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University of California. Competitive Bidding. Grounds for Denial of Admission

Ballot Title

UNIVERSITY OF CALIFORNIA. COMPETITIVE BIDDING. GROUNDS FOR DENIAL OF ADMISSION. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends subsections (a) and (f) of section 9 of Article IX: to authorize the Legislature to require the University to follow competitive bidding principles in making contracts for construction, sale of real property and purchase of materials, goods and services; and to prohibit denial of admission to the University on grounds of race, religion or ethnic heritage as well as sex. Financial impact: None in the absence of exercise of authority conferred on Legislature.

FINAL VOTE CAST BY LEGISLATURE ON SCA 14 (PROPOSITION 4)

Assembly—Ayes, 74
Noes, 0

Senate—Ayes 30
Noes, 3

Analysis by Legislative Analyst

PROPOSAL:

This proposition changes two provisions of the Constitution which relate to the University of California. The first would increase the scope of legislative control over the University of California by providing that competitive bidding procedures may be made applicable to the University. The second would specifically provide that the University of California may not exclude anyone from admission on the basis of race, religion, or ethnic heritage.

Competitive Bidding Procedures

The Constitution currently assigns to the Board of Regents the responsibility for administering the operations of the University of California and generally limits legislative control over the University to actions necessary to insure (1) the security of University funds and (2) compliance with the terms of University endowments.

This proposition would permit the Legislature to specify the competitive bidding procedures used by the University of California for awarding construction contracts; selling real property; and purchasing

materials, goods, and services. The proposition would not change the current bidding procedures, which closely resemble those required of other state agencies, but would make it possible for the Legislature to change these procedures in the future.

Discrimination

The Constitution expressly prohibits the University of California from excluding anyone from admission on the basis of sex. This proposition would add race, religion and ethnic heritage as unacceptable grounds for denying admission to any department of the University.

FISCAL EFFECT:

Competitive Bidding Procedures

If the Legislature were to establish competitive bidding procedures significantly different from those currently used, the net fiscal effect would depend on whether the changes resulted in lower or higher costs for items purchased.

Discrimination

No fiscal impact.

Polls are open from 7 A.M. to 8 P.M.

Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 14 (Statutes of 1976, Resolution Chapter 35) expressly amends an existing section of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLE IX

First—That subdivision (a) of Section 9 of Article IX is amended to read:

~~SEC.~~ *SEC.* 9. (a) 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 insure *the security of its funds and compliance with the terms of the endowments of the university and the security of its funds 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 corporation shall be in form a board composed of seven officio members, ~~to wit~~ *which shall be:* the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting 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.

Second—That subdivision (f) of Section 9 of Article IX is amended to read:

(f) The ~~regents~~ *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 and 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 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. 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.*

Apply for Your Absentee Ballot Early

University of California. Competitive Bidding. Grounds for Denial of Admission

Argument in Favor of Proposition 4

The present California Constitution provides the University of California with relative autonomy from the Legislature.

And while we can understand the University's desire for such autonomy from the people's elected representatives on academic matters, we find such insulation on certain matters relating to the expenditure of public moneys indefensible.

The University each year receives more than 500 MILLION DOLLARS directly from the State's General Fund.

And yet, present constitutional provisions allow the University to spend those public dollars—to buy and sell real property, to enter into construction contracts, to purchase materials and services, to use in-house employees—without utilizing the competitive bidding requirements established by the Legislature for all other state agencies.

Proposition 4 would correct this situation by authorizing the Legislature to adopt such competitive bidding requirements if the need arises.

Proposition 4 would give the Legislature authority to back up its monitoring of University policies on purchasing and contracting.

And the knowledge that the Legislature has the authority to step in and adopt statutory competitive bidding procedures should serve to insure that the Regents act responsibly.

Statutory competitive bidding procedures insure not only that jobs go to persons in the private sector, but also that work is performed at the lowest possible cost.

And the University has often cited its policies on competitive bidding as being more than adequate to meet these goals.

But, whereas University policies are not subject to approval by the Legislature, they are subject to change or modification at any time by the appointed Board of Regents.

And it is important to note that University policies did NOT stop the University's 1967 purchase of 130 acres of prime coastal land in the La Jolla area for \$3.7 million with the subsequent resale of one \$110,000 parcel **WITHOUT PUBLIC NOTICE OR BID** to the then campus provost.

Nor have such policies prevented abuses in the performance of painting projects at UC Santa Barbara, abuses which mean **LOST JOBS** to private enterprise.

At a time when unemployment in the construction industry is all too high, the University should be subject to the same competitive bidding requirements as other taxpayer supported agencies so that jobs are not lost to in-house government employees.

Proposition 4 was placed on the ballot by a legislative proposal endorsed and actively supported by the State Building and Construction Trades Council, the Construction Industry Legislative Council, the Painting and Decorating Contractors Association, the California Conference of Mason Contractor Associations, the Sheet Metal and Air Conditioning Contractors Association, and the International Brotherhood of Electrical Workers Local 340.

It was approved by a bipartisan 30-3 vote in the State Senate and a 74-0 vote in the State Assembly.

We urge an "aye" vote on Proposition 4.

JOHN STULL

Member of the Senate, 38th District

LEO T. McCARTHY

Speaker of the Assembly, 18th District

JAMES S. LEE

President, State Building and Construction Trades Council of California

Rebuttal to Argument in Favor of Proposition 4

Do not be misled by Proposition 4! It is bad public policy and would be costly to taxpayers. It would give politicians control over University construction, purchasing and real estate sales. This would cut off UC's development and use of efficient cost-saving contracting and purchasing techniques.

Much **GREATER COSTS** to the public will result from rigidly requiring contracting-out, at high construction wages, building and maintenance work now performed at lower costs by University employees.

Proposition 4 would add to the burden of **EXCESSIVE GOVERNMENTAL REGULATIONS**, diverting University resources away from teaching, research and public service.

UC has been built in the tradition of freedom from political interference and it is widely recognized that this freedom is essential to sustain a great university.

Even Senator Stull, Proposition 4's author, said in the 1974 Voters' Pamphlet:

"The structure and independence of the University are

too valuable to be changed unnecessarily."

Proposition 4 is **UNNECESSARY**. The University now uses competitive bidding as regular practice with flexibility for negotiated purchases in special circumstances to obtain lowest prices and unique products.

The anti-discrimination wording is an obvious gimmick. All such discrimination already is absolutely prohibited by law and University policy.

Proposition 4 is opposed by a broad spectrum of Californians, including former Governor Edmund "Pat" Brown, civic leader Dorothy Chandler, educator Clark Kerr, community leader James Archer, business executive Walter Haas and university president Richard Lyman.

Keep politics out of UC. Vote NO on Proposition 4.

DAVID S. SAXON, President

University of California

WILLIAM K. COBLENTZ, Chairman

Board of Regents, University of California

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Argument Against Proposition 4

Proposition 4 proposes two amendments to the California Constitution.

It would compel the University to use competitive bidding as directed by the Legislature and it would specify that admission to the University may not be denied on the basis of race, ethnic heritage or religion.

These proposed amendments are **unnecessary**. They also are **unwise** and **undesirable** because they would undermine the independence of the University and would result in greater costs.

The Regents presently require competitive bidding on virtually all construction contracts and purchases in excess of \$2,500 except where supplies are available only from one manufacturer. Also, the University uses competitive bidding for the sales of real property except in those situations where a higher price can be obtained through negotiated sales. Thus, this measure is **unnecessary**. It is **undesirable** as well because the University could be forced to abandon cost-saving construction techniques which it has developed. This will result in greater costs to the people of the State.

Proposition 4 is **unwise**. It will abrogate the historical relationship between the Legislature and The Regents regarding the governance of the University. For nearly one hundred years the people of California have entrusted the University's Board of Regents with full powers of organization and government, subject only to very limited legislative control over the University. This constitutional independence from political interference has permitted the University of

California to develop as a recognized preeminent public institution of higher education. The University must be kept out of the political arena.

The second part of Proposition 4 purporting to prohibit discrimination on the basis of race, ethnic heritage or religion is completely **unnecessary**. Any such discrimination is now prohibited by federal constitutional provisions, as interpreted by the United States Supreme Court, by federal statutes and by University policy. Adding surplus wordage to the State Constitution is contrary to the efforts of the California Constitutional Revision Commission which is seeking to shorten the Constitution wherever possible.

There is no need for Proposition 4. It will not change the existing law on student admissions—discrimination on the basis of race, ethnic heritage, or religion already is prohibited both by law and University policy. The University now uses competitive bidding in all appropriate cases. All that Proposition 4 will do is to drive up costs by forcing the University to abandon cost-saving techniques which it has developed and which are consistent with basic principles of competitive bidding.

We urge you to vote NO on Proposition 4.

DAVID S. SAXON, *President*
University of California

WILLIAM K. COBLENTZ, *Chairman*
Board of Regents
University of California

Rebuttal to Argument Against Proposition 4

Keeping the University out of the political arena is the standard smokescreen thrown up by University spokesmen whenever it is suggested that the constitutional barriers which protect their fiefdoms be reconstructed.

But it is a **false issue** here.

Proposition 4 deals with construction contracts and transfers of property, **NOT** with academic issues.

AND THERE IS NO REASON FOR THE UNIVERSITY ALONE OF ALL PUBLIC AGENCIES TO BE EXEMPT FROM STATUTORY COMPETITIVE BIDDING PROCEDURES AND PUBLIC ACCOUNTABILITY WHEN IT COMES TO SPENDING TAXPAYER DOLLARS.

1. Evidence indicates that the University is **not** abiding by the intent of the \$2500 limit on non-competitive bidding construction contracts—and in the past two years in-house crews have done jobs valued in **excess of \$50,000!**
2. The opponents say the University now uses competitive bidding for sales of real property "except in those situations where a higher price can be obtained through negotiated sales." But in 1972, the University sold a

building and land in La Jolla Farms appraised at \$110,000 to a then University Provost for \$103,400—**ALL WITHOUT PUBLIC NOTICE OR PUBLIC BID**. Was that such a "higher price"?

3. The opponents' statement that competitive bidding would "drive up" costs is grossly inaccurate, since competitive bidding by definition insures **lower** costs when purchasing and higher prices when selling.
4. Why should the University oppose **specific prohibitions** against discrimination on the basis of race, religion or ethnic heritage?

Competitive bidding means **jobs** for private industry.

We urge an "AYE" vote on Proposition 4.

JOHN STULL
Member of the Senate, 38th District

LEO T. McCARTHY
Speaker of the Assembly, 18th District

JAMES S. LEE
President, State Building and Construction
Trades Council of California