

Assembly Constitutional Amendment

No. 17

Introduced by Assembly Member Nestande

March 25, 2009

Assembly Constitutional Amendment No. 17—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 9 of Article IX thereof, relating to the University of California.

LEGISLATIVE COUNSEL'S DIGEST

ACA 17, as introduced, Nestande. University of California: severance and early retirement incentives.

The California Constitution constitutes the University of California as a public trust to be administered by the Regents of the University of California with full powers of organization and government, subject only to specified legislative control. Existing law requires the meetings of the regents to be public with exceptions and notice requirements as may be provided by statute. Existing law states the intent of the Legislature that any proposal relating to the salary, benefits, perquisites, severance payments, as specified, or retirement benefits, or any other form of compensation paid to an officer of the University of California shall not become effective unless notice of the meeting at which the proposal is to be considered has been given to each regent and information and materials regarding the proposal, including a full disclosure of the fiscal impact, have been made available to each regent in advance.

This measure would prohibit any employee of the University of California who receives any financial benefit with a value in excess of \$50,000 as part of a temporary voluntary separation program, as defined,

from the University of California from thereafter being employed by, or contracting for personal services with, the university, in any compensated capacity, unless the person returns the entire financial benefit.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:

7 That Section 9 of Article IX thereof is amended to read:

8 SEC. 9. (a) The University of California shall constitute a
9 public trust, to be administered by the existing corporation known
10 as “The Regents of the University of California,” with full powers
11 of organization and government, subject only to such legislative
12 control as may be necessary to insure the security of its funds and
13 compliance with the terms of the endowments of the university
14 and such competitive bidding procedures as may be made
15 applicable to the university by statute for the letting of construction
16 contracts, sales of real property, and purchasing of materials, goods,
17 and services. Said corporation shall be in form a board composed
18 of seven ex officio members, which shall be: the Governor, the
19 Lieutenant Governor, the Speaker of the Assembly, the
20 Superintendent of Public Instruction, the president and the vice
21 president of the alumni association of the university and the acting
22 president of the university, and 18 appointive members appointed
23 by the Governor and approved by the Senate, a majority of the
24 membership concurring; provided, however that the present
25 appointive members shall hold office until the expiration of their
26 present terms.

27 (b) The terms of the members appointed prior to November 5,
28 1974, shall be 16 years; the terms of two appointive members to
29 expire as heretofore on March 1st of every even-numbered calendar
30 year, and two members shall be appointed for terms commencing
31 on March 1, 1976, and on March 1 of each year thereafter; provided
32 that no such appointments shall be made for terms to commence
33 on March 1, 1979, or on March 1 of each fourth year thereafter,

1 to the end that no appointment to the regents for a newly
2 commencing term shall be made during the first year of any
3 gubernatorial term of office. The terms of the members appointed
4 for terms commencing on and after March 1, 1976, shall be 12
5 years. During the period of transition until the time when the
6 appointive membership is comprised exclusively of persons serving
7 for terms of 12 years, the total number of appointive members may
8 exceed the numbers specified in the ~~preceeding~~ *preceding*
9 paragraph.

10 In case of any vacancy, the term of office of the appointee to fill
11 such vacancy, who shall be appointed by the Governor and
12 approved by the Senate, a majority of the membership concurring,
13 shall be for the balance of the term for which such vacancy exists.

14 (c) The members of the board may, in their discretion, following
15 procedures established by them and after consultation with
16 representatives of faculty and students of the university, including
17 appropriate officers of the academic senate and student
18 governments, appoint to the board either or both of the following
19 persons as members with all rights of participation: a member of
20 the faculty at a campus of the university or of another institution
21 of higher education; a person enrolled as a student at a campus of
22 the university for each regular academic term during his service
23 as a member of the board. Any person so appointed shall serve for
24 not less than one year commencing on July 1.

25 (d) Regents shall be able persons broadly reflective of the
26 economic, cultural, and social diversity of the State, including
27 ethnic minorities and women. However, it is not intended that
28 formulas or specific ratios be applied in the selection of regents.

29 (e) In the selection of the Regents, the Governor shall consult
30 an advisory committee composed as follows: The Speaker of the
31 Assembly and two public members appointed by the Speaker, the
32 President Pro Tempore of the Senate and two public members
33 appointed by the Rules Committee of the Senate, two public
34 members appointed by the Governor, the chairman of the regents
35 of the university, an alumnus of the university chosen by the alumni
36 association of the university, a student of the university chosen by
37 the Council of Student Body Presidents, and a member of the
38 faculty of the university chosen by the academic senate of the
39 university. Public members shall serve for four years, except that
40 one each of the initially appointed members selected by the Speaker

1 of the Assembly, the President Pro Tempore of the Senate, and
2 the Governor shall be appointed to serve for two years; student,
3 alumni, and faculty members shall serve for one year and may not
4 be regents of the university at the time of their service on the
5 advisory committee.

6 (f) The Regents of the University of California shall be vested
7 with the legal title and the management and disposition of the
8 property of the university and of property held for its benefit and
9 shall have the power to take and hold, either by purchase or by
10 donation, or gift, testamentary or otherwise, or in any other manner,
11 without restriction, all real and personal property for the benefit
12 of the university or incidentally to its conduct; provided, however,
13 that sales of university real property shall be subject to such
14 competitive bidding procedures as may be provided by statute.
15 Said corporation shall also have all the powers necessary or
16 convenient for the effective administration of its trust, including
17 the power to sue and to be sued, to use a seal, and to delegate to
18 its committees or to the faculty of the university, or to others, such
19 authority or functions as it may deem wise. The Regents shall
20 receive all funds derived from the sale of lands pursuant to the act
21 of Congress of July 2, 1862, and any subsequent acts amendatory
22 thereof. The university shall be entirely independent of all political
23 or sectarian influence and kept free therefrom in the appointment
24 of its regents and in the administration of its affairs, and no person
25 shall be debarred admission to any department of the university
26 on account of race, religion, ethnic heritage, or sex.

27 (g) Meetings of the Regents of the University of California shall
28 be public, with exceptions and notice requirements as may be
29 provided by statute.

30 (h) *Any employee of the University of California who receives*
31 *any financial benefit with a value in excess of fifty thousand dollars*
32 *(\$50,000) as part of a temporary voluntary separation program*
33 *from the University of California shall not thereafter be employed*
34 *by, or enter into a personal services contract with, the university,*
35 *in any compensated capacity, unless that person returns the entire*
36 *financial benefit to the university. For the purposes of this*
37 *subdivision:*

38 (1) *“Temporary voluntary separation program” means any*
39 *program that is offered for not more than three years, and that is*
40 *not part of the employee’s regular compensation or retirement*

- 1 *benefits, under which an employee receives a financial benefit as*
- 2 *an inducement to retire or end employment with the university.*
- 3 (2) *“Financial benefit” means anything of value, including, but*
- 4 *not limited to, money or increased retirement benefits.*