

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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July 2, 2008

**PRESIDENT MARK G. YUDOF
UNIVERSITY OF CALIFORNIA**

Re: Proposed Assembly Constitutional Amendment No. 5

Dear Mark,

At its June 25, 2008 meeting, Academic Council considered the proposed Assembly Constitutional Amendment No. 5, which was recently introduced by Senator Yee and Assembly Member Portantino. Please note that Council is alarmed this issue has escalated from Senate Concurrent Resolution No. 52 (SCR 52) (Yee), which called on The Regents to set up a joint governance board for UCRP.

Council is united with the administration in its opposition to Assembly Constitutional Amendment No. 5. Were it adopted, this Amendment would result in a substantial erosion of the University's autonomy under the California Constitution, and invite additional erosions in the future.

Council agrees with the points made in Provost Hume's June 19, 2008 letter to Assemblymember Portantino, but would also add the following: First, the proposed Amendment makes retiree benefits subject to any additional requirements enacted by the Legislature, which transfers responsibility from The Regents to the Legislature, and not just to the proposed new Board of Trustees. Second, the proposed Board of Trustees would have the authority to set benefit levels. A majority of the proposed Board would be composed of representatives of bodies who could raise benefits without any effective control by The Regents or the people of California. Moreover, the proposed Board of Trustees does not appear to have the authority to compel The Regents to contribute to the Plan. Therefore, in a dispute between the proposed new Board and the Board of Regents, we could see benefits being raised but the resources to pay for those benefits not being provided, resulting in depletion of the trust fund, at the expense of people who retire later. Third, the proposed Board of Trustees is unlikely to focus on the institutional needs of the University.

The Amendment also proposes that other retirement benefits, such as health benefits or the retirement savings program, should be taken from The Regents. Retiree health benefits are coming

under considerable scrutiny as a result of GASB requirements that future liabilities (entirely unfunded at present) for retiree health be included as a University liability. Decisions concerning a trust to fund this liability would be taken away from The Regents and transferred to the proposed Board. But the proposed Board does not appear to have the ability, nor should it, to compel The Regents to fund the trust, nor to participate in negotiating the terms of UC health plans, severing the contact between management of the benefit and the liability from the management of funds to pay for the liability. The Academic Senate is aware of no allegations of mismanagement of the retiree health liability, nor of any advantages to the proposed management structure.

The requirement that the Academic Senate representative be chosen by election, as a requirement issuing from outside of the Senate itself, undermines the autonomy of the Academic Senate in setting up its procedures and choosing its representatives.

Council stresses that the Senate is very active in monitoring all aspects of UCRS. Indeed, UCFW, TFIR, HCTF, and the Academic Council all play significant roles in monitoring these benefit programs through the Senate's shared governance role, as do the faculty representing the Senate on the UCRS Advisory Board. The faculty representatives to the Board of Regents also play this role, including serving on relevant Regental committees such as Compensation and Investment. Relative to the current UCRS Advisory Board, Senate committees play a very important role in deliberations concerning benefits programs, and have access to the administration that represented employees would not. The proposed new board represents a substantial decrease in the Senate's role (as compared to its current membership in the UCRS Advisory Board), since the Amendment specifies the election of only one board member from the Academic Senate.

Council is sympathetic to the view that employee input, of an advisory as opposed to a policy-making sort, into the decisions concerning retirement benefits has value and we reiterate our position stated in August 2007:

The Senate believes that the University should respond to the calls for joint governance by asking the Legislature to amend HEERA to exempt the UCRS Board from the HEERA "direct dealing" provisions, to restore the ability of the UCRS Board to function effectively in providing employee input into the management of UCRP. If HEERA is amended, The Regents should establish procedures to ensure that the UCRS Board's recommendations must be considered by The Regents before The Regents enact any changes in UCRP. However, in the Senate's view, the ultimate authority over UCRP should be retained by The Regents.

For your reference and convenience, I have attached the '[Statement on UCRP](#)' from August 2007. Please do not hesitate to contact me if you have any questions regarding Council's comments.

Sincerely,



Michael T. Brown, Chair
Academic Council

Copy: Provost Wyatt R. Hume
EVP Katherine N. Lapp
Martha Winnacker, Executive Director
Academic Council

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