Assembly Constitutional Amendment No. 5

Introduced by Assembly Member Quirk-Silva

January 18, 2019

Assembly Constitutional Amendment No. 5—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 5, as introduced, Quirk-Silva. University of California: Office of the President of the University of California: terms of regents.

Existing provisions of the California Constitution establish the University of California as a public trust under the administration of the Regents of the University of California. The California Constitution grants to the regents all the powers necessary or convenient for the effective administration of this public trust. Pursuant to the California Constitution, there are 7 ex officio members of the regents and 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring. The members of the regents serve 12-year terms.

This measure would require, on or before October 1 of each year, the Office of the President of the University of California to submit a written report to the regents, the Governor, and the appropriate policy and fiscal committees of the Legislature specifying its receipts and expenditures for the immediately preceding fiscal year. The measure would also require that an appropriation for the Office of the President of the University of California be made only pursuant to an item in the annual Budget Bill relating solely to that office, as specified.
The measure would also add the Chancellor of the California Community Colleges to the regents as a voting ex officio member, and would provide that the President of the University of California would be a nonvoting, rather than a voting, ex officio member.

The measure would prohibit the appointment of members of the regents appointed to the board before March 4, 2020, to additional terms after that date, and would further require that members of the regents appointed on and after March 4, 2020, would serve 4-year terms, with the exception of 5 appointive positions on the board that would be filled, through appointments by the Governor, by faculty, students, and classified employees of the university for 2-year terms, as specified.

The measure would specify the qualifications required of these faculty, student, and classified employee appointees to the board, whose 2-year terms would commence with the expiration of 12-year terms on March 1 of 2020, 2021, and 2022, as prescribed. The measure would repeal, on March 4, 2020, existing authority of the members of the board to appoint a member of the faculty of the university or a student of the university, or both, to the board.

The measure would prohibit any officer or employee of the university, other than a member of the faculty, from receiving compensation, as defined, that exceeds $200,000 per year, unless that compensation is approved by a vote of the regents in a public meeting.

Vote: \( \frac{2}{3} \). Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

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

Sec. 9. (a) (1) The University of California shall constitute a public trust, to be administered by the existing corporation known as “The Regents of the University of California,” with full powers of organization and government, subject only to such legislative control as may be necessary to ensure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of
construction contracts, sales of real property, and purchasing of
materials, goods, and services. Said the corporation shall be in
form a board composed of seven voting ex officio members, which
who shall be: be the Governor, the Lieutenant Governor, the
Speaker of the Assembly, the Superintendent of Public Instruction,
the Chancellor of the California Community Colleges, the president
and the vice president of the alumni association of the university
and the acting university, one nonvoting ex officio member, who
shall be the president of the university, and 18 appointive members
appointed by the Governor and approved by the Senate, a majority
of the membership concurring; provided, however that the present
appointive members shall hold office until the expiration of their
present terms: concurring. The terms of appointive members shall
commence and terminate on March 1 of the beginning and ending
years of their terms.

(2) On or before October 1 of each year, the Office of the
President of the University of California shall submit a written
report to the regents, the Governor, and the appropriate policy
and fiscal committees of the Legislature specifying its receipts and
expenditures for the immediately preceding fiscal year. An
appropriation for the Office of the President of the University of
California shall be made only pursuant to an item in the annual
Budget Bill relating solely to that office, and no other moneys
appropriated by the Legislature shall be transferred or otherwise
made available to that office.

(b) (1) The terms of the members appointed prior to November
5, 1974, shall be 16 years; the terms of two appointive members
to expire as heretofore on March 1st of every even numbered
calendar year, and two members shall be appointed for terms
commencing on March 1, 1976, and on March 1 of each year
thereafter, provided that no such appointments shall be made for
terms to commence on March 1, 1979, or on March 1 of each
fourth year thereafter, to the end that no appointment to the regents
for a newly commencing term shall be made during the first year
of any gubernatorial term of office. The terms of the members
appointed for terms commencing on and after March 1, 1976, shall
be 12 years. During the period of transition until the time when
the appointive membership is comprised exclusively of persons
serving for terms of 12 years, the total number of appointive
members may exceed the numbers specified in the preceeding
paragraph. before March 4, 2020, shall be 12 years. No member
appointed by the Governor before March 4, 2020, may be
appointed to the board for an additional term after the completion
of his or her term.
(2) Except as provided in paragraph (3), the terms of members
appointed on and after March 4, 2020, shall be four years. A
member appointed on or after March 4, 2020, may be appointed
for up to two additional terms after the completion of his or her
first term on the board.
(3) (A) For a vacancy occurring upon the expiration of a term
on March 1, 2020, the Governor shall appoint, and submit for
consideration by the Senate, a faculty member of the University
of California chosen from a list of four candidates submitted to
the Governor by the Academic Senate of the University of
California, who, upon approval by the Senate, shall serve a
two-year term ending on March 1, 2022. This position shall
subsequently be filled by persons appointed in the same manner
as specified in this subparagraph, serving two-year terms.
(B) For a vacancy occurring upon the expiration of a term on
March 1, 2020, the Governor shall appoint, and submit for
consideration by the Senate, an undergraduate student of the
University of California with at least sophomore standing, chosen
from a list of two to five candidates submitted to the Governor by
the governing board of a statewide student organization that
represents students of the university, who, upon approval by the
Senate, shall serve a two-year term ending on March 1, 2022. This
position shall subsequently be filled by persons appointed in the
same manner as specified in this subparagraph, serving two-year
terms. A person who serves on the board pursuant to an
appointment made under this subparagraph shall have voting
rights on the board only on and after the first March 1 that occurs
after the date he or she becomes a member of the board.
(C) For a vacancy occurring upon the expiration of a term on
March 1, 2021, the Governor shall appoint, and submit for
consideration by the Senate, a faculty member of the University
of California chosen from a list of four candidates submitted to
the Governor by the Academic Senate of the University of
California, who, upon approval by the Senate, shall serve a
two-year term ending on March 1, 2023. This position shall
subsequently be filled by persons appointed in the same manner as specified in this subparagraph, serving two-year terms.

(D) For a vacancy occurring upon the expiration of a term on March 1, 2021, the Governor shall appoint, and submit for consideration by the Senate, a graduate student of the University of California, who, upon approval by the Senate, shall serve a two-year term ending on March 1, 2023. This position shall subsequently be filled by persons appointed in the same manner as specified in this subparagraph, serving two-year terms. A person who serves on the board pursuant to an appointment made under this subparagraph shall have voting rights on the board only on and after the first March 1 that occurs after the date he or she becomes a member of the board.

(E) For a vacancy occurring upon the expiration of a term on March 1, 2022, the Governor shall appoint, and submit for consideration by the Senate, a classified employee of the University of California chosen from a list of three candidates submitted to the Governor by the exclusive representatives of classified employees of the University of California who, upon approval by the Senate, shall serve a two-year term ending on March 1, 2024. This position shall subsequently be filled by persons appointed in the same manner as specified in this subparagraph, serving two-year terms.

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

(c) Before March 4, 2020, the members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members with all rights of participation: a member of the faculty at a campus of the university or of another institution of higher education; education, or a person enrolled as a student at a campus of the university for each regular academic term during his or her service as a member of the board. Any person so appointed shall serve for not less than one year.
commencing on July 1, provided that no member appointed pursuant to this subdivision shall serve on or after July 1, 2021.

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

(e) In the selection of the Regents, the Governor shall consult an advisory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President pro Tempore of the Senate and two public members appointed by the Rules Senate Committee of the Senate, on Rules, two public members appointed by the Governor, the chairman or chairperson of the regents of the university, an alumnus or alumna of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the faculty of the university chosen by the academic senate of the university. Public members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President pro Tempore of the Senate, and the Governor shall be appointed to serve for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) (1) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit. The regents shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said

(2) The corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise.
(3) No officer or employee of the university, other than a member of the faculty, shall receive compensation that exceeds two hundred thousand dollars ($200,000) per year unless that compensation is approved by vote of the regents in a public meeting. For purposes of this paragraph, “compensation” includes salary, retirement benefits and other benefits, perquisites, severance payments, and any other form of compensation.

(4) The regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

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