

AMENDED IN ASSEMBLY APRIL 24, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

**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~~ and *89048* 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 amended, 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 be conducted fairly and impartially, include competitive

means for obtaining best value, allow an aggrieved bidder the right to a timely and equitable process to protest a solicitation, award, or related decision, 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 defines "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)~~

(5) 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)~~

(6) Existing law, known as the California State University Contract Law, provides, among other things, that, when, in the opinion of the Trustees of the California State University, the work does not require the application of that law, 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 the value of a minor capital outlay project for which, pursuant to a prescribed provision of the State Contract Act, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

~~(8)~~

(7) 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 instead provide that this total cost may not exceed the value of a minor capital outlay project for which, pursuant to a prescribed provision of the State Contract Act, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project.

~~(9)~~

(8) 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:



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

8 (2) Notwithstanding any other provision of law, the trustees  
9 shall prescribe policies and procedures for the acquisition of  
10 services, facilities, materials, goods, supplies, or equipment. To  
11 maintain the integrity of the procurement process, the policies and  
12 procedures of the trustees shall be conducted fairly and  
13 impartially, shall include competitive means for obtaining best  
14 value, shall allow an aggrieved bidder the right to a timely and  
15 equitable process to protest a solicitation, award, or related  
16 decision, and may include the use of financing arrangements.

17 (3) The trustees may enter into agreements with the federal  
18 government or any agency thereof in accordance with the  
19 procedures prescribed by the federal government or agency in  
20 order to receive the benefits of any federal statute extending  
21 benefits to the California State University or to California State  
22 University students, including, but not necessarily limited to, both  
23 of the following:

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

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

30 (4) Notwithstanding any other provision of law, the trustees  
31 have all power necessary to perform any acts, and comply with  
32 conditions, required or imposed by the federal government in  
33 order to receive the benefits. The trustees are vested with all  
34 necessary power and authority to cooperate with any agency of the  
35 federal government in the administration of any applicable act of  
36 Congress and rules and regulations adopted thereunder.

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



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

3 89045. (a) The trustees shall establish an internal audit staff,  
4 which shall include the staff positions authorized for internal  
5 auditing. The internal auditing staff shall report directly to the  
6 trustees, and shall be available for consultation with any audit  
7 committee of the trustees which may be established by the trustees.

8 (b) The duties of the internal audit staff shall include, but shall  
9 not necessarily be limited to, auditing, reviewing, cost and systems  
10 analysis, analyzing, and recommending operating procedures for  
11 the California State University.

12 (c) Management audits shall be made to determine the  
13 effectiveness and efficiency of the organization, operation, and  
14 procedures of each state university, each auxiliary organization,  
15 and the office of the chancellor. Officials and employees of each  
16 state university, each auxiliary organization, and the office of the  
17 chancellor shall furnish all books, papers, contracts, management  
18 charts, and related information necessary for management audits.

19 (d) In addition, the internal audit staff shall perform audits, at  
20 least once every five years, of the activities of the California State  
21 University pursuant to Sections 89031.5, 89036, 89046, and  
22 89048 and Section 11007.7 of the Government Code.

23 SEC. 3. Section 89048 of the Education Code is amended to  
24 read:

25 89048. Notwithstanding Article 1 (commencing with Section  
26 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section  
27 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with  
28 Section 15850), of Division 3 of Title 2 of the Government Code,  
29 or any other provision of law, the trustees may perform the  
30 following functions, without prior approval of any other state  
31 department or agency, when necessary to carry out the purposes of  
32 the California State University:

33 (a) Acquire easements or rights-of-way necessary for the  
34 proper utilization of real property of the California State  
35 University.

36 (b) Grant and convey in the name of the California State  
37 University easements and rights-of-way across property  
38 belonging to the California State University subject to the  
39 conditions, limitations, restrictions, and reservations the trustees



1 determine are in the best interests of the California State  
2 University.

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

7 (d) Sell, lease, or exchange any personal property belonging to  
8 the California State University, if the trustees determine that the  
9 sale, lease, or exchange is in the best interests of the California  
10 State University. Transactions under this subdivision shall be for  
11 consideration based on fair market values.

12 (e) Lease any real or personal property for the use of the  
13 California State University.

14 (f) Sell, exchange, or otherwise dispose of real property  
15 acquired from revenues generated by the parking and housing  
16 programs in the California State University, to a recognized  
17 auxiliary organization of the California State University, as  
18 authorized by Section 89901. The sale, exchange, or other  
19 disposition shall be consistent with the requirements of any  
20 indenture or other agreement to which the trustees are a party.  
21 Transactions under this subdivision shall be for consideration  
22 based on the fair market value of the property to be sold,  
23 exchanged, or otherwise disposed of, and shall be subject to the  
24 following conditions:

25 (1) Where more than one auxiliary organization of the  
26 California State University expresses interest in acquiring the  
27 property, the sale, exchange, or other form of disposal shall be  
28 awarded to the highest responsible bidder. The net present value  
29 of the projected proceeds of a bid shall be used to determine the  
30 highest responsible bidder, where applicable.

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

36 (3) When the real property for sale includes land purchased  
37 with funds generated by the parking or housing programs of the  
38 California State University, the property shall have at least one  
39 border with property that is not owned by the California State  
40 University.



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

4 (1) Any acquisition of real property carried out pursuant to this  
5 subdivision shall be reported annually to the Joint Legislative  
6 Budget Committee and to the Department of Finance by January  
7 5 of each year.

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

10 ~~SEC. 4. Section 89923 of the Education Code is amended to~~  
11 ~~read:~~

12 ~~89923. Any governing board or subboard may hold closed~~  
13 ~~sessions to consider matters relating to litigation, collective~~  
14 ~~bargaining, or the appointment, employment, evaluation of~~  
15 ~~performance, or dismissal of an employee, or to hear complaints~~  
16 ~~or charges brought against an employee by another person or~~  
17 ~~employee, unless the employee requests a public hearing. For the~~  
18 ~~purposes of this section, "employee" does not include any person~~  
19 ~~elected or appointed to an office. A board or subboard, upon a~~  
20 ~~favorable majority vote of its members, may also hold a closed~~  
21 ~~session to discuss investments where a public discussion could~~  
22 ~~have a negative impact on the auxiliary organization's financial~~  
23 ~~situation. In this case, a final decision shall only be made during~~  
24 ~~public sessions. A board or subboard may also hold closed sessions~~  
25 ~~to protect donor or prospective donor confidentiality, to consider~~  
26 ~~financial information of a donor or prospective donor, and to~~  
27 ~~consider donation solicitation strategies with respect to a donor or~~  
28 ~~prospective donor.~~

29 ~~SEC. 5. Section 18598 of the Government Code is repealed.~~

30 ~~SEC. 6.—~~

31 ~~SEC. 4. Section 18598 of the Government Code is repealed.~~

32 ~~SEC. 5. Section 10430 of the Public Contract Code is~~  
33 ~~amended to read:~~

34 10430. This chapter does not apply to any of the following:

35 (a) The Regents of the University of California and the Trustees  
36 of the California State University.

37 (b) Transactions covered under Chapter 3 (commencing with  
38 Section 12100).

39 (c) Except as otherwise provided in this chapter, any entity  
40 exempted from Section 10295 . However, the Board of Governors



1 of the California Community Colleges shall be governed by this  
2 chapter, except as provided in Sections 10295, 10335, and 10389.

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

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

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

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

21 ~~SEC. 7.—~~

22 *SEC. 6.* Section 10705 of the Public Contract Code is  
23 amended to read:

24 10705. (a) When, in the opinion of the trustees, the work  
25 does not require the application of all of the provisions of this  
26 chapter in connection therewith, the trustees may carry out the  
27 project pursuant to this section if the estimated cost does not  
28 exceed the value of a minor capital outlay project for which,  
29 pursuant to Section 10108, the services of the Department of  
30 General Services are not required and a state agency or department  
31 is authorized to carry out its own project.

32 (b) If the estimated total cost of any construction project or  
33 work carried out under this section exceeds five thousand dollars  
34 (\$5,000), the trustees shall solicit bids in writing and shall award  
35 the work to the lowest responsible bidder or reject all bids. The  
36 trustees may carry out work in excess of five thousand dollars  
37 (\$5,000) under this section by day labor if the trustees deem that  
38 the award of a contract, the acceptance of bids, or the acceptance  
39 of further bids is not in the best interests of the state, but the amount



1 of work performed by day labor under this section shall not exceed  
2 the sum of twenty thousand dollars (\$20,000).

3 ~~SEC. 8.—~~

4 *SEC. 7.* Section 10710 of the Public Contract Code is  
5 amended to read:

6 10710. (a) Notwithstanding any other provisions of this  
7 chapter, the trustees may award annual contracts that do not exceed  
8 three million dollars (\$3,000,000) for repair or other repetitive  
9 work, or renovation or modification, to be done according to unit  
10 prices. The contracts shall be awarded to the lowest responsible  
11 bidder, and shall be based primarily on plans and specifications for  
12 typical work. No project shall be performed under a contract of this  
13 type except by order of the trustees. No annual contracts may be  
14 awarded under these provisions for capital outlay projects, where  
15 the total cost of the project exceeds the value of a minor capital  
16 outlay *project* for which, pursuant to Section 10108, the services  
17 of the Department of General Services are not required and a state  
18 agency or department is authorized to carry out its own project.

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

24 ~~SEC. 9.—~~

25 *SEC. 8.* Section 10760 of the Public Contract Code is  
26 amended to read:

27 10760. The trustees may, and on contracts the estimated cost  
28 of which exceeds four hundred thousand dollars (\$400,000) the  
29 trustees shall, require from prospective bidders answers to  
30 questions contained in a standard form of questionnaire and  
31 financial statement including a complete statement of the  
32 prospective bidder’s financial ability and experience in  
33 performing public works. When completed, the questionnaire and  
34 financial statement shall be verified under oath by the bidder in the  
35 manner in which pleadings in civil actions are verified.

