

1 SB366
2 137823-2
3 By Senators Whatley, Marsh, Waggoner and Fielding
4 (Constitutional Amendment)
5 RFD: Judiciary
6 First Read: 23-FEB-12

1 SB366

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Proposing an amendment to the Alabama Constitution
12 providing for the selection of members of the Board of
13 Trustees for Auburn University and repealing Amendment 670 of
14 the Alabama Constitution.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. The following amendment to the
17 Constitution of Alabama of 1901, as amended, is proposed and
18 shall become valid as a part thereof when approved by a
19 majority of the qualified electors voting thereon and in
20 accordance with Sections 284, 285, and 287 of the Constitution
21 of Alabama of 1901, as amended:

22 PROPOSED AMENDMENT

23 Auburn University shall be under the management and
24 control of a board of trustees. Commencing on the day this
25 amendment is ratified, the board of trustees shall consist of
26 fifteen members as follows: one member from each of seven

1 districts as set forth herein, an additional member from Lee
2 County, the immediate past president of the Auburn Alumni
3 Association, five at-large members and the governor, who shall
4 be ex officio president of the board. One more than half of
5 the members then in office of the board shall constitute a
6 quorum, but a smaller number may adjourn from day to day until
7 a quorum is present.

8 The respective districts shall be comprised of the
9 following Alabama counties: District 1 -- Baldwin, Clarke,
10 Escambia, Mobile, Monroe, and Washington; District 2 --
11 Barbour, Bullock, Butler, Coffee, Conecuh, Covington,
12 Crenshaw, Dale, Geneva, Henry, Houston, Montgomery, and Pike;
13 District 3 -- Calhoun, Cherokee, Chambers, Clay, Cleburne,
14 Lee, Macon, Randolph, Russell, St. Clair, Talladega, and
15 Tallapoosa; District 4 -- Blount, Colbert, Cullman, DeKalb,
16 Etowah, Fayette, Franklin, Lamar, Lawrence, Marion, Marshall,
17 Walker and Winston; District 5 -- Jackson, Lauderdale,
18 Limestone, Madison and Morgan; District 6 -- Autauga, Bibb,
19 Chilton, Coosa, Elmore and Shelby; District 7 -- Choctaw,
20 Dallas, Greene, Hale, Jefferson, Lowndes, Marengo, Perry,
21 Pickens, Tuscaloosa, Sumter and Wilcox. The at-large members
22 shall hold At-Large Position 1, 2, 3, 4 or 5. A majority of
23 the board shall elect a president pro tempore of the board.

24 Appointment of members, including members to fill a
25 vacated position with a partially expired term of office,
26 shall be by the appointing committee created herein, by and

1 with the advice and consent of the Senate. A board of trustees
2 appointing committee is established composed of the following
3 members: The President Pro Tempore of the Board of Trustees of
4 Auburn University or the designee of the President Pro
5 Tempore, who shall be a member of the Board of Trustees of
6 Auburn University; a member of the Board of Trustees of Auburn
7 University selected by the Board of Trustees; two members of
8 the Auburn Alumni Association Board of Directors who are not
9 current employees of Auburn University, selected by the Auburn
10 Alumni Association Board of Directors; the Governor or a
11 designee of the Governor who is an alumnus of Auburn
12 University, but who is not a current member of the Board nor a
13 current member of the Auburn Alumni Association Board of
14 Directors nor a current employee of Auburn University. The
15 Governor, or the designee of the Governor, shall serve as
16 chairperson of the appointing committee. If the chairperson
17 fails to call a meeting within 90 days prior to the expiration
18 of the term of a sitting board member or within 30 days
19 following the creation of a vacancy by death, resignation, or
20 other cause, a majority of the committee, in writing, may call
21 a meeting giving at least 10 days notice. In the absence of
22 the chairperson or another member designated by the
23 chairperson to preside, the majority of the committee shall
24 choose its own chairperson. The appointing committee as a
25 whole shall establish a procedure and timetable for soliciting
26 and selecting candidates for appointment prior to calling a

1 meeting. The committee shall ensure that appointments are
2 solicited from all constituencies, are inclusive, and reflect
3 the racial, gender, and economic diversity of the state or the
4 continental United States, as applicable. A person may not be
5 appointed to the Board of Trustees of Auburn University while
6 serving on the appointing committee.

7 For purposes of transitioning from the districts
8 established by Amendment 670 to the new districts established
9 herein and creating a permanent and uniform system of
10 staggered terms for members of the Board of Trustees of Auburn
11 University, on the day this amendment is ratified, the
12 following realignment and modification of the positions and
13 terms of office of trustees serving on that date will take
14 place in the following manner: New District 1, the term for
15 which shall end at midnight on June 30, 2020, shall be filled
16 by the incumbent in former District 1; new District 2, the
17 term for which shall end at midnight on June 30, 2019, shall
18 be filled by the incumbent in former District 3; new District
19 3, the term for which shall end at midnight on June 30, 2014,
20 shall be filled by the incumbent in former District 5; new
21 District 4, the term for which shall end at midnight on June
22 30, 2020, shall be filled by the incumbent in former District
23 7; new District 5, the term for which shall end at midnight on
24 June 30, 2016, shall be filled by the incumbent in former
25 District 8; new District 6, the term for which shall end at
26 midnight on June 30, 2022, shall be filled by the incumbent in

1 former District 4; new District 7, the term for which shall
2 end at midnight on June 30, 2022, shall be filled by the
3 incumbent in former District 9; Lee County, the term for which
4 shall end at midnight on June 30, 2019, shall be filled by the
5 incumbent in District 3/Lee County; At-Large Position 1, the
6 term for which shall end at midnight on June 30, 2014, shall
7 be filled by the successor to the four year at-large seat
8 created under Amendment 670; At-Large Position 2, the term for
9 which shall end at midnight on June 30, 2016, shall be filled
10 by the successor to the seven year at-large seat created under
11 Amendment 670; At-Large Position 3, the term for which shall
12 end at midnight on June 30, 2021, shall be filled by the
13 incumbent in former District 2; At-Large Position 4, the term
14 for which shall end at midnight on June 30, 2019, shall be
15 filled by the incumbent in the at-large position formerly held
16 by the state superintendent of education and converted to an
17 at-large seat by Amendment 670; and At-Large Position 5, the
18 term for which shall end at midnight on June 30, 2021, shall
19 be filled by the incumbent in former District 6. If there is
20 no incumbent sitting in a former position on the day this
21 amendment is ratified, the new position shall be considered
22 vacant and a person shall be appointed by the appointing
23 committee to fill the position pursuant to the procedure
24 provided for other appointments made by the appointing
25 committee for the term provided herein. Any reference in this

1 paragraph to incumbent shall mean the incumbent on the day
2 this amendment is ratified.

3 To the extent the realignment of positions set forth
4 above results in one or more incumbent trustees being
5 designated to occupy a district position to which they would
6 not be eligible for appointment under the requirements for
7 appointment established herein, such trustee may nevertheless
8 occupy that position for the term herein established. After
9 the expiration of the term of any incumbent serving in the
10 newly established districts, the successor, whether it be the
11 incumbent or a new member, must meet the district requirements
12 at the time of appointment.

13 Except for the initial terms after this amendment is
14 ratified, the term of office for any district, the Lee County
15 or any at-large position shall be seven years; provided,
16 however, that no person shall be appointed as a member of the
17 board of trustees after having reached 70 years of age. No
18 person shall serve more than two full seven-year terms of
19 office or more than 20 years total recognizing any time served
20 before or after ratification of this amendment. Service for
21 the remainder of an unexpired term shall not be considered in
22 applying the two-term limit. A member may continue to serve
23 until a successor is confirmed, but in no case for more than
24 one year after completion of a term; however, any such
25 extended time served shall decrease what would otherwise be a
26 seven year term of the successor.

1 No trustee shall receive any pay or emolument other
2 than his or her actual expenses incurred in the discharge of
3 duties as such. No employees of Auburn University shall be
4 eligible to serve as a member of the Board of Trustees.

5 The appointing committee chairperson shall submit
6 the name of the person selected for appointment to the
7 Secretary of the Senate, who shall inform the Senate of the
8 receipt of such submission. If the Senate is in regular
9 session at that time, the submission shall be made by the
10 conclusion of the next legislative day following the
11 appointment. If the Senate is not in regular session at the
12 time of the appointment, the submission shall be made before
13 the commencement of the next regular session. If the entire
14 Senate, by a majority vote, confirms the submission, the
15 appointee shall immediately assume office. An appointee may
16 not begin service prior to Senate confirmation. If the
17 submission is not confirmed by the entire Senate by a majority
18 vote by the conclusion of the legislative session, the
19 submission shall be considered rejected. A submission to the
20 Senate may be withdrawn at any time by the appointing
21 committee chairperson in regard to appointments made by the
22 committee. Upon the rejection of a submission or the
23 withdrawal of a submission, the appointment and confirmation
24 process specified in this amendment shall commence anew. The
25 same name may not be submitted to the Senate for the same
26 position on the board more than one time by the same

1 nominating committee. Upon the expiration of a term of office,
2 a member of the Board of Trustees shall continue to serve
3 until a successor appointed pursuant to this amendment is
4 confirmed by the entire Senate by majority vote and assumes
5 office. If a successor is not confirmed by the conclusion of
6 the regular session in which one or more names for the
7 position were initially submitted, the former holder of the
8 position may continue to serve until a successor is appointed
9 and confirmed, but in no case shall this continuation be
10 longer than one year after completion of the term of office.
11 If any position on the Board of Trustees becomes vacant during
12 a term of office by reason of death, resignation or other
13 cause, a person shall be appointed by the appointing committee
14 to fill the remainder of the unexpired term of office pursuant
15 to the procedure provided for other appointments made by the
16 appointing committee. The position shall be considered vacant
17 until a person is confirmed by a majority vote of the entire
18 Senate. Any appointments confirmed after the ratification of
19 this amendment shall be for the new districts established
20 herein. Upon the ratification of this Amendment, Amendment 670
21 to the Constitution of Alabama of 1901 is hereby repealed.

22 Section 2. An election upon the proposed amendment
23 shall be held in accordance with Sections 284 and 285 of the
24 Constitution of Alabama of 1901, now appearing as Sections 284
25 and 285 of the Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, and the election laws of this

1 state at the next statewide primary, general or special
2 election.

3 Section 3. The appropriate election official shall
4 assign a ballot number for the proposed constitutional
5 amendment on the election ballot and shall set forth the
6 following description of the substance or subject matter of
7 the proposed constitutional amendment:

8 "Proposing an amendment to the Constitution of
9 Alabama of 1901, providing for the selection of members of the
10 Board of Trustees for Auburn University and repealing
11 Amendment 670 to the Constitution of Alabama of 1901."

12 "Proposed by Act _____."

13 This description shall be followed by the following
14 language:

15 "Yes () No ()."

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 23-FEB-12

Read for the second time and placed on the calen-
dar with 1 substitute and..... 08-MAR-12

Read for the third time and passed as amended 22-MAR-12

Yeas 29
Nays 0

Patrick Harris
Secretary