

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Marty Block, Chair

AB 2442 (Williams) – As Amended: March 29, 2012

SUBJECT: State property: California Hope Endowment Trust

SUMMARY: Establishes the California Hope Public Trust (Trust) to support the California State University (CSU) and University of California (UC) systems. Specifically, this bill:

- 1) Creates the Trust, requires it to be funded by transfers of state-owned property, and requires the Trust to manage properties transferred to it with the goal of increasing the value of its holdings and earning revenue for the CSU and UC systems, as specified.
- 2) Requires the Trust to be governed by a nine-member board of directors with staggered four-year terms, including: four members appointed by the Governor, subject to Senate confirmation, who have demonstrated expertise in real estate, finance, and urban planning; one member appointed by the Speaker of the Assembly; and, one member appointed by the Senate Committee on Rules. The Secretary for State and Consumer Services, the Treasurer, and the Controller shall serve as ex officio members of the board, as specified.
- 3) Requires, on or before March 31, 2013, the Department of General Services (DGS) to submit to the Trust a complete and thorough inventory of all state-owned real estate and property. DGS must also submit an inventory of all lease agreements between any state agency and private or nonpublic management groups.
- 4) Requires, on or before January 1, 2014, the Trust to review the inventory specified above and determine which properties should be controlled by the Trust, as specified. The Trust must prepare a plan for assuming responsibility for providing real estate services to the agencies and departments located in those properties and enter into customer service agreements to provide for their space needs, as specified.
- 5) Requires, on or before January 1, 2014, the Trust to submit a request to the Legislature to enact legislation that would authorize the Trust to control any state-owned real property that the Trust determines should be controlled by the Trust.
- 6) Prohibits the Trust from considering for transfer any of the following real property owned by the state: lands in the possession of the Department of Transportation that are used for existing highways or airspace, and properties acquired for highway projects; lands that are part of the State Park System; lands under the jurisdiction of the State Lands Commission; lands in the possession of the Department of Corrections and the California Youth Authority that are used explicitly for the incarceration of inmates; the State Capitol; any land, building, or property determined to be of historical or cultural significance; any property subject to constitutional provisions governing the Highway Users Tax Account; and, lands under UC or CSU jurisdiction.

- 7) Requires the Trust's executive director to report annually to DGS regarding land or property classified as excess, as specified, and identify that land or property that would assist the Trust to effectuate its purposes.
- 8) Requires the Trust to:
 - a) Generate a return on real estate holdings in the possession of the Trust;
 - b) Provide land and buildings it manages and controls for the accommodation of all state agencies, by lease or license or any other arrangement, for their use and occupation;
 - c) Fulfill an obligation to the state to provide innovative stewardship of real property and infrastructure;
 - d) Provide for the efficient and effective utilization of state assets;
 - e) Ensure that all projects undertaken by the Trust satisfy state, regional, and local land-use and environmental requirements that apply to private sector projects; and,
 - f) Ensure that projects undertaken by the Trust meet the smart growth principles of Executive Order D-46-01 of 2001, which is related to smart growth.
- 9) Authorizes the Trust to:
 - a) Acquire and dispose of any property, subject to specified legislative notification;
 - b) Construct and maintain buildings, subject to specified legislative notification;
 - c) Conduct studies or surveys with regard to future office space and building needs of the state;
 - d) Lease any property under the management and control of the Trust to any person or any public or private entity;
 - e) Enter into joint ventures with other public or private entities for the construction or development of buildings and land for joint-use purposes;
 - f) Acquire by purchase, rental or otherwise, equipment, fixtures, and other property, real or personal, required for any property managed or controlled by the Trust;
 - g) Accept donations of property from private donors;
 - h) Approve loans or other financing for projects undertaken by the Trust;
 - i) Contract with DGS for the management and maintenance of property in the possession of the Trust.
 - j) Issue revenue bonds, as specified, to obtain funds to pay the cost of projects, secure the payment of revenue bonds and interest thereon by pledging all or part of its revenues,

rentals, and receipts, and provide for the security of the revenue bonds and the rights of the holders thereof; and,

- k) Sell property owned by the Trust and lease the property back so as to generate proceeds of sale to be used for purposes of the Trust.
- 10) Requires the Trust to notify the chair of the fiscal committee of each house prior to approving the acquisition or disposition of land and buildings, as specified.
- 11) Requires, on or before July 1, 2015, and each year thereafter, the Trust to report to the Legislature on the activities undertaken by the Trust, as specified.
- 12) Creates the California Hope Public Trust Fund (Trust Fund), requires all net proceeds received or generated as a result of Trust activities to be paid to the Trust Fund, and requires the Trust, upon appropriation by the Legislature, to use the moneys in the fund to support the CSU and UC systems.
- 13) Specifies the Trust's authority to issue revenue bonds to accomplish its powers or duties, requires Bond sales to be coordinated by the Treasurer, and outlines provisions governing the bond sales, as specified.
- 14) Repeals the provisions of this bill creating the Trust, its authority to issue bonds, and the Trust Fund on January 1, 2019, unless legislation is enacted that becomes effective on or before that date to transfer to the Trust management and control of any or all of the state-owned real estate that the Trust recommends for transfer. At the time of the transfer, the Trust shall assume from DGS responsibility for providing real estate services to the state agencies and departments located in those properties, including planning of future projects.
- 15) Exempts additional agencies from current law requiring all state agencies to report annually to DGS any property held by that agency that is in excess of its needs, to include the Department of Parks and Recreation, the Department of Fish and Game, the Wildlife Conservation Board and other state conservancies.
- 16) Authorize DGS to give priority to proposals related to the disposition of surplus lands to further the purposes of the provisions governing the Trust.
- 17) Makes findings and declarations and provides terms and definitions.

EXISTING LAW:

- 1) Defines the missions and functions of California's public and independent colleges and universities, also known as the Donahoe Higher Education Act. (Education Code § 66010.4) UC and CSU receive their funding through the annual Budget Act. There is no funding policy in statute for these institutions; thus, their funding is discretionary. However, UC and CSU have entered into system-specific "compacts" and "partnerships" with several Governors to ensure stable multi-year funding in exchange for a commitment to deliver on specific performance measures.

- 2) Establishes the DGS as the state government entity responsible for providing a broad range of business services to government, including determining the present and future space needs of state agencies, administering the sales and leasing of state-owned surplus property, and leasing privately-owned space for state agencies.

FISCAL EFFECT: Unknown

COMMENTS: This bill was approved by the Assembly Business and Professions Committee on April 10, 2012, by a vote of 6-2, where issues pertaining to the Trust and surplus property were considered.

Need for this bill. According to a 2009 California State Auditor follow-up review of the State's management of surplus property, the State still lacks assurance that underused or unused properties are sold to generate revenue or are put to better use. According to the author, this bill creates the California Hope Public Trust which will be able to evaluate and better utilize state property with the proceeds benefitting the UC and CSU systems. The Trust is funded by transfers of state-owned properties that are determined by the Trust to be suitable for development and have been approved by the Legislature. Those properties would be managed with the goal of increasing the value of its holdings and earning revenue for the UC and CSU systems.

CCC. The California Community Colleges are not a beneficiary of the Trust, yet they are an equal and critical partner in California's higher education system and have sustained significant budget reductions in recent years from both Proposition 98 and the General Fund. Should CCC benefit from the Trust?

Funding priorities and accountability. This bill does not speak to the allocation of funds, including the amounts to be distributed to UC and CSU or for which purposes. Discretion is left to the Trust governing board, which includes representatives with expertise in real estate and finance but not higher education or the state budget. For example, should these funds support ongoing state priorities, such as enrollment, faculty and staff, course offerings, or student support services, or if the funds are unpredictable, should they be used for one-time needs, such as maintenance, library services, or information technology? By allocating these moneys apart from the budget process, there is no legislative oversight of where the moneys are spent or how they coordinate with the funds these institutions receive in the annual budget act to support the state's priorities.

Supplement or supplant? The author may wish to consider language to expressly state that Trust funds will supplement and not supplant General Fund support for UC and CSU. However, in difficult fiscal times when state revenues are limited, will state General Fund support for higher education be reduced in anticipation that funding from the Trust will fill the gap?

Administrative costs. The Trust has the authority to hire employees, yet there is no limit on the amount of funds that can be spent on administration.

Prior legislation. AB 2578 (Frommer, 2006) and AB 593 (Frommer, 2005) were substantially similar to this bill. Both were vetoed by Governor Schwarzenegger, who wrote the following in his veto message for AB 2578:

"... this bill would delegate important decisions regarding the allocation of State resources to a new entity, unaccountable to the people, and outside the annual budget process. In doing so, it would hamper the ability of the Legislature and the Governor to make such resource decisions that take into account all of the State's needs."

AB 1326 (Furutani, 2011), which was held in the Assembly Revenue and Taxation Committee, would have imposed a 12.5% oil and gas severance tax and directed the proceeds of this tax to the California Higher Education Fund to be allocated annually in unspecified amounts to UC, CSU, and CCC.

REGISTERED SUPPORT / OPPOSITION:

Support

Service Employees International Union, California

Opposition

None on file.

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