

1 SB413
2 151235-2
3 By Senator Marsh
4 RFD: Education
5 First Read: 11-APR-13

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8 SYNOPSIS: Under existing law, the members of the
9 Board of Trustees for the Alabama Agricultural and
10 Mechanical University are appointed by the Governor
11 pursuant to a process utilizing a nominating
12 committee and the president of the university, who
13 is appointed by the board, is responsible for
14 appointing, removing, fixing the compensation of,
15 and defining the duties of instructors; regulating,
16 altering, and modifying the organization of the
17 university, subject to review and concurrence of
18 board; prescribing courses of instruction within
19 academic programs approved by the board; and
20 conferring academic degrees and honorary degrees
21 upon recommendation of the faculty.

22 This bill would substantially revise the
23 composition of the nominating committee and the
24 process for nominating, appointing, and confirming
25 members of the board.

26 This bill would also transfer those
27 responsibilities of the president relating to

1 instructors, the organization of the university,
2 courses of instruction, and the conferring of
3 academic and honorary degrees from the president to
4 the board and would repeal a provision providing
5 for removal of a trustee for a conflict of
6 interest.

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

11
12 To amend Sections 16-49-20 and 16-49-23, Code of
13 Alabama 1975, relating to the Board of Trustees for Alabama
14 Agricultural and Mechanical University; to revise the
15 composition of the nominating committee; and to revise the
16 process for nominating, appointing, and confirming members of
17 the board; to transfer certain responsibilities of the
18 president of the university to the board; and to repeal
19 Section 16-49-29, Code of Alabama 1975, relating to the
20 removal of a trustee for a conflict of interest.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 16-49-20 and 16-49-23 of the
23 Code of Alabama 1975, are amended to read as follows:

24 "§16-49-20.

25 "(a) (1) There is created a Board of Trustees for
26 Alabama Agricultural and Mechanical University, a state
27 land-grant educational institution at Huntsville. The

1 membership of the board shall be inclusive and reflect the
2 racial, gender, geographic, urban/rural, and economic
3 diversity of the state. The board of trustees shall consist of
4 12 members, two members who shall reside in the congressional
5 district in which the institution is situated; one member
6 shall reside in each of the remaining congressional districts
7 in the state as constituted on September 5, 1975, and shall be
8 a bona fide resident and qualified elector of that district,
9 with a verifiable physical presence in that district, during
10 the entire term of office; three at-large members who may be
11 selected from outside the state; and the Governor, who shall
12 be ex officio president of the board. The president of the
13 student government association and the president of the
14 faculty senate shall be ex officio nonvoting members of the
15 board. If a trustee appointed from a congressional district
16 ceases to be a bona fide resident and qualified elector of the
17 district from which appointed, or ceases to have a verifiable
18 physical presence in that district, the trustee shall vacate
19 his or her office.

20 "(2) Before June 9, 2011, the trustees shall be
21 appointed by the Governor, by and with the advice and consent
22 of the Senate.

23 "(3) The membership shall include at least three
24 members who have earned a degree from Alabama Agricultural and
25 Mechanical University.

26 "(4) Except for the first trustees appointed,
27 trustees shall hold office for a term of six years. No member

1 presently serving as of January 1989 shall have his or her
2 current term of office terminated because of these provisions.

3 "(5) All appointments shall be effective upon
4 confirmation by the Senate.

5 "(6) The board shall be divided into three classes
6 so that at least one third shall be appointed biennially. Of
7 the first members appointed to the board, three shall be
8 designated by the Governor to serve until January 31, 1978;
9 four until January 31, 1980; and four to serve until January
10 31, 1982.

11 "(7) A trustee may be appointed to serve a second
12 term of six years, but no trustee shall be appointed to serve
13 more than a total of 12 years, ~~except as otherwise provided in~~
14 ~~paragraph b. of subdivision (4) of subsection (b).~~

15 "(8) No trustee shall receive any pay or emolument
16 other than his or her actual expenses incurred in the
17 discharge of his or her duties.

18 "(9) No member of the governing board, no officer of
19 any public postsecondary educational institution, and no
20 elected or appointed official having the power of review of
21 the Alabama Agricultural and Mechanical University budget,
22 other than the Governor, shall be eligible to serve on the
23 board of trustees.

24 "(b) (1) On or after ~~June 9, 2011~~ the effective date
25 of the act adding this clause, each trustee shall be appointed
26 by the Governor from a list of three persons nominated by a

1 nominating committee. The nominating committee shall consist
2 of the following members:

3 ~~"a. One member of the board of trustees as elected~~
4 ~~by the membership of the board of trustees.~~

5 ~~"b. One member as selected jointly by the faculty~~
6 ~~senate and the staff senate and certified to the committee by~~
7 ~~the president of the faculty senate and the president of the~~
8 ~~staff senate.~~

9 ~~"c. The president of the student government~~
10 ~~association.~~

11 ~~"d. The President of the Huntsville-Madison County~~
12 ~~Chamber of Commerce, or his or her designee.~~

13 ~~"e. One member of the Madison County Legislative~~
14 ~~Delegation, as selected by the delegation.~~

15 ~~"f. The president of the national alumni~~
16 ~~association, or his or her designee.~~

17 ~~"g. A community representative as selected by the~~
18 ~~other members of the nominating committee.~~

19 ~~"(2) Where applicable, members of the nominating~~
20 ~~committee shall serve at the pleasure of the appointing~~
21 ~~authority for a period of at least one year.~~

22 ~~"(3) Thirty days before the expiration of the term~~
23 ~~of a board member, or within 20 days following the creation of~~
24 ~~a vacancy in a term of office by death, resignation, or other~~
25 ~~cause, the president pro tempore of the board of trustees~~
26 ~~shall call a meeting of the nominating committee, giving at~~
27 ~~least 10 days' notice. The nominating committee, by majority~~

1 ~~vote of those present at the meeting, shall nominate to the~~
2 ~~Governor the names of three individuals who are qualified~~
3 ~~pursuant to subsection (a) to fill the respective position on~~
4 ~~the board of trustees. The Governor shall appoint one of the~~
5 ~~nominated persons to the board by and with the advice and~~
6 ~~consent of the Senate. If the appointment is made by the~~
7 ~~Governor while the Legislature is not in session, the name of~~
8 ~~the appointee of the Governor shall be submitted to the Senate~~
9 ~~not later than the third legislative day following the~~
10 ~~reconvening of the Legislature. If the appointment is made by~~
11 ~~the Governor while the Legislature is in session the name of~~
12 ~~the appointee shall be submitted to the Senate not later than~~
13 ~~the next legislative day following the date of the~~
14 ~~appointment.~~

15 ~~"(4) a. If the vacancy on the board is caused by the~~
16 ~~expiration of the term of a trustee who has served for less~~
17 ~~than the maximum 12 years on the board, the vacating trustee~~
18 ~~shall continue to serve on the board until his or her~~
19 ~~successor is confirmed by the Senate. If the holdover trustee~~
20 ~~is reappointed to the board, the term of office for which he~~
21 ~~or she is reappointed shall be effective retroactive to the~~
22 ~~date of the expiration of the previous term. If a new trustee~~
23 ~~is appointed pursuant to this paragraph, the term of office~~
24 ~~for which he or she is appointed shall be effective~~
25 ~~retroactive to the date of the expiration of the previous~~
26 ~~term.~~

1 ~~"b. If the vacancy on the board is caused by death,~~
2 ~~resignation, or the expiration of the term of a trustee who~~
3 ~~has served for the maximum 12 years on the board, the position~~
4 ~~on the board shall remain vacant until the name of an~~
5 ~~appointee is submitted by the Governor to the Senate. If the~~
6 ~~appointee is not confirmed or rejected by the Senate during~~
7 ~~the session in which his or her name is submitted, the~~
8 ~~appointee shall nevertheless continue to serve in the position~~
9 ~~on the board until the next session of the Legislature, during~~
10 ~~which his or her name shall be resubmitted for confirmation.~~
11 ~~If an appointee is confirmed by the Senate, the term of office~~
12 ~~for which he or she is appointed pursuant to this paragraph~~
13 ~~shall be effective retroactive to the date the vacancy was~~
14 ~~created on the board, for the remainder of the unexpired term~~
15 ~~if the vacancy was created by death or resignation, or for the~~
16 ~~entire term if the vacancy was created by the expiration of~~
17 ~~the previous term. If an appointee is rejected by the Senate,~~
18 ~~the position on the board shall remain vacant as the~~
19 ~~nominating and appointing procedure provided in this~~
20 ~~subsection begins anew and until an appointment is made and~~
21 ~~confirmed by the Senate. If a trustee is appointed to fill an~~
22 ~~unexpired term of less than three years, the time shall not be~~
23 ~~counted toward the maximum 12 years of service.~~

24 ~~"(5) If the nominating committee fails to submit a~~
25 ~~list of nominees to the Governor within 30 days after a~~
26 ~~vacancy occurs due to expiration of term, death, resignation,~~
27 ~~or any other cause, the Governor, by and with the advice and~~

1 ~~consent of the Senate, may appoint an otherwise qualified~~
2 ~~trustee to the board, notwithstanding the absence of such~~
3 ~~nominations.~~

4 "a. The president pro tempore of the board, or his
5 or her designee, who shall be a member of the board.

6 "b. A member of the board as selected by the
7 membership of the board.

8 "c. The President of the Alabama Agricultural and
9 Mechanical University Alumni Association, or his or her
10 designee, who shall be a member of the board of directors of
11 the association.

12 "d. A member of the Board of Directors of the
13 Alabama Agricultural and Mechanical University Alumni
14 Association as selected by the membership of the board of
15 directors.

16 "e. The President of the Alabama Agricultural and
17 Mechanical University Foundation, or his or her designee, who
18 shall be a member of the board of directors of the foundation.

19 "f. The Chair of the Alabama Agricultural and
20 Mechanical University Faculty Senate, who shall serve as a
21 non-voting ex officio member of the nominating committee.

22 "(2) When appropriate, the nominating committee
23 shall meet to address the nomination of any of the following:

24 "a. Persons to fill an expired or soon to be expired
25 term of office of any member of the board.

1 "b. Persons to fill the remainder of a partially
2 expired term of office of a position on the board which has
3 been vacated by reason of death, resignation, or other cause.

4 "(3) The president pro tempore of the board, or his
5 or her designee, shall serve as chair of the nominating
6 committee. If the chair fails to call a meeting within 90 days
7 before the expiration of the term of a sitting board member or
8 within 30 days after the creation of a vacancy by death,
9 resignation, or other cause, a majority of the committee, in
10 writing, may call a meeting giving at least 10 days' notice.
11 In the absence of the chair, or another member designated by
12 the chair to preside, the majority of the committee shall
13 choose its own chair.

14 "(4) The nominating committee, by majority vote,
15 shall nominate three individuals to fill the respective
16 position on the board of trustees. The committee shall ensure
17 that potential nominees are solicited from all constituencies,
18 are inclusive, and reflect the racial, gender, and economic
19 diversity of the state. A person may not be appointed to the
20 Board of Trustees of Alabama Agricultural and Mechanical
21 University while serving on the nominating committee. The
22 nominating committee, in writing, shall immediately submit the
23 names of three nominees to the Governor. The Governor, within
24 30 days after submission of the names of three nominees, shall
25 select the name of one nominee for appointment to the board
26 and, in writing, shall notify the nominating committee of the
27 selection. If the Governor fails to select a nominee within

1 the prescribed time, the nominating committee shall select the
2 name of one of the three nominees for appointment to the
3 board.

4 "(5) The Governor or the nominating committee, as
5 applicable, shall submit the name of the person selected for
6 appointment to the Secretary of the Senate, who shall inform
7 the Senate of the receipt of the submission. If the Senate is
8 in regular session at that time, the submission shall be made
9 by the conclusion of the next legislative day following the
10 appointment by the Governor or the nominating committee. If
11 the Senate is not in regular session at the time of
12 appointment, the submission shall be made before the
13 commencement of the next regular session.

14 "(6) If the entire Senate, by a majority vote,
15 confirms the submission, the appointee shall immediately
16 assume office. An appointee may not begin service prior to
17 Senate confirmation. If the submission is not confirmed by the
18 entire Senate by a majority vote by the conclusion of the
19 legislative session, the submission shall be considered
20 rejected. A submission to the Senate may be withdrawn at any
21 time by the Governor, if the Governor made the submission, or
22 by the nominating committee, if the nominating committee made
23 the submission.

24 "(7) Upon the rejection or the withdrawal of a
25 submission, the nomination, appointment, and confirmation
26 process specified in this section shall commence anew. The

1 same name may be submitted to the Senate for the same position
2 on the board more than one time.

3 "(8) Upon the expiration of a term of office, a
4 member of the board of trustees shall continue to serve until
5 a successor is appointed pursuant to this section, is
6 confirmed by the entire Senate by majority vote, and assumes
7 office. If a successor is not confirmed by the conclusion of
8 the regular session in which one or more names for the
9 position were initially submitted, the former holder of the
10 position may continue to serve until a successor is appointed
11 and confirmed, but in no case shall this continuation be
12 longer than one year after completion of the term of office.

13 "(9) If a position on the board of trustees becomes
14 vacant during a term of office by reason of death,
15 resignation, or other cause, a person shall be appointed to
16 fill the remainder of the unexpired term of office pursuant to
17 the procedure provided for other appointments. The position
18 shall be considered vacant until a person is confirmed by a
19 majority vote of the entire Senate.

20 "(c) The board shall provide for the conduct of
21 annual training sessions for trustees regarding the fiduciary
22 responsibility of a trustee to the university and any other
23 topic deemed appropriate by the board.

24 "§16-49-23.

25 "The board shall not engage in activity that
26 interferes with the day-to-day operation of the university.
27 The primary responsibility of the board of trustees is to set

1 ~~policy for the university and prescribe rates of tuition and~~
2 ~~fees. The board also has the power to~~ may organize the
3 university by appointing a president, whose salary shall be
4 fixed by the board. ~~The president shall appoint,~~ and a corps
5 of instructors, who shall be styled the faculty of the
6 university, and such other instructors and officers as the
7 interest of the university may require, and may remove any
8 instructors or officers, fix their salaries or compensation,
9 and ~~define the authority or duty of such instructors or~~
10 ~~officers. The president may~~ regulate, alter, and modify the
11 organization of the university, ~~subject to review and~~
12 ~~concurrence of~~ as determined necessary by the board. The
13 ~~president board~~ shall prescribe courses of instruction ~~within~~
14 ~~academic programs that have been approved by the board. The~~
15 ~~president may,~~ prescribe rates of tuition and fees, confer
16 academic degrees and ~~such~~ honorary degrees as are usually
17 conferred by institutions of similar character ~~upon the~~
18 ~~recommendation of the faculty,~~ and do whatever else the board
19 determines is in the best interests of the university."

20 Section 2. All laws or parts of laws which conflict
21 with this act are repealed and specifically Section 16-49-29,
22 Code of Alabama 1975, relating to the removal of a trustee for
23 a conflict of interest, is repealed.

24 Section 3. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.