

1 SB499
2 139592-3
3 By Senators Holtzclaw and Orr
4 RFD: Finance and Taxation Education
5 First Read: 10-APR-12

1 SB499

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4 ENROLLED, An Act,

5 To amend Section 16-60-110, Code of Alabama 1975, to
6 remove Athens State University from under the jurisdiction,
7 supervision, and control of the State Board of Education and
8 Department of Postsecondary Education; to provide for the
9 mission of the university; to create and provide for the
10 governance of the university under the Board of Trustees of
11 Athens State University; to provide for certain powers and
12 duties of the board; to provide for meetings of the board; to
13 provide for a quorum for the transaction of business; to
14 provide for the filling of vacancies on the board and for the
15 creation and use of a nominating committee to fill vacancies
16 on the board; to provide for the appointment and duties of a
17 president of the university; to provide for the employment of
18 suitable persons to act as police officers for the university;
19 and to authorize the Code Commissioner to revise references to
20 Athens State University in the Code of Alabama 1975, as
21 appropriate, to reflect the status of the university under
22 this act.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 16-60-110 of the Code of Alabama
25 1975, is amended to read as follows:

1 "§16-60-110.

2 "For purposes of this article, the following words
3 and phrases shall have the respective meaning ascribed to them
4 by this section:

5 "(1) BOARD. The State Board of Education.

6 "(2) JUNIOR COLLEGE. An educational institution
7 offering instruction in the arts and sciences on the level of
8 difficulty of the first two years above high school level.

9 "(3) STATE. The State of Alabama.

10 "(4) TRADE SCHOOL. An educational institution
11 offering instruction primarily in useful trades, occupations
12 or vocational skills.

13 "(5) POSTSECONDARY EDUCATION DEPARTMENT. A parallel
14 organization to the State Department of Education directly
15 responsible to the State Board of Education for the direction
16 and supervision of junior colleges and trade schools and
17 community colleges with a chief executive officer entitled
18 Chancellor."

19 Section 2. The school heretofore established in
20 Athens, Alabama, and previously known as Athens State College
21 and now known as Athens State University, is and shall remain
22 a body corporate under the corporate name of Athens State
23 University, and by that name, and under the direction of a
24 board of trustees, may sue and contract, acquire, and hold
25 real and personal property, and have and exercise all the

1 powers of a corporation established to be a state educational
2 institution of higher learning and shall succeed to all the
3 rights, privileges, emoluments, benefits, interests, and
4 titles heretofore at any time vested in the institution in its
5 respective names; however, Athens State University is not
6 authorized to acquire, be acquired, merge or consolidate with
7 any university or college located more than 50 miles from its
8 current campus. None of the powers, authority, or functions of
9 the corporation provided for in this act shall be abated or
10 impaired by this section, except as noted above. Whenever the
11 institution is referred to in the laws of Alabama, by any one
12 of the respective names by which it has been known, the same
13 shall be considered to refer to Athens State University.

14 Section 3. Commencing on the effective date of this
15 act, the Athens State University Board of Trustees, as created
16 in Section 5, shall have exclusive jurisdiction, supervision,
17 and control of Athens State University and the State Board of
18 Education shall be divested of all jurisdiction, power, and
19 authority with regard to the supervision, management, and
20 control of the university, except as otherwise provided in
21 this act. In addition to the powers, duties, and authority
22 vested in the board by this section, the board shall have and
23 exercise all power, authority, and duties conferred on, vested
24 in, or required of the State Board of Education or the
25 Department of Postsecondary Education before the effective

1 date of this act, under the laws of this state with regard to
2 the supervision, management, and control of the university. On
3 or before the effective date of this act, the State Board of
4 Education shall transfer to the board all supplies, funds,
5 books, documents, records, and other property or effects of
6 the university. After the effective date of this act, the
7 university may continue to offer all current units or programs
8 of instruction for academic credit without new or additional
9 approval from the Alabama Commission on Higher Education, so
10 long as those units or programs of instruction for academic
11 credit were offered by the university before the effective
12 date of this act. The University shall continue to be under
13 the jurisdiction of, and shall be subject to, the rules,
14 regulations and procedures of the Alabama Commission on Higher
15 Education.

16 Section 4. (a) Athens State University shall
17 provide, maintain, and operate public higher education
18 programs and facilities dedicated to the preparation of
19 students. The university shall provide educational services
20 for the greater community including advanced education for
21 mature students, private citizens, and service men and women,
22 in a manner that does not violate or cause a violation of
23 Title VI of the Civil Rights Act of 1964 or the United States
24 Constitution. The university shall provide an academic,
25 cultural, and social environment that fosters individuality

1 and develops productive members of society. The mission of the
2 university shall be accomplished by providing services to
3 students and the greater community through the utilization of
4 university staff and facilities and through superior teaching,
5 scholarship, creative activities, and public service.

6 (b) The overriding mission of the university, unique
7 in Alabama higher education, is to be a university serving the
8 upper division needs of transfer students.

9 (c) The university may provide onsite academic
10 instruction on the campuses of those community colleges where
11 the senior institution in whose service area or areas the
12 community college is located is unable or unwilling to provide
13 the onsite instruction.

14 (d) Resulting from and inherent in the mission of
15 the university are a number of ongoing goals that the board,
16 from time to time, may affirm on the basis of recommendations
17 of the president of the university; however, the mission of
18 the university, unique in Alabama higher education, shall
19 remain limited to serving the upper division needs of transfer
20 students. The university shall only offer strategic graduate
21 programs approved by Alabama Commission on Higher Education
22 with the intent to avoid duplication of programs by other
23 state universities and colleges.

24 (e) The annual objectives of the university, as
25 determined by the president of the university, shall be

1 consistent with the ongoing goals and mission of the
2 university.

3 Section 5. (a) There is created a Board of Trustees
4 for Athens State University. The board shall consist of the
5 following voting members:

6 (1) Six members shall be residents of either the
7 fourth or fifth congressional districts as constituted on the
8 effective date of this act, at least two of whom shall be
9 residents of the county in which the main campus of the
10 institution is located.

11 (2) Two members shall be appointed from the state at
12 large.

13 (3) One member shall be appointed from the governing
14 body of the two-year institutions of higher education located
15 in the district where the main campus of the university is
16 located.

17 (4) The Chancellor of the Department of
18 Postsecondary Education.

19 (5) The Governor, who shall be ex officio president
20 of the board.

21 (b) Except as otherwise provided in this act,
22 trustees shall be appointed by the Governor, subject to
23 confirmation by the Senate, and shall hold office for a term
24 of seven years and until their successors are appointed and
25 qualified. Of the initial members appointed to the board

1 pursuant to subdivisions (1) and (2) of subsection (a), three
2 members shall be appointed for terms of three years, three
3 members shall be appointed for terms of five years, and two
4 members shall be appointed for terms of seven years. These
5 initial trustees, appointed after the effective date of this
6 act, shall have immediate, interim authority to conduct such
7 business as may be necessary to fulfill the intent of this act
8 without Senate confirmation for not more than 12 months after
9 appointment. No trustee shall receive any pay or emolument,
10 other than his or her actual expenses incurred in the
11 discharge of his or her duties as a trustee. No employee of
12 the university, or any person related by blood or marriage to
13 the president of the university, shall be eligible to serve on
14 the board. No trustee may serve more than two terms of office,
15 except that the initial trustees appointed pursuant to
16 subdivisions (1) or (2) of subsection (a) may be appointed to
17 one additional term regardless of the previous number of terms
18 served.

19 (c) No member of the board, individually, as a
20 partner, as a stockholder, a board member, or an officer of a
21 corporate body, shall conduct any business transaction,
22 directly or indirectly, with the university. Any person who
23 violates this subsection shall be immediately removed from the
24 board, and replaced for the unexpired portion of his or her
25 term by appointment of the Governor. The president of the

1 university may not as an individual, or as an incorporator,
2 officer, or director of any for profit entity, engage in any
3 business in any manner which would conflict with his or her
4 duties as president or with the best interests of the
5 university or the students enrolled in the university. Nothing
6 in this subsection shall be construed as forbidding the
7 president from serving as a trustee of any other educational
8 institution, as an officer of a church or other eleemosynary
9 institution, or as an officer, director, or trustee of any
10 organization from which no profit would accrue to him or her,
11 or his or her immediate family, from any business of the
12 organization for or with the university or the students
13 enrolled in the university. Should the president of the
14 university engage in any business in violation of this
15 subsection, such action shall be sufficient cause for his or
16 her immediate removal by the board.

17 (d) The Governor, the Chancellor of the Department
18 of Postsecondary Education, and the member appointed pursuant
19 to subdivision (3) of subsection (a), by virtue of his or her
20 respective office, and the trustees appointed pursuant to
21 subdivisions (1) and (2) of subsection (a), and their
22 successors in office, are constituted and shall be considered
23 a body corporate under the name of Athens State University.

24 Section 6. (a) The board shall have all the rights,
25 privileges, and franchises necessary to the promotion of the

1 ends of its creation, and shall be charged with all
2 corresponding duties, liabilities, and responsibilities. The
3 board may hold and may lease, sell, or, in any other manner
4 not inconsistent with the object or terms of the grant or
5 grants under which it holds, dispose of any property, real or
6 personal, or any estate or interest therein remaining, of any
7 grant by any governmental unit or by any person, or accruing
8 to the corporation from any source, as the board may deem best
9 for the purposes of the university. The president of the
10 university, with the approval of the board, may execute any
11 lease, deed, or other instrument of conveyance on behalf of
12 the corporation, without additional approval.

13 (b) The board shall have the exclusive authority
14 over and jurisdiction of land, buildings, and other capital
15 improvements now existing on or hereinafter provided for such
16 campus. No contract for capital improvements, alterations,
17 remodeling, and changing of capital improvements shall be made
18 without the authorization and approval of the board, and which
19 approval shall be granted by appropriate resolutions of the
20 body. Any contract, agreement, or other act relating to
21 capital improvements, except for maintenance, repairs, and
22 maintaining existing facilities, shall be void and of no
23 effect unless authorized by resolutions of the board.

24 Section 7. (a) The board shall hold its regular
25 annual meeting each year, on the first Monday in June, at the

1 main campus of the university, unless the board shall in
2 regular session determine to hold its meeting at some other
3 time and place. Thereafter, the board shall hold quarterly
4 meetings on the first Monday of each third month after the
5 annual meeting, unless the board shall in regular session
6 determine to hold its quarterly meeting at some other time or
7 place. Special meetings of the board may be assembled by
8 either of the two following methods:

9 (1) A special meeting of the board may be called by
10 the Governor. In calling a special meeting, the Governor shall
11 mail a written notice to each trustee at least 10 days in
12 advance of the date of the meeting.

13 (2) Upon the application in writing of any three
14 members of the board, the Governor shall call a special
15 meeting, naming the time and place thereof, and causing
16 notices to be issued in writing to the several members of the
17 board. The Governor shall mail a written notice to each
18 trustee at least 10 days in advance of the date of the
19 meeting.

20 (b) The executive committee, and any other committee
21 or subcommittee of the board, shall hold meetings at such
22 times and on such dates as the board may provide.

23 (c) All meetings of the board shall be subject to
24 and comply with all applicable provisions of state law.

1 Section 8. Six members of the board shall constitute
2 a quorum for the transaction of business, but a smaller number
3 may adjourn from day to day until a quorum is present.

4 Section 9. (a) Any vacancy in the office of trustee
5 occurring during a recess of the Legislature shall be filled
6 by appointment of the Governor. The appointee shall hold
7 office until the next session of the Legislature, at which
8 time the appointment shall be confirmed by the Senate. If not
9 confirmed by the Senate, another appointment shall be made by
10 the Governor in like manner until an appointment is confirmed
11 by the Senate. A trustee appointed by the Governor to fill a
12 vacancy, by and with the consent of the Senate, shall hold
13 office during the unexpired term.

14 (b) After the initial appointments to the board,
15 future members appointed to the board shall be appointed by
16 the Governor from a list of three persons nominated by a
17 nominating committee. The nominating committee shall consist
18 of all of the following members:

19 (1) One member of the board as elected by the
20 membership of the board.

21 (2) The presiding officer of the Athens State
22 University Faculty Senate.

23 (3) The presiding officer of the Athens State
24 University Staff Senate.

1 (4) One member of the Limestone County Legislative
2 Delegation, as selected by the delegation.

3 (5) The President of the Athens State University
4 Alumni Association, or his or her designee.

5 (6) The President of the Athens State University
6 Foundation, or his or her designee.

7 (7) The president of the university shall serve as a
8 nonvoting, ex officio member and chair of the committee

9 (c) Within 45 days of any vacancy on the board, the
10 nominating committee shall select and forward to the Governor
11 three names for consideration for appointment. If no
12 recommendation is made by the nominating committee within 45
13 days after a vacancy, the Governor, by and with the advice and
14 consent of the Senate, may appoint a qualified candidate to
15 fill the vacancy.

16 Section 10. (a) The board may designate one or more
17 depositories for school funds.

18 (b) The board shall make or cause to be made to the
19 Legislature, at the beginning of each regular session thereof,
20 a full report of board transactions and the condition of the
21 university, including an itemized account of all receipts and
22 disbursements on account of the university by those charged
23 with the administration of its finances.

24 Section 11. No grant or gift, by will or otherwise,
25 shall fail on account of any misnomer or informality when the

1 intent of the grantor or donor can be determined; nor shall
2 any default, malfeasance, or nonuser on the part of the
3 trustees or other officers or agents of such corporation work
4 a forfeiture of any of its rights, privileges, powers, or
5 franchises.

6 Section 12. (a) The president of the university
7 shall be appointed by the board and shall do all of the
8 following:

9 (1) Appoint a corps of instructors who shall be
10 styled the faculty of the university.

11 (2) Appoint such other instructors and officers as
12 the interest of the university may require.

13 (3) Remove any instructors or officers.

14 (4) Fix the salaries or compensation of the
15 instructors or officers.

16 (5) Define the authority or duty of the instructors
17 or officers.

18 (6) Regulate, alter, and modify the organization of
19 the university, subject to the review and concurrence of the
20 board.

21 (7) Prescribe courses of instruction within academic
22 programs that have been approved by the board.

23 (b) Full-time employees, whether tenured,
24 nontenured, nonprobationary, or probationary, who are employed
25 on the effective date of this act by the university, shall

1 retain any and all rights and privileges as provided in
2 Chapter 24C of Title 16, Code of Alabama 1975.

3 (c) The president of the university, upon the
4 recommendation of the faculty, may confer academic degrees and
5 such honorary degrees as are usually conferred by institutions
6 of similar character.

7 Section 13. (a) The president of the university may
8 appoint and employ suitable persons to act as police officers
9 to keep off intruders and prevent trespass upon and damage to
10 the property and grounds of the university. Such persons shall
11 be charged with all the duties and invested with all the
12 powers of police officers and may eject trespassers from the
13 university buildings and grounds, and may, without a warrant,
14 arrest any person guilty of disorderly conduct or of trespass
15 upon the property of the university or of any public offense
16 committed in their presence, and take them before the nearest
17 district court, before which, upon proper affidavit charging
18 the offense, any person so arrested may be tried and convicted
19 as in cases of persons brought before him or her on his or her
20 warrant. Such officers, with a warrant, may arrest any person
21 found upon or near the premises of the university charged with
22 any public offense and take them before any proper officer.

23 (b) The police officers provided for in this section
24 shall cooperate with and, when requested, furnish assistance
25 to the regularly constituted authorities of the City of Athens

1 and Limestone County and their jurisdictions and authority
2 shall be coextensive within the corporate limits of each
3 municipality or county.

4 Section 14. Commencing on the effective date of this
5 act, the terms junior college, trade school, community
6 college, and technical college, or any combination of these
7 terms, as used in the Code of Alabama 1975, may not be
8 interpreted to include Athens State University or its
9 predecessor, Athens State College. After the effective date of
10 this act, the Code Commissioner may revise any reference to
11 Athens State University that refers to or classifies the
12 university as a junior college, trade school, community
13 college, or technical college.

14 Section 15. This act shall become effective October
15 1, 2012, following its passage and approval by the Governor,
16 or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 26-APR-12.

I hereby certify that the within Act originated in and passed the Senate.

Senate 16-MAY-12

I hereby certify that the within Act originated in and passed the Senate, as amended by Executive Amendment.

Patrick Harris
Secretary

House of Representatives

Amended and Passed: 10-MAY-12

House of Representatives

Passed: 16-MAY-12, as amended by Executive Amendment.

By: Senator Holtzclaw