

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

1 137823-1:n:02/23/2012:LFO-KB/csh

2

3

4

5

6

7

8 SYNOPSIS: Amendment 670 to the Alabama Constitution  
9 provides the process by which members of the Board  
10 of Trustees for Auburn University are selected.  
11 This bill would propose a constitutional amendment  
12 to revise that selection process and repeal  
13 Amendment 670.

14

15 A BILL

16 TO BE ENTITLED

17 AN ACT

18

19 Proposing an amendment to the Alabama Constitution  
20 providing for the selection of members of the Board of  
21 Trustees for Auburn University and repealing Amendment 670 of  
22 the Alabama Constitution.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the  
25 Constitution of Alabama of 1901, as amended, is proposed and  
26 shall become valid as a part thereof when approved by a  
27 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution  
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 Auburn University shall be under the management and  
5 control of a board of trustees. Commencing on June 1, 2013,  
6 the board of trustees shall consist of fifteen members as  
7 follows: one member from each of seven districts as set forth  
8 herein, an additional member from Lee County, the immediate  
9 past president of the Auburn Alumni Association, five at-large  
10 members and the governor, who shall be ex officio president of  
11 the board. One more than half of the members then in office of  
12 the board shall constitute a quorum, but a smaller number may  
13 adjourn from day to day until a quorum is present.

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

shall hold At-Large Position 1, 2, 3, 4 or 5. A majority of the board shall elect a president pro tempore of the board.

Appointment of members, including members to fill a vacated position with a partially expired term of office, shall be by the appointing committee created herein, by and with the advice and consent of the Senate. A board of trustees appointing committee is established composed of the following members: The President Pro Tempore of the Board of Trustees of Auburn University or the designee of the President Pro Tempore, who shall be a member of the Board of Trustees of Auburn University; a member of the Board of Trustees of Auburn University selected by the Board of Trustees; two members of the Auburn Alumni Association Board of Directors who are not current employees of Auburn University, selected by the Auburn Alumni Association Board of Directors; the Governor or a designee of the Governor who is an alumnus of Auburn University, but who is not a current member of the Board nor a current member of the Auburn Alumni Association Board of Directors nor a current employee of Auburn University. The Governor, or the designee of the Governor, shall serve as chairperson of the appointing committee. If the chairperson fails to call a meeting within 90 days prior to the expiration of the term of a sitting board member or within 30 days following the creation of a vacancy by death, resignation, or other cause, a majority of the committee, in writing, may call a meeting giving at least 10 days notice. In the absence of the chairperson or another member designated by the

1 chairperson to preside, the majority of the committee shall  
2 choose its own chairperson. The appointing committee as a  
3 whole shall establish a procedure and timetable for soliciting  
4 and selecting candidates for appointment prior to calling a  
5 meeting. The committee shall ensure that appointments are  
6 solicited from all constituencies, are inclusive, and reflect  
7 the racial, gender, and economic diversity of the state or the  
8 continental United States, as applicable. A person may not be  
9 appointed to the Board of Trustees of Auburn University while  
10 serving on the appointing committee.

11 For purposes of transitioning from the districts  
12 established by Amendment 670 to the new districts established  
13 herein and creating a permanent and uniform system of  
14 staggered terms for members of the Board of Trustees of Auburn  
15 University, on the first day of June 2013, the following  
16 realignment and modification of the positions and terms of  
17 office of trustees serving on that date will take place in the  
18 following manner: New District 1, the term for which shall end  
19 at midnight on June 30, 2020, shall be filled by the incumbent  
20 in former District 1; new District 2, the term for which shall  
21 end at midnight on June 30, 2019, shall be filled by the  
22 incumbent in former District 3; new District 3, the term for  
23 which shall end at midnight on June 30, 2014, shall be filled  
24 by the incumbent in former District 5; new District 4, the  
25 term for which shall end at midnight on June 30, 2020, shall  
26 be filled by the incumbent in former District 7; new District  
27 5, the term for which shall end at midnight on June 30, 2016,

1 shall be filled by the incumbent in former District 8; new  
2 District 6, the term for which shall end at midnight on June  
3 30, 2022, shall be filled by the incumbent in former District  
4 4; new District 7, the term for which shall end at midnight on  
5 June 30, 2022, shall be filled by the incumbent in former  
6 District 9; Lee County, the term for which shall end at  
7 midnight on June 30, 2019, shall be filled by the incumbent in  
8 District 3/Lee County; At-Large Position 1, the term for which  
9 shall end at midnight on June 30, 2014, shall be filled by the  
10 successor to the four year at-large seat created under  
11 Amendment 670; At-Large Position 2, the term for which shall  
12 end at midnight on June 30, 2016, shall be filled by the  
13 successor to the seven year at-large seat created under  
14 Amendment 670; At-Large Position 3, the term for which shall  
15 end at midnight on June 30, 2021, shall be filled by the  
16 incumbent in former District 2; At-Large Position 4, the term  
17 for which shall end at midnight on June 30, 2019, shall be  
18 filled by the incumbent in the at-large position formerly held  
19 by the state superintendent of education and converted to an  
20 at-large seat by Amendment 670; and At-Large Position 5, the  
21 term for which shall end at midnight on June 30, 2021, shall  
22 be filled by the incumbent in former District 6. If there is  
23 no incumbent sitting in a former position on June 1, 2013, the  
24 new position shall be considered vacant and a person shall be  
25 appointed by the appointing committee to fill the position  
26 pursuant to the procedure provided for other appointments made  
27 by the appointing committee for the term provided herein. Any

1 reference in this paragraph to incumbent shall mean the  
2 incumbent on June 1, 2013.

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

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

The appointing committee chairperson shall submit the name of the person selected for appointment to the Secretary of the Senate, who shall inform the Senate of the receipt of such submission. If the Senate is in regular session at that time, the submission shall be made by the conclusion of the next legislative day following the appointment. If the Senate is not in regular session at the time of the appointment, the submission shall be made before the commencement of the next regular session. If the entire Senate, by a majority vote, confirms the submission, the appointee shall immediately assume office. An appointee may not begin service prior to Senate confirmation. If the submission is not confirmed by the entire Senate by a majority vote by the conclusion of the legislative session, the submission shall be considered rejected. A submission to the Senate may be withdrawn at any time by the appointing committee chairperson in regard to appointments made by the committee. Upon the rejection of a submission or the withdrawal of a submission, the appointment and confirmation process specified in this amendment shall commence anew. The same name may not be submitted to the Senate for the same position on the board more than one time by the same nominating committee. Upon the expiration of a term of office,

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

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, now appearing as Sections 284 and 285 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the election laws of this state at the next statewide primary, general or special election.

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

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

"Proposed by Act \_\_\_\_\_."

This description shall be followed by the following language:

"Yes ( ) No ( )."