

Date of Hearing: June 21, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SCA 5 (Glazer) – As Amended August 26, 2021

SENATE VOTE: 37-0

SUBJECT: University of California: regents: student members

SUMMARY: Amends the California Constitution Article IX, Section 9, to require the University of California (UC) Board of Regents (Board) to add an additional student member to the Board, who will serve for at least one year beginning on July 1, and will be a voting member of the Board with the same participation rights as other Regents. Specifically, **this measure:**

- 1) Requires the UC Regents, after consulting with representatives of faculty and students of the university, including officers of the academic senate and student government, to appoint two UC students to the Board of Regents.
- 2) Stipulates the students and faculty representatives appointed by the Regents to the Board will serve for no less than one year and will have full rights of participation as afforded to other members of the Board.
- 3) Makes other technical clarifying changes to existing law.

EXISTING LAW:

- 1) Establishes the UC as a public trust administered by the Regents of the University of California and endows the Regents with full powers of organization and government. Clarifies the UC is only beholden to legislative control as necessary to ensure the security of funds, compliance with the terms of the endowments of the university, and competitive bidding procedures where applicable to the university by statute for construction contracts, sales of property, and purchasing of materials, goods and services.
- 2) Authorizes the Board of Regents to be comprised of seven ex-officio members, 18 members of the public appointed by the Governor, one student appointed by the Regents, and one faculty appointed by the Regents.
 - a) The seven ex-officio members on the Board are the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and vice president of the UC alumni association, and the acting president of the UC system.
 - b) The 18 public members are appointed by the Governor and approved by the California State Senate. The appointed members serve 12 year terms and shall have a majority of membership concurring. In the case of a vacancy, the Governor shall appoint and the California State Senate shall approve a replacement who shall remain in office for the remainder of the term.
 - c) The aforementioned public appointed members of the board and the ex officio members may at their discretion appoint after conferring with representatives of faculty and students, one faculty member from a higher education institution and one student member

who attends a UC campus. The faculty and student members are permitted to serve for at least one year and have the same privilege as any other Regent.

- 3) Clarifies the Regents are to be a reflection of the economic, cultural, and social diversity of the State and will include ethnic minorities and women.
- 4) Requires the Governor, when selecting the appointed Regents, to consult with an advisory committee. The advisory committee membership includes the Speaker of the Assembly, two members of the public appointed by the Speaker, the President pro Tempore of the Senate, two members of the public appointed by the Senate Rules Committee, Two public members appointed by the Governor, the chairperson of the Board, an alumni of the UC chosen by the alumni association, a student selected by the Council of Student Body Presidents, and a member of the faculty of the University chosen by the academic senate of the UC. Public members will serve on the advisory committee for four years except for those initially appointed by the Speaker, the President pro Tempore, and the Governor who will serve two years. Student, alumni, and faculty members will serve for one year. Members of the public, the student, alumni, and faculty members selected may not be members of the Board of Regents when they serve on the advisory committee (Subdivision a-e, Section 9, Article IX of the California Constitution).

FISCAL EFFECT: According to the Senate Appropriations Committee, this measure would result in one-time General Fund costs to the Secretary of State (SOS) in the range of \$546,000 to \$728,000, likely in 2021-22, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

The UC indicates that any costs resulting from this measure would be minor and absorbable within existing resources.

COMMENTS: *Purpose.* As expressed by the author, “SCA 5 would increase the voting rights of the student members of the UC Board of Regents by allowing the existing non-voting student regent to receive voting power, thereby giving both students voting rights. This would only go into effect if approved by the voters of California.

Currently, two students serve on the UC Board of Regents. However, only one has voting power. When a student is appointed to the board, they serve a year as a non-voting member of the board, and at the completion of that year, the student then becomes the voting student regent. This bill would vest both students with a vote on the board.

The student population is much more diverse than it was when the first student was added in 1975, and it is critical that these diverse voices, which represent so many varying perspectives, are held at Regent meetings. Without the right to vote, the non-voting trustee cannot participate in a meaningful way on the committees of the board of regents.

Student voices are among the most important factors in setting education policy. Students bring diverse experiences and special perspectives to the table. They are uniquely positioned to offer the Board day-to-day feedback from their universities.

SCA 5 will allow an additional student regent to serve a one-year term as a full voting member of the Board and would allow this student to represent UC's 285,000 students as a voting member.”

UC Board of Regents. The UC Board is the governing body of the UC system, whose authority and structure is established in the California Constitution. As mentioned in the existing law section of this analysis, in Section 9 of Article IX in the California Constitution, the membership of the UC Board is outlined to include 18 Governor appointed, Senate confirmed Regents, seven ex officio Regents, and potentially one student Regent and one faculty Regent, who are appointed by the ex officio and appointed Regents. The California Constitution, while detailed on the number of Governor appointed Regents and who may participate as ex officio, neither prohibits nor authorizes the UC Board to add additional member as either voting members or as non-voting member of the UC Board.

Despite this lack of coherent authority in the California Constitution to establish additional membership to the UC Board, the current make – up of the UC Board does not exactly mirror the language of the California Constitution:

- 14 Regents appointed by the Governor and approved by the California State Senate;
- Seven ex officio Regents;
- Two Alumni Regent-designates – appointed by the alumni associations and are the incoming president and vice-president of the alumni associations;
- Two faculty representatives to the Regents – the current president and vice-president of the UC Academic Senate; and
- A Student Regent and a Student Regent designate– are the student representatives appointed by the UC Board through a consultation process.

The Alumni Regent – designates were established by Regents Policy 1200 on June 14, 1984; which, enables the incoming president and vice-president of the UC Alumni Associations to serve for one year as a non-voting members of the UC Board before assuming their position as a voting ex officio Regents. The Student Regent-designate was established by Regents Policy 1202 on March 19, 1993, and is a student selected to eventually become the Student Regent. The Student Regent-designate serves for one year as a non-voting member on the UC Board before becoming the Student Regent.

The position of faculty representative to the UC Board was established on September 16, 1977, by Regents Policy 1201. The two faculty who sit in a non-voting member of the UC Board are the chair and vice-chair of the UC Academic Senate. Upon their confirmation by the faculty groups, the chair and vice-chair are permitted to sit in and participate at UC Board meetings, but are not permitted to vote on measures before the UC Board.

Process of selecting a Student Regent. As mentioned previously, the California Constitution authorizes the UC Board to appoint, at their discretion, a Student Regent as a voting member of the UC Board, who is able to attend all meetings, and serves for at least one year beginning on July 1. Regents Policy 1201 depicts exactly how the UC Board selects a student and what the student is permitted to do as a Regent.

To select a Student Regent, applications are submitted by qualifying students by March 22. Applicants are then put through an application process that includes three phases in which the pool of candidates is whittled down until the new Student Regent emerges. First, the Student Body Presidents of all the UC Campuses review the applications and select a subset of applications to begin the interview process. The first interview for applicants, who make it past the initial phase, is with the UC Student Association (USCA) and Graduate Professional Councils. These student groups select a subset of applications six to eight students to interview and select three to four students to advance to the final interview. The final interview is with the UC Board of Regents Selection Committee, which is composed of a smaller subset of Regents. From here the Selection Committee recommends a student to the full UC Board of Regents who is then confirmed as the Student Regent–designate.

The student selected serves for two years on the UC Board, first as the Student Regent-designate and then as the Student Regent. During their time on the UC Board, as compensation for their service, the Student Regent and Regent-designate receive a UC–wide parking pass, have their tuition, fees, and travel for UC Board meetings covered, and receives a stipend or scholarship depending on financial need. Essentially by having a Student Regent-designate, the UC Board has parity with the California State University (CSU) Board of Trustees and the California Community Colleges (CCC) Board of Governors who both have two student representatives. However, unlike the CSU Board of Trustees and the CCC Board of Governors, the UC Board does not have two students with voting authority. SCA 5 (Glazer) would remedy this inequity to provide both the Student Regent and the Student Regent-designate voting privileges during their time on the UC Board.

Need for the measure. Questions regarding the necessity of this measure have arisen with regards to the autonomy of the University of California. The aforementioned Section 9 of the California Constitution does not prohibit the UC Regents from expanding the membership of the UC Board; however, it also does not explicitly provide permission. The UCSA and the Author of SCA 5 would contest the constitutional amendment is necessary to provide the second student representative on the UC Board the authority to vote in their first year.

However, the interpretation of the California Constitution by the Author and the UCSA is a narrow interpretation and is in contradiction with the existing composition of the UC Board. As previously mentioned, the UC Board adopted policies to add Regent-designate positions to the UC Board, technically this authority is not expressed in the California Constitution and yet these designates have served in a non-voting capacity for several decades. Furthermore, the UC Board has adopted a policy to authorize faculty to participate as non-voting members despite the California Constitution explicitly saying if a faculty member is appointed to the UC Board, they are to be a full-voting member.

Technically, per the Regents Policy, the faculty representatives are not appointed by the UC Board and are instead made representatives once the faculty assume the office of chair and vice-chair of the UC Academic Senate. However, the Regents had to vote on the policy and in doing so have appointed the faculty as representatives to the UC Board. If the Regents were able to find a loophole in the California Constitution to have a non-voting faculty representative on the UC Board then surely the Regents have the authority to add an additional voting member since the California Constitution does not expressly prohibit them from doing so. The UC Board have the authority to act unilaterally without explicit permission from the California Constitution when it

comes to the composition and voting privileges of members of the UC Board beyond what is detailed in the California Constitution.

The Committee acknowledges the UC Board of Regents authority to determine who should serve in an advisory role; however, the Committee questions whether this constitutional amendment is required when the UC Regents seem to take a permissive interpretation of the California Constitution instead of a literal interpretation.

In 1974, SCA 45, (Proposition 4) was placed on the ballot for California citizens to change the structure of the UC Board. Specifically, the Proposition changed the membership of the UC Board by adding additional Governor Appointees, removing certain ex officio, adding the advisory committee for the Governor's appointments, reducing term limits for appointed Regents, and allowing the Regents to appoint a faculty member and a student member. Within the original ballot measure documents, provided by the UC Hastings Scholarship Repository, there was no question as to whether the measure was necessary to change the structure of the Regents; however, at this time the Regents had not acted on their own authority to establish additional membership to the UC Board. One could argue because this Proposition was introduced to the ballot in order to establish the position of the Student Regent, it is necessary for SCA 5 to move forward to the ballot to establish a second voting Student Regent.

However, since the passing of Proposition 4, the Regents have established the student designate, the alumni designate, and the faculty representative position. If the Regents felt it was within their jurisdiction to establish advisory positions and ignore the language of the Constitution as it refers to voting faculty members of the UC Board, then it too can establish a second Student Regent with voting authority without a constitutional amendment.

What the measure would do. The UCSA and the Author of SCA 5 have interpreted the measure to provide the Student Regent- designate with voting authority once the measure passes the Legislature and is approved by the majority of Californians in a general election. However, after various discussions by the UC Board during their public board meetings, various other interpretations of the measure have emerged. During the March 2022 UC Board discussion of SCA 5 (Glazer) of 2022, it became clear there are a variety of interpretations as to what SCA 5 (Glazer) would mean for the UC Board. At least two other interpretations of the measure exist beyond what was suggested by the UCSA and the Author including:

- Appointing two students to serve as Students Regent for a single term (one year) beginning on July 1 of each year; and,
- Appointing two students to serve as Students Regents with voting privileges for a single term (one year) and two Students Regent – designates to serve in a non-voting capacity, equating to four student members on the board at any given time.

The confusion is due to the vagueness of the constitutional amendment and the application of existing Regent Policies regarding the role of the Student Regent-designate. If the Legislature is to put forth a constitutional amendment to the people of California, it is the Legislature's civic duty and responsibility to be as clear and concise as possible as to the desired outcome of the amendment.

To alleviate any confusion, the Committee has offered and the Author has accepted, the following amendments to accomplish the goal of the Author, which is to codify the existing

procedure of having two student representatives who are appointed for staggered two-year terms (one beginning in an odd year and the other beginning in an even year) and to require that both students have full voting rights for their full-year term on the UC Board.

Section 9 of Article IX of the California Constitution will be amended to read:

(c) The members of the board, following procedures established by them and after consultation with representatives of faculty ~~and students of the university~~, including appropriate officers of the academic senate ~~and student governments~~, may, in their discretion, appoint to the board a member of the faculty at a campus of the university or of another institution of higher education, ~~and shall appoint to the board two students enrolled at a campus of the university for each regular academic term during their service as members of the board.~~ Any *faculty person* appointed pursuant to this subdivision shall serve for not less than one year commencing on July 1, and shall be a member of the board with all rights of participation.

(d) (1) The members of the board, following procedures established by them and after consultation with representatives of students of the university, including appropriate officers of the student governments, shall appoint to the board two students enrolled at a campus of the university for each regular academic term during their service as members of the board. One student member appointed pursuant to this subdivision shall serve a term of two years beginning on July 1 of an even-numbered year and expiring on June 30 two years thereafter. A second student member appointed pursuant to this subdivision shall serve a term of two years beginning on July 1 of an odd-numbered year and expiring on June 30 two years thereafter. A student appointed pursuant to this subdivision who graduates from the student's university on or after January 1 of the second year of the student member's term of office may serve the remainder of the term. Any student appointed pursuant to this subdivision shall be a member of the board with all rights of participation.

Arguments in support. As expressed by the USCA, “In 1974, California voters approved Proposition 4, which allowed the regents to appoint one student, at least one year in length, as a regent with full voting rights. Since then, the UC has added an additional campus, UC Merced, as well as nearly 150,000 more students, but student voting eligibility has remained the same on the UC Board. The student population is much more diverse now, and that diversity requires the opportunity to have differing perspectives represented through a vote of the Regents. Without the right to vote, the non-voting student regent cannot participate in a functional way on the committees of the UC Board of Regents. By having a seat at the table, student regents will help influence how the UC responds to those issues, including critical decisions about the UC's path to recovery from the COVID-19 pandemic.”

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for a Better Community
Associated Students of the University of California
California Nurse-Midwives Association
California Women's Law Center
Coalition of California Welfare Rights Organizations

Council of UC Faculty Associations
Courage California
Dolores Huerta Foundation
Evolve California
John Burton Advocates for Youth
MILPA (Motivating Individual Leadership for Public Advancement)
NARAL Pro-Choice California
Northern California College Promise Coalition
The Education Trust-West
University Council-American Federation of Teachers
University of California Student Association
Women's Foundation California

Opposition

None on file.

Analysis Prepared by: Ellen Cesaretti-Monroy / HIGHER ED. / (916) 319-3960