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AB-1662 Native Americans: repatriation. (2019-2020)

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Assembly Bill No. 1662

CHAPTER 112

An act to amend Section 8026 of the Health and Safety Code, relating to tribal affairs.

[Approved by Governor July 12, 2019. Filed with Secretary of State July 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1662, Ramos. Native Americans: repatriation.

Existing law, the California Native American Graves Protection and Repatriation Act of 2001 (California act), requires all agencies and museums that receive state funding and have possession or control over collections of California Native American human remains or cultural items to inventory those remains and items for repatriation of the items to the appropriate Indian tribes, as specified. The California act states the intent of the Legislature to apply the state's repatriation policy consistent with the federal Native American Graves Protection and Repatriation Act (federal act) and to facilitate the implementation of the provisions of the federal act with respect to publicly funded agencies and museums in California.

Existing provisions of the California Constitution establish the University of California as a public trust under the administration of the Regents of the University of California. The California Constitution grants to the regents all the powers necessary or convenient for the effective administration of this public trust, subject to such legislative control as may be necessary to insure the security of its funds, compliance with the terms of the endowments of the university, and certain competitive bidding procedures. As a condition for using state funds to handle and maintain Native American human remains and cultural items, existing law requires the regents to establish a systemwide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee, known as the U.C. NAGPRA Committee, with specified membership. The committee is required to have 2 voting members from a tribe located in California that is an Indian tribe under the federal act.

This bill would instead require that the U.C. NAGPRA Committee include 3 such voting members.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8026 of the Health and Safety Code is amended to read:

8026. (a) (1) As a condition for using state funds to handle and maintain Native American human remains and cultural items, the Regents of the University of California shall establish a systemwide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee, which shall also be known as the U.C. NAGPRA Committee.

(2) The membership of the committee shall be as follows:

(A) Three voting members of an Indian tribe as described in paragraph (1) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c).

(B) One voting member of an Indian tribe as described in paragraph (2) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c), or if none is available, a member of an Indian tribe as described in paragraph (1) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c).

(C) Four voting members from the University of California. Not fewer than two of these members shall be affiliated with an American Indian or Native American Studies program and each of these members shall meet the requirements of subdivision (d).

(D) One nonvoting member from each campus of the University of California that is subject to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.). Each of these nonvoting members shall meet the requirements of subdivision (d).

(3) The regents or the regents' designee shall appoint members to the committee upon nomination by the commission.

(b) (1) The Regents of the University of California shall not use state funds for the handling or maintenance of Native American human remains and cultural items unless each campus of the University of California that is subject to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) establishes a campus Native American Graves Protection and Repatriation Act Implementation Committee, which shall also be known as the NAGPRA Committee for that campus.

(2) The membership of the campus committee shall be as follows:

(A) Two voting members of an Indian tribe as described in paragraph (1) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c).

(B) One voting member of an Indian tribe as described in paragraph (2) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c), or if none is available, a member of an Indian tribe as described in paragraph (1) of subdivision (j) of Section 8012, meeting the requirements of subdivision (c).

(C) Three voting members from the University of California. At least one of these members shall be affiliated with an American Indian or Native American Studies program and each of these members shall meet the requirements of subdivision (d).

(3) The regents or the regents' designee shall appoint members to the committees upon nomination by the commission.

(4) All claims for repatriation or claims of any violation of the policies and procedures adopted pursuant to Section 8025 shall be submitted to the campus Native American Graves Protection and Repatriation Act Implementation Committee for determination.

(c) (1) A voting member of a California Indian tribe shall be an elder, spiritual leader, tribal leader, or tribal member, as designated by the governing body of the individual's tribe, with a minimum of five years' prior experience in any of the following:

(A) Repatriation of human remains and cultural items pursuant to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).

(B) Cultural resources protection under tribal, state, and federal law.

(C) Consultation with state and federal entities and agencies.

(2) Preference shall be given to members of a California Indian tribe. If no members of a California Indian tribe meeting the qualifications of paragraph (1) are available, members of other tribes may serve.

(d) (1) A representative of the University of California shall meet the following criteria:

(A) Have a graduate degree in either Archaeology, Anthropology, Native American Studies, Ethnic Studies, Law, Sociology, Environmental Studies, or History, with a focus in California.

(B) Have a minimum of five years' experience working in the applicable field of study.

(2) Preference shall be given to members who have demonstrated, through their professional experience, the ability to work in collaboration with Native American tribes successfully on issues related to repatriation or museum collection management.

(3) In the event that candidates from the University of California are not available or do not meet the criteria of paragraph (1), the University of California representative positions may be filled by retired emeriti of the University of California who meet the

