

AMENDED IN ASSEMBLY MAY 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 450

Introduced by Assembly Member Wieckowski

February 15, 2011

An act to amend *Section 89036 of the Education Code, and to amend Section 12440.1 of the Government Code, relating to the California State University.*

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as amended, Wieckowski. California State University: audits.

(1) Existing law requires the Trustees of the California State University to maintain records of certain vendor payments for 3 years and make those records available to the Controller for postaudit review, as needed, *and to contract with one or more public accounting firms to conduct specified financial statement and compliance audits without obtaining the approval of any other state officer or entity.*

This bill would provide that the trustees, in conjunction with the Controller, have the right, at reasonable times and upon reasonable notice, to examine the books, records, and other compilations of data of a services contractor, as defined, that relate to the provisions and requirements of all service contracts.

(2) Existing law authorizes the trustees to enter into agreements for the performance of acts or for the furnishing of services, facilities, materials, goods, supplies, or equipment, under certain conditions. The trustees are required to prescribe policies and procedures for the acquisition of services, facilities, materials, goods, supplies, or equipment, subject to specified criteria.

This bill would require the policies and procedures for the acquisition of services to specify that any direct or indirect rebates from a 3rd party be fully disclosed and credited to the campus or other unit of the university and be available for review as part of any audit conducted under specified provisions.

~~This bill instead would require the trustees to maintain those records for 5 years.~~

~~(2) Existing law requires the trustees to contract with one or more public accounting firms to conduct specified financial statement and compliance audits without obtaining the approval of any other state officer or entity. Internal and independent financial statement audits of the trustees are required to test compliance with procurement procedures and the integrity of the payments made.~~

~~This bill would require the trustees to contract with the public accounting firms pursuant to an open bidding process, and would specify that the Department of Finance shall have final approval over the selection of the accounting firm. It would require the internal and independent financial statement audits of the trustees to be conducted using generally accepted accounting principles. It would also delete the requirement of a test of compliance with procurement procedures and the integrity of the payments made, and instead would require that the audits include a determination of these factors.~~

~~(3) Existing law requires at least 10 individual campus audits to be conducted on a rotating basis, and requires each campus to be audited at least once every 2 years.~~

~~This bill would delete these provisions and instead would require that in addition to an annual statewide system audit, each campus be audited at least once every year.~~

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 amended
2 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

1 performance of an act or function or the joint furnishing of services
2 and facilities by the trustees and the other party to the agreement.

3 (2) (A) Notwithstanding any other provision of law, the trustees
4 shall prescribe policies and procedures for the acquisition of
5 services, facilities, materials, goods, supplies, or equipment. The
6 policies and procedures of the trustees for the acquisition of
7 materials, goods, supplies, or equipment shall include competitive
8 means for obtaining best value while complying with legislative
9 intent regarding competitive bids or proposals as it is expressed
10 in Article 3 (commencing with Section 10300) of Chapter 2 of
11 Part 2 of Division 2 of the Public Contract Code, and may include
12 the use of financing arrangements.

13 (B) *The policies and procedures for the acquisition of services*
14 *shall specify that any direct or indirect rebates from a third party*
15 *shall be fully disclosed and credited to the campus or other unit*
16 *of the university, and be available for review as part of any audit*
17 *conducted pursuant to Section 89045 or Section 12440.1 of the*
18 *Government Code.*

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

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

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

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

39 (b) Notwithstanding any other provision of law, the trustees
40 have all power necessary to award contracts to one or more

1 contractors, at any one or more campuses, for the collection of
2 delinquent education loans required to be repaid under federal law.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 12440.1 of the Government Code is amended
5 to read:

6 12440.1. (a) The trustees, in conjunction with the Controller,
7 shall implement a process that allows any campus or other unit of
8 the university to make payments of obligations of the university
9 from its revolving fund directly to all of its vendors.
10 Notwithstanding Article 5 (commencing with Section 16400) of
11 Chapter 2 of Part 2 of Division 4, or any other provision of law,
12 the trustees may draw from funds appropriated to the university,
13 for use as a revolving fund, amounts necessary to make payments
14 of obligations of the university directly to vendors. In any fiscal
15 year, the trustees shall obtain the approval of the Director of
16 Finance to draw amounts in excess of 10 percent of the total
17 appropriation to the university for that fiscal year for use as a
18 revolving fund.

19 *(b) The trustees, in conjunction with the Controller, shall have*
20 *the right at reasonable times and upon reasonable notice to*
21 *examine the books, records, and other compilations of data of the*
22 *services contractor that relate to the provisions and requirements*
23 *of all service contracts, including records related to any rebates*
24 *received by a contractor from a third party as a consequence of,*
25 *or incidental to, a contract.*

26 ~~(b)~~

27 *(c) Notwithstanding Sections 925.6, 12410, and 16403, or any*
28 *other provision of law, the trustees shall maintain payment records*
29 *for ~~five~~ three years and make those records available to the*
30 *Controller for postaudit review, as needed.*

31 ~~(e)~~

32 *(d) Notwithstanding Section 8546.4 or any other provision of*
33 *law, the trustees shall, pursuant to an open bidding process, contract*
34 *with one or more public accounting firms to conduct systemwide*
35 *and individual campus annual financial statement and compliance*
36 *audits, with the Department of Finance to have final approval over*
37 *the selection of the accounting firm. In addition to an annual*
38 *systemwide audit, each campus shall be audited at least once every*
39 *year.*

1 ~~(d) The internal and independent financial statement audits of~~
2 ~~the trustees, conducted using generally accepted accounting~~
3 ~~principles, shall include a determination of compliance with~~
4 ~~compliance audits without obtaining the approval of any other~~
5 ~~state officer or entity. At least 10 individual campus audits shall~~
6 ~~be conducted on a rotating basis, and each campus shall be audited~~
7 ~~at least once every two years.~~

8 *(e) The internal and independent financial statement audits of*
9 *the trustees shall test compliance with procurement procedures*
10 *and the integrity of the payments made. The results of these audits*
11 *shall be included in the biennial report required by Section 13405.*

12 ~~(e) As used in this section:~~

13 *(f) As used in this section, the following terms have the following*
14 *meanings:*

15 *(1) "Rebate" includes any return of monetary value, including,*
16 *but not limited to, any volume discounts, allowances, or discount*
17 *purchase incentives.*

18 *(2) "Services contractor" includes a contractor providing food,*
19 *janitorial, laundry, maintenance, window cleaning, or landscape*
20 *services.*

21 ~~(1)~~

22 *(3) "Trustees" means the Trustees of the California State*
23 *University.*

24 ~~(2)~~

25 *(4) "University" means the California State University.*