

Date of Hearing: June 18, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Mike Fong, Chair
SB 56 (Skinner) – As Amended June 10, 2024

SENATE VOTE: 39-0

SUBJECT: University of California: transfer of real property.

SUMMARY: Revises how the University of California (UC) can sell real property by exempting the existing competitive bidding requirements for the transfer of a specified property from the UC Regents to the Berkeley Student Cooperative (BSC) for the purpose of maintaining affordable housing. Specifically, **this bill:**

- 1) Reforecasts how the UC can sell real property by exempting the transfer of real property located at 2424 Haste Street, in the City of Berkeley, County of Alameda, Assessor parcel Number 55-1881-17-1, from the UC Regents to the BSC for the purpose of maintaining affordable housing.
- 2) Requires the UC Regents to reserve a right of reverter, which may be subordinated at the discretion of the UC Regents and would be subject to existing liens and obligations of the property, in the event the property ceases to be used for affordable housing by the BSC and its successors or assigns.
- 3) States that the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to maintain affordable housing that is provided by the BSC.

EXISTING LAW:

- 1) Establishes the UC as 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).
- 2) Requires the UC Regents to give public notice to bidders of the sale of UC real property situated in California if the estimated value of the real property to be sold exceeds \$1 million. Specifies that the notice of the sale of real property shall be by publication a minimum of six times, between 2 and 12 weeks preceding the day set for receiving bids, as follows:
 - a) A minimum of three times in at least one newspaper of general circulation in the county in which the property is situated;
 - b) At least three times in a newspaper of general circulation in the City of Los Angeles, the City of San Diego, the City of San Francisco, or the City of Sacramento, whichever is deemed most appropriate by the UC Regents; and,

- c) The published notices shall specify the general description of the property, the source for bid materials and information, and the date and place for the receiving of sealed bids (Public Contract Code (PCC) Section 10511).
- 3) Requires that on the date designated in the public notice (as enumerated in (2) above), the sealed bids must be publicly opened. Stipulates the UC Regents must accept in public the bid or proposal that it deems to offer the best combination of price, terms, and bidder's qualifications to the UC, or reject all bids or proposals. A bidder's qualifications may include factors other than price and terms, such as the bidder's ability to complete the transaction or to secure development entitlements. Stipulates that if a successful bidder fails to perform in the manner specified, the UC Regents may, at their sole option and without further notice, accept, from those remaining bids or proposals submitted and opened in public, the bid or proposal that it deems to offer the best combination of price, terms, and bidder's qualifications to the UC (PCC Section 10512).
 - 4) Provides the following categorical exemptions from the competitive bidding requirement:
 - a) The sale of an undivided or fractional ownership interest in real property;
 - b) A sale of a right of use in real property that is less than fee ownership;
 - c) A sale of real property subject to title conditions or restrictions on the UC's ownership deriving from the origin of that ownership by gift, devise, or otherwise, if that sale would be inconsistent with those title conditions or restrictions;
 - d) The disposition of real property acquired through exercise of a power of sale pursuant to a deed of trust, foreclosure, deed in lieu of foreclosure, transactions when property is accepted in settlement of defaulted mortgages, legal settlement, or held as an asset in the university's investment portfolio;
 - e) A sale of public lands under the direction of the federal land agent;
 - f) A sale to a person or entity who will dedicate the real property to public use;
 - g) A sale of real property acquired after January 1, 1985, through eminent domain proceedings initiated by the Regents of the UC, as specified; and,
 - h) An exchange to acquire real property of another person or entity for university purposes. Any exchange shall be upon terms and conditions agreed to by the exchanging parties (PCC Section 10513).

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS: *Background.* Real estate owned by the UC Regents is held and managed either as "endowment" or "university-related" property. Endowment property is property received by the UC through a donor's gift or bequest. It is held for income generation and/or future sale. Real Estate Services & Strategies (RESS) oversees the management and sale of endowment property.

(Each UC campus has a foundation which may hold property in its name and is responsible for management and sale of foundation-owned real estate.)

The UC-related properties are used for the university's programs in furtherance of the university's teaching, research, and public service mission. University-related properties are managed by the campus or other university units that use the property in their program. If a university-related property is determined to be surplus (i.e., there is no current or foreseeable university-related use), then RESS is responsible for its sale.

Committee Staff understands that with certain exceptions, university-related properties are subject to sale by sealed competitive bid. Pursuant to the *Stull Act*, if a property qualifies under one of the exceptions, the UC may elect to offer the property by marketing the property through a conventional sale process.

Stull Act. The sale of any surplus property owned by the Regents of the UC is governed by Sections the *Public Contract Code* of the State of California ("Stull Act") [see the *Existing Law* section above]. The competitive bid requirements applicable to the sale of UC real property were modified in 2014, and went into effect on January 1, 2015. Part of the modifications subjected the UC to the *Stull Act* for any property disposition greater in value than \$1 million.

Need for the measure. According to the author, "while there are statutory exemptions to the *Stull Act*, requesting an exemption to the *Stull Act* for the purpose of affordable housing has no precedent and thus the transfer could be challenged at a later time by a party seeking to reverse the transfer. Seeking relief from the *Stull Act* through legislative action will provide a legal route for the land to be transferred without creating a cloud on the property title, which could complicate obtaining financing for the needed improvements."

Additionally, the author contends that, "it is critical that we act to protect safe, low cost student housing throughout California. Although UC wants to transfer Rochdale Apartments to the BSC [Berkeley Student Cooperative] so that BSC can get financing for important seismic renovations, under current law, UC can't simply transfer the land to the BSC, but must sell to the highest bidder. This is despite the fact that the BSC has been operating as a partner with UC for over 50 years providing low cost student housing at this site and wants to continue to do that."

The author further states that, "BSC's mission to provide affordable housing opportunities focuses on providing housing to students who are part of the Educational Opportunity Program (EOP). EOP students identify as first generation, low-income, and/or historically underrepresented college students. The BSC currently provides low cost housing to approximately 1,300 student members, and over a third of student-members come from families with an annual household income of less than \$50,000. BSC ownership of both the land and buildings will improve the ability of BSC to streamline approvals by lenders and decision makers to finance the necessary upgrades, allowing BSC to continue providing these critical low cost housing services for the Berkeley community."

This measure seeks to protect critical student housing by allowing the UC to transfer land to the BSC while requiring, as a condition of the transfer, that BSC continue to operate the facility as low cost housing.

The BSC. The Berkeley Student Cooperative is a 501(c)(3) non-profit cooperative organization whose mission is to “provide a quality, low-cost, cooperative housing community to university students, thereby providing an educational opportunity for students who might not otherwise be able to afford a university education.” There is deep history between the BSC and the campus of UC Berkeley.

Founded in 1933 amidst the Great Depression, a UC staff leader worked with 14 UC Berkeley students to create the first housing co-op to meet their basic needs through the economics of cooperation. To build the Rochdale Apartments, former UC Berkeley Chancellor and then UCOP President Clark Kerr advocated for the BSC via telegram to Congress for the creation of student housing co-ops, creating affordable cooperative housing for university students to receive an education. Furthermore, of the BSC’s existing 20 properties, five of them are named after UC administrators or professors who have lent support to the co-ops. With a 90-year history of providing the most affordable student housing in Berkeley, the BSC is a bastion of affordability and educational opportunity for students in the Bay Area housing market which appears to be on trajectory of becoming more and more prohibitively expensive.

According to the BSC, “a December 22, 2023 article in the *Mercury News* notes ‘The tally of homeless students [in the Bay Area] increased by 30% between the 2019-20 to 2022-23 academic years.’” Rochdale is an apartment building solely for students, as part of the BSC, offering 259 beds of some of Berkeley’s most truly low-cost student housing at \$600 to \$1,000 per month.

The BSC notes that, “out of the 20 properties owned by the BSC, Rochdale is home to some of the highest number of low-income and POC [people of color] students. The estimated cost of the necessary seismic and safety repairs to the buildings was \$16 million. As a result of negotiations between the BSC and the UC to renew the prior lease for the Rochdale Apartments, the existing lease time frame is not an adequate one to amortize the renovation and rehabilitation of Rochdale. SB 56 will allow the UC to transfer the land under Rochdale to the BSC, allowing the BSC to work within networks of cooperation to be fiscally responsible in proceeding with retrofitting projects.”

Arguments in support. According to the UC, “to ensure the continued operation of the Rochdale Apartments in a safe and efficient manner, UC would like to facilitate the transfer of the land upon which Rochdale sits to BSC. The UC believes that BSC ownership of both the land and apartment building would improve the ability of BSC to finance the necessary upgrades, and it would clarify perceptions related to who is responsible for the performance of the property.”

Further, the UC states that, “such a transfer would provide BSC with ownership of the real property as long as it is used for affordable student housing. In the event it is not used for that purpose, ownership of the land would revert to the Regents. The property would be removed from UC’s asset inventory. It would no longer be subject to UC policies or standards but would need to comply with all applicable state and local codes, policies, and laws.”

Prior legislation. AB 2726 (Daly), Chapter 361, Statutes of 2024, in part, revised existing law governing how the UC sells real property.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Democratic Central Committee
Berkeley Student Cooperative
University of California
University of California Student Association

Opposition

None on file.

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