

1 HB551
2 168222-2
3 By Representative Gaston (Constitutional Amendment)
4 RFD: Education Policy
5 First Read: 23-APR-15

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ENROLLED, An Act,

To amend Amendment 161 to the Constitution of Alabama of 1901, as amended by Amendment 670, now appearing as Section 266 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, relating to the Board of Trustees of Auburn University; to establish procedures for automatically adjusting term expiration dates in order to limit the number of terms that expire during the same calendar year to three; and to increase the membership of the board by two at-large members to enhance the diversity of the board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

PROPOSED AMENDMENT

Amendment 161 to the Constitution of Alabama of 1901, as amended by Amendment 670, now appearing as Section 266 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, is amended to read as follows:

"Section 266.

1 "Section 1. (a) Auburn University shall be under the
2 management and control of a board of trustees. The board of
3 trustees shall consist of one member from each of the
4 congressional districts in the state as the same were
5 constituted on the first day of January, 1961, one member from
6 Lee County, ~~two~~ three at-large members ~~both of whom~~ who shall
7 be ~~a resident~~ residents of the continental United States, ~~the~~
8 ~~state superintendent of education serving on the date this~~
9 ~~amendatory language is ratified, who shall serve until leaving~~
10 ~~the office of superintendent, one additional at-large member~~
11 ~~who shall be a resident of the continental United States, and~~
12 ~~who shall succeed the current State Superintendent of~~
13 ~~Education on the board of trustees immediately upon the~~
14 ~~superintendent leaving office,~~ two additional at-large members
15 who shall be residents of the continental United States and
16 who shall enhance the diversity of the board of trustees by
17 reflecting the racial, gender, and economic diversity of the
18 state, and the ~~governor~~ Governor, who shall be ex officio
19 president of the board.

20 "(b) ~~The Appointment of the initial two at-large~~
21 ~~members shall be made by the Governor by and with the advice~~
22 ~~and consent of the Senate. Otherwise,~~ the trustees from each
23 congressional district, from Lee County, and all ~~subsequent~~
24 at-large trustees, including the ~~at-large position created~~
25 upon the vacating of office of the current State

1 ~~Superintendent of Education,~~ two additional at-large members
2 who shall enhance the diversity of the board, shall be
3 appointed by the appointing committee created herein, by and
4 with the advice and consent of the ~~senate~~ Senate. The
5 appointment of members to fill a vacated position with a
6 partially expired term of office shall also be made by the
7 appointing committee as provided herein.

8 "(c) A board of trustees appointing committee is
9 established composed of the following members:

10 "(1) The President Pro Tem of the Board of Trustees
11 of Auburn University or the designee of the President Pro Tem.
12 The designee shall be a member of the Board of Trustees of
13 Auburn University.

14 "(2) A member of the Board of Trustees of Auburn
15 University selected by the board of trustees.

16 "(3) Two members of the Auburn Alumni Association
17 Board of Directors, who are not current employees of Auburn
18 University, selected by the Auburn Alumni Association Board of
19 Directors.

20 "(4) The Governor or a designee of the Governor who
21 is an alumnus of Auburn University but who is not a current
22 member of the Auburn Board of Trustees nor a current member of
23 the Auburn Alumni Association Board of Directors nor a current
24 employee of Auburn University.

1 "(d) The Governor, or the designee of the Governor,
2 shall serve as chairperson of the appointing committee. If the
3 chairperson fails to call a meeting within 90 days prior to
4 the expiration of the term of a sitting board member or within
5 30 days following the creation of a vacancy by death,
6 resignation, or other cause, a majority of the committee, in
7 writing, may call a meeting giving at least 10 days notice. In
8 the absence of the chairperson or another member designated by
9 the chairperson to preside, the majority of the committee
10 shall choose its own chairperson.

11 "(e) When appropriate, the appointing committee
12 shall meet to address the appointment of any of the following:

13 ~~"A person to fill the at-large position on the Board
14 of Trustees of Auburn University created upon the vacating of
15 office by the current State Superintendent of Education.~~

16 "(1) Persons to fill an expired or soon-to-be
17 expired term of office of any member of the Board of Trustees
18 of Auburn University, including the ~~two~~ five at-large
19 positions ~~initially appointed by the Governor.~~

20 "(2) Persons to fill the remainder of a partially
21 expired term of office of any position on the Board of
22 Trustees of Auburn University which has been vacated by reason
23 of death, resignation, or other cause, including the ~~two~~ five
24 at-large positions ~~initially appointed by the Governor.~~

1 "f) The appointing committee, by majority vote,
2 shall appoint an individual to fill the respective position on
3 the board of trustees. The committee shall ensure that
4 appointments are solicited from all constituencies, are
5 inclusive, and reflect the racial, gender, and economic
6 diversity of the state. A person may not be appointed to the
7 Board of Trustees of Auburn University while serving on the
8 appointing committee.

9 "g) A trustee shall hold office for a term of seven
10 years, and may serve no more than two full seven-year terms of
11 office. Appointment and service for a portion of an unexpired
12 term shall not be considered in applying the two-term limit.

13 "h) For purposes of ensuring that transitions in
14 board membership occur in a stable manner, if the secretary of
15 the board determines that, as of January 1 of any calendar
16 year, four or more members of the board hold seats the terms
17 for which will expire during that calendar year, then the
18 secretary shall provide written notice to the board of such
19 fact and the term of the trustees whose term would otherwise
20 expire during that subject year shall be adjusted in the
21 following manner: The trustee who was first confirmed to a
22 term expiring in the subject year shall have his or her term
23 extended to the same month and day in the first subsequent
24 year in which there are less than three trustees with terms
25 expiring; if, after making this initial adjustment, there are

1 still four or more trustees with terms expiring during the
2 subject year, then the term of the next trustee or trustees
3 whose terms are to expire during the subject year shall be
4 adjusted, in order of their original confirmation to the term,
5 to expire on the same month and day as their original term but
6 in the next subsequent year or years in which there are less
7 than three trustees with terms expiring that year; term
8 adjustments to the next subsequent year or years in which
9 there are less than three trustees with terms expiring shall
10 occur regardless of whether the expiration is due to an
11 original expiration date or due to an expiration date adjusted
12 under this subsection, but in no case shall the term of more
13 than three trustees expire during the same calendar year; and
14 in making adjustments, the terms of the final three trustees
15 with terms expiring during the subject year shall expire on
16 the originally established dates. For purposes of this
17 subsection, if two or more trustees were confirmed on the same
18 date, then the order of expiration the terms of those trustees
19 shall be determined alphabetically by last name.

20 "(i) Each member of the board of trustees as
21 constituted on ~~the date this amendatory language is ratified~~
22 December 13, 2000, may serve the remainder of his or her
23 current term and shall be eligible, if otherwise qualified, to
24 serve for no more than two additional seven-year terms.

1 "(j) No person shall be appointed as a member of the
2 board of trustees after having reached 70 years of age.

3 ~~"Of the two persons initially appointed by the
4 Governor to serve in the at-large positions, one shall be
5 appointed to serve an initial term of four years and one shall
6 be appointed to serve an initial term of seven years.
7 Thereafter, successors to these positions, who shall be
8 appointed by the appointing committee, shall serve terms of
9 office of the same duration as other members. These initial
10 terms shall be considered as full terms in applying the
11 two-term limit.~~

12 "(k) One more than half of the members of the board
13 shall constitute a quorum, but a smaller number may adjourn
14 from day to day until a quorum is present.

15 "(l) A term shall begin only upon confirmation by
16 the Senate. A member may continue to serve until a successor
17 is confirmed, but in no case for more than one year after
18 completion of a term.

19 "(m) No trustee shall receive any pay or emolument
20 other than his or her actual expenses incurred in the
21 discharge of duties as such.

22 "(n) No employee of Auburn University shall be
23 eligible to serve as a member of the board of trustees.

24 "(o) (1) ~~The appointing committee, or the Governor,~~
25 ~~in regard to the two initial at-large appointments, shall~~

1 submit the name of the persons selected for appointment to the
2 Secretary of the Senate, who shall inform the Senate of the
3 receipt of such submission. If the Senate is in regular
4 session at that time, the submission shall be made by the
5 conclusion of the next legislative day following the
6 appointment. If the Senate is not in regular session at the
7 time of appointment, the submission shall be made before the
8 commencement of the next regular session.

9 "(2) If the entire Senate, by a majority vote,
10 confirms the submission, the appointee shall immediately
11 assume office. An appointee may not begin service prior to
12 Senate confirmation.

13 "(3) If the submission is not confirmed by the
14 entire Senate by a majority vote by the conclusion of the
15 legislative session, the submission shall be considered
16 rejected.

17 "(4) ~~A submission to the Senate may be withdrawn at~~
18 ~~any time by the Governor in regard to the two initial at-large~~
19 ~~appointments made by the Governor.~~ A submission to the Senate
20 may be withdrawn at any time by the appointing committee in
21 regard to appointments made by the committee.

22 "(5) 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.

1 "(p) The same name may be submitted to the Senate
2 for the same position on the board more than one time.

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

21 "Section 2. Section 266 of article 14 of the
22 Constitution of Alabama 1901 is hereby repealed."

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

1 and 285 of the Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, and the election laws of this
3 state.

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

9 "Proposing an amendment to the Constitution of
10 Alabama of 1901, to establish procedures to ensure that no
11 more than three of the members of the Auburn University Board
12 of Trustees shall have terms that expire in the same calendar
13 year and to add two additional at-large members to the board
14 to enhance diversity on the board.

15 "Proposed by Act _____."

16 This description shall be followed by the following
17 language:

18 "Yes () No ()."

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 12-MAY-15.

Jeff Woodard
Clerk

Senate

21-MAY-15

Passed