
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: SCA 1
Author: Lara and Cannella
Version: March 10, 2016
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: April 20, 2016
Fiscal: Yes

Subject: University of California: terms of regents

NOTE: This measure has been referred to the Committees on Education and Elections and Constitutional Amendments. A "do pass" motion should include referral to the Elections and Constitutional Amendments Committee.

SUMMARY

This measure proposes to modify Article IX of the State Constitution to reduce the term of an appointment as a Regent of the University of California from 12 years to four years and to cap the term of such an appointment at 16 years beginning March 1, 2017, as specified.

BACKGROUND

The California Constitution establishes the University of California (UC), a public trust to be administered by the Regents of the UC and grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services.

(Article IX, Section (9)(a) of the California Constitution)

The California Constitution establishes the requirements for appointment and terms to be served by a member of the Regents of the UC. The Constitution specifically requires that members appointed prior to November 5, 1974 serve a 16 year term and that members appointed on and after March 1, 1976 be appointed for a term of 12 years.

The Constitution also provides that the Senate, a majority of the membership concurring, approve any Regent appointee made by the Governor.

(Article IX, Section (9)(b) of the California Constitution)

ANALYSIS

This constitutional amendment proposes to place before the voters a change to the California Constitution to modify the terms of an appointment as Regent of the University of California. It:

- 1) Establishes new restrictions on the terms to be served by an appointed member of the Regents. It:

- a) Requires that the terms of a Regent appointed for terms commencing on or after March 1, 2017 be four years.
 - b) Beginning November 9, 2016, prohibits appointment of a person as a Regent if the appointment would result in the individual serving a total of more than 16 years as a Regent (except for the appointment of a faculty member or a student Regent).
- 2) Makes the following exceptions to the new restrictions for existing Regents appointed prior to November 9, 2016:
- a) Authorizes a Regent who has served for 15 years or more to serve until the expiration of their term or until January 1, 2018, whichever is sooner.
 - b) Authorizes a Regent who, as of January 1, 2017, has served for more than four years but less than 15 years to serve until the expiration of their term or until the total term of service is 16 years, whichever is sooner.
- 3) Makes a number of technical changes and corrections.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, the Senate's confirmation process of the UC Regents is one of the few oversight mechanisms the public and the Legislature have to hold the UC accountable. Because the Regent's terms are so long, the author opines that the public, students, and legislators are unable to hold them accountable to the commitments and promises they make during their confirmation hearings. The author is concerned that in the last decade the UC has increased its out of state and international students, while ignoring the diverse pool of potential applicants in its own backyard, and proposed tuition increases despite opposition from the public, students, and elected officials. According to the author, shorter terms and term limits will provide the Legislature and the public greater oversight of the UC's powerful and autonomous body and ensure accountability to the public. This measure will allow voters to decide whether to shorten the terms and establish term limits for the Regents.
- 2) ***Clarifications.*** Currently, UC Regents are appointed by the Governor, and confirmed by the Senate, for a 12 year term. Appointments for less than 12 years can be made in order to fill a vacancy in which case the appointee serves for the remainder of the term. This bill reduces the term of an appointment as a Regent to 4 years. It also caps the total years of allowable service as a Regent at 16 years, and makes provision for the transition to these new requirements for existing Regents. No cap on the total terms of service as a Regent currently exists.

The California Constitution provides for 18 Regents to be appointed by the Governor, and approved by the Senate, via majority vote, as well as a student member. In addition, the Constitution provides for seven ex officio members to include the Governor, Lieutenant Governor, Assembly Speaker, Superintendent

of Public Instruction, the President and Vice-president of the University's alumni association, and the acting President of the University.

- 3) ***Effect on existing Regents.*** This bill establishes 4 year terms and overall term limits of 16 years for Regents appointed on or after March 1, 2017. In addition, it makes provision for the "phasing out" of existing Regents based upon the amount of time which has already been served as a Regent.

If the bill's provisions were enacted, the existing Regents would be affected as follows:

- a) Four of the current Regents were newly appointed less than four years ago by Governor Brown. These Regents would serve the remainder of their terms and all could be reappointed for an additional four year term without exceeding 16 years of service as a Regent. In addition, two of the Regents had terms that expired in March 2016 and the subsequent appointees to these positions would be subject to the 4-year and 16-year terms of the bill.
 - b) Four of the current Regents, (three of which were re-appointed by Governor Brown in 2014) were initially appointed prior to November 2016 and have served for 15 or more years. Regents Pattiz, Lozano, Lansing and Blum would be compelled to step down on January 1, 2018, prior to the expiration of their terms. Regents Pattiz and Blum are serving terms currently set to expire in 2026, and the terms of Regents Lozano and Lansing are set to expire in 2022. If allowed to serve their full terms, these individuals will have served as Regents for 21-25 years.
 - c) Eight of the current Regents will have served more than four years but less than 15 years as of January 2107. These Regents would serve until the expiration of their term or until total service equals 16 years, whichever is sooner. All would have served a total of 12 years by the expiration of their terms and could be reappointed for an additional four year term without exceeding 16 years of service as a Regent.
- 4) ***Other University Board terms?*** According to information provided by the University of California (UC), several other Universities have governing board terms that range from 6-8 years. These include the University of Texas, University of New Mexico, University of Washington, University of Georgia, University of Wisconsin, and the University of Michigan. The University of Virginia and the University of Florida set 4 and 5 year terms for board members, respectively.

The California State University (CSU) Board of Trustees members are appointed for 8 year terms. However, CSU Trustee terms are established via statute. It is unclear whether the board terms of other national universities are constitutionally prescribed, although, according to the UC, Michigan, Georgia, New Mexico, and Florida are constitutionally autonomous. It is also unclear whether there are caps on the number of years that may be served as a board member.

- 5) ***Balancing autonomy and accountability?*** This bill reduces the terms of the Regents from 12 years to four years. Serving the full 16 years would require “re-confirmation” every four years. Arguably, the autonomy established in the constitution was intended to limit legislative efforts to regulate issues related to teaching, learning and scholarship and to limit governmental interference in institutional operations.

The Committee may wish to consider:

- Would the potential to be denied “reappointment” every four years compromise the ability of a Regent to administer the University of California independent of state political influence?
 - Is a 12 year term necessary to ensure such independence?
- 6) ***Constitutional amendment requirements.*** As a proposed Constitutional amendment this measure would not go into effect unless approved by the majority of voters at a statewide election. This proposal requires a 2/3 vote of each house in order to be submitted to the voters. It does not require approval by the Governor.
- 7) ***Conflicting Legislation?*** Legislative counsel has noted a potential conflict between this bill, and SCA 12 (Runner), also on the Committee’s agenda today, as both propose changes to Section 9, Article IX of the California Constitution. While the provisions of each proposed constitutional amendment do not appear to be in conflict, this bill has been referred to the Senate Committee on Elections and Constitutional Amendments which has jurisdiction over bills to amend the constitution and can appropriately determine any necessary amendments to address a conflict.

SUPPORT

None received on this version.

OPPOSITION

None received.

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