

Assembly Bill No. 20

CHAPTER 402

An act to add Chapter 14.27 (commencing with Section 67325) to Part 40 of Division 5 of Title 3 of the Education Code, relating to public postsecondary education.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 20, Solorio. University of California: California State University: contracts.

Existing law establishes the University of California (UC) as a public trust administered by the Regents of the University of California. Employees of the UC provide instruction to students and conduct research at each of the 10 campuses of the UC, which are located in Berkeley, Davis, Irvine, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz. Existing law establishes the California State University (CSU), under the administration of the Trustees of the California State University, as one of the other segments of public postsecondary education in this state.

This bill would require the Department of General Services, to negotiate and establish a model contract with standard contract provisions with both the regents and the trustees by July 1, 2010. The trustees would be required to, and the regents would be urged to, negotiate and establish with the Department of General Services the model contract applicable to their university by July 1, 2010. The bill would define the term contract to mean a research, training, or service agreement between the state and the UC or CSU, or a grant from the state to the UC or CSU for research, training, or service.

The bill would require that, to the extent feasible, these standard contract provisions include, but not necessarily be limited to, provisions relating to specified legal issues. The bill would require that the standard provisions in a model contract agreed upon under the bill be used in contracts entered into between the UC or CSU and the state, unless both contracting parties mutually determine that a specific standard contract provision is inappropriate or inadequate for a specific contract.

The bill would authorize the Department of General Services to use the services of any state agency, defined to include every state office, officer, department, division, bureau, board, and commission, in implementing the bill. The bill would make the CSU and UC responsible for the Department of General Services' facilitation and associated support costs required to implement the bill.

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

SECTION 1. Chapter 14.27 (commencing with Section 67325) is added to Part 40 of Division 5 of Title 3 of the Education Code, to read:

CHAPTER 14.27. CONTRACTS

67325. For the purposes of this article, “contract” means a research, training, or service agreement between the state and the University of California or the California State University, or a grant from the state to the University of California or the California State University for research, training, or service.

67326. The Legislature finds and declares all of the following:

(a) The University of California and the California State University comprise two important parts of the state’s public university system.

(b) The University of California and the California State University receive about six billion dollars (\$6,000,000,000) from the State General Fund each year.

(c) In the 2006–07 fiscal year, state agencies and departments entered into more than 2,500 contracts or contract amendments with the University of California and the California State University.

(d) Many of these contracts contain similar provisions, such as provisions dealing with issues relating to liability, intellectual property, the right to undertake additional research, the right to publish, hiring, personnel, invoicing, and payments.

(e) The provisions of each contract or contract amendment are typically negotiated between attorneys representing the state agencies and departments and attorneys representing the University of California and the California State University.

(f) The drafting of many of these contracts takes six months to a year, and, in many cases, the state is paying for both sides of the contract negotiations.

(g) It would be more cost effective and efficient if the state and the University of California and the California State University would establish standardized “boilerplate” provisions that would apply to all contracts between the state and the University of California or the California State University, allowing for variations only in unusual situations.

(h) The federal government has established the Federal Demonstration Partnership, which provides for uniform contracting provisions.

67327. (a) The Department of General Services, acting for the state, shall, negotiate and establish a model contract with standard contract provisions with the Regents of the University of California and a model contract with standard contract provisions with the Trustees of the California State University by July 1, 2010. The trustees shall, and the regents are urged to, negotiate and establish with the Department of General Services the model contract applicable to their university by July 1, 2010. The

Department of General Services shall seek the active participation of state agencies and departments that have contracts with the University of California or the California State University. The model contract may be revised in a manner determined by the University of California or the California State University and the Department of General Services, in consultation with state agencies and departments that have contracts with the University of California or the California State University. To the extent feasible, these standard contract provisions shall include, but not necessarily be limited to, provisions relating to all of the following:

- (1) Liability.
- (2) Intellectual property.
- (3) The right to undertake additional research.
- (4) The right to publish.
- (5) Hiring and other personnel-related matters.
- (6) Invoicing.
- (7) Payments.
- (8) Dispute resolution.
- (9) Travel.
- (10) Termination.
- (11) Administrative overhead and indirect costs.

(b) The standard provisions in a model contract agreed upon pursuant to subdivision (a) shall be used in contracts entered into between the University of California or the California State University and the state, unless both contracting parties mutually determine that a specified standard contract provision is inappropriate or inadequate for a specified contract.

(c) In implementing this section, the Department of General Services may use the services of any state agency, as that term is defined in Section 11000 of the Government Code.

(d) The Department of General Services and the University of California or the California State University, in consultation with state agencies and departments that have contracts with the University of California or the California State University, may determine those types of contracts for which the use of the model contract would be inappropriate or inadequate.

(e) It is not the intent of the Legislature that the model contract provisions waive the requirements of the law.

67328. The California State University and the University of California, if the University of California participates in the model contracting process created pursuant to this chapter, shall be responsible for the facilitation and associated support costs of the Department of General Services required to implement the provisions of this chapter, excluding the Department of General Services' legal costs.