in civil actions are verified.

