

AMENDED IN SENATE MARCH 3, 2010

Senate Constitutional Amendment

No. 21

Introduced by Senators Yee and Ashburn

(Principal coauthors: Assembly Members Nestande and Portantino)

(Coauthor: Senator Romero)

May 26, 2009

Senate Constitutional Amendment No. 21—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending, repealing, and adding Section 9 of Article IX thereof, relating to the University of California.

LEGISLATIVE COUNSEL'S DIGEST

SCA 21, as amended, Yee. University of California.

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and requires the university to be administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes. These provisions require that corporation to have all powers necessary or convenient for the effective administration of its trust.

This measure would repeal on January 1, 2011, the constitutional provisions relating to the university and the regents and would require the university and the regents to be continued in existence subject to legislative control as may be provided by statute. The measure would require the Legislature to enact legislation to implement these provisions, *but would prohibit the Legislature from enacting any law that restrains academic freedom, as defined, or imposes educational or curricular requirements on students enrolled at the University of California.*

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

1 *Resolved by the Senate, the Assembly 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 First—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 that legislative
12 control as may be necessary to ensure the security of its funds and
13 compliance with the terms of the endowments of the university
14 and competitive bidding procedures as may be made applicable
15 to the university by statute for the letting of construction contracts,
16 sales of real property, and purchasing of materials, goods, and
17 services. The corporation shall be in form a board composed of
18 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.

25 (b) The terms of the members appointed prior to November 5,
26 1974, shall be 16 years; the terms of two appointive members to
27 expire as heretofore on March 1 of every even-numbered calendar
28 year, and two members shall be appointed for terms commencing
29 on March 1, 1976, and on March 1 of each year thereafter; provided
30 that no such appointments shall be made for terms to commence
31 on March 1, 1979, or on March 1 of each fourth year thereafter,
32 to the end that no appointment to the regents for a newly
33 commencing term shall be made during the first year of any
34 gubernatorial term of office. The terms of the members appointed
35 for terms commencing on and after March 1, 1976, shall be 12
36 years.

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

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

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

20 (e) In the selection of the regents, the Governor shall consult
21 an advisory committee composed as follows: The Speaker of the
22 Assembly and two public members appointed by the Speaker, the
23 President pro Tempore of the Senate and two public members
24 appointed by the Senate Committee on Rules, two public members
25 appointed by the Governor, the chairperson of the regents of the
26 university, an alumnus of the university chosen by the alumni
27 association of the university, a student of the university chosen by
28 the Council of Student Body Presidents, and a member of the
29 faculty of the university chosen by the academic senate of the
30 university. Public members shall serve for four years, except that
31 one each of the initially appointed members selected by the Speaker
32 of the Assembly, the President pro Tempore of the Senate, and the
33 Governor shall be appointed to serve for two years; student, alumni,
34 and faculty members shall serve for one year and may not be
35 regents of the university at the time of their service on the advisory
36 committee.

37 (f) The Regents of the University of California shall be vested
38 with the legal title and the management and disposition of the
39 property of the university and of property held for its benefit and
40 shall have the power to take and hold, either by purchase or by

1 donation, or gift, testamentary or otherwise, or in any other manner,
2 without restriction, all real and personal property for the benefit
3 of the university or incidentally to its conduct. However, sales of
4 university real property shall be subject to competitive bidding
5 procedures as may be provided by statute. The corporation shall
6 also have all the powers necessary or convenient for the effective
7 administration of its trust, including the power to sue and to be
8 sued, to use a seal, and to delegate to its committees or to the
9 faculty of the university, or to others, the authority or functions as
10 it may deem wise. The regents shall receive all funds derived from
11 the sale of lands pursuant to the act of Congress of July 2, 1862,
12 and any subsequent acts amendatory thereof. The university shall
13 be entirely independent of all political or sectarian influence and
14 kept free therefrom in the appointment of its regents and in the
15 administration of its affairs, and no person shall be debarred
16 admission to any department of the university on account of race,
17 religion, ethnic heritage, or sex.

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

21 (h) This section shall become inoperative on January 1, 2011,
22 and as of that date is repealed.

23 Second—That Section 9 is added to Article IX thereof, to read:

24 SEC. 9. (a) The University of California is hereby continued
25 in existence in the state government, and is subject to legislative
26 control as may be provided by statute.

27 (b) The University of California shall be administered by the
28 existing corporation known as “The Regents of the University of
29 California,” which is hereby continued in existence in the state
30 government, and is subject to legislative control as may be provided
31 by statute.

32 (c) (1) The Legislature shall enact legislation to implement
33 this section.

34 (2) *Notwithstanding subdivisions (a) and (b), or any other*
35 *provision of this Constitution, the Legislature shall not enact any*
36 *law that restrains academic freedom within the University of*
37 *California or imposes educational or curricular requirements on*
38 *students enrolled at the University of California.*

39 (3) *As used in this subdivision, “academic freedom” means the*
40 *freedom to discuss all relevant matters in the classroom, to explore*

1 *all avenues of scholarship, research, and creative expression, and*
2 *to speak or write without institutional discipline or restraint on*
3 *matters of public concern as well as matters related to professional*
4 *duties and the functioning of the university.*

5 (d) This section shall become operative on January 1, 2011.

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