

1 SB484  
2 169462-1  
3 By Senator Whatley (Constitutional Amendment)  
4 RFD: Education and Youth Affairs  
5 First Read: 19-MAY-15

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SYNOPSIS: Under existing law, the Board of Trustees of Auburn University consists of 13 members plus the Governor, who serves as chair.

This bill would propose an amendment to the Constitution of Alabama of 1901, to provide that in any calendar year in which four or more trustees have terms expiring in the same year, term expiration dates shall be automatically adjusted to ensure that no more than three trustees will have terms expiring in the same year.

This bill would also propose to add two seats to the Board of Trustees to enhance the diversity of the board and delete obsolete transition language.

A BILL  
TO BE ENTITLED  
AN ACT

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

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 PROPOSED AMENDMENT

18 Amendment 161 to the Constitution of Alabama of  
19 1901, as amended by Amendment 670, now appearing as Section  
20 266 of the Official Recompilation of the Constitution of  
21 Alabama of 1901, as amended, is amended to read as follows:

22 "Section 266.

23 "Section 1. (a) Auburn University shall be under the  
24 management and control of a board of trustees. The board of  
25 trustees shall consist of one member from each of the  
26 congressional districts in the state as the same were  
27 constituted on the first day of January, 1961, one member from

1 Lee County, ~~two~~ three at-large members ~~both of whom~~ who shall  
2 be ~~a resident~~ residents of the continental United States, ~~the~~  
3 ~~state superintendent of education serving on the date this~~  
4 ~~amendatory language is ratified, who shall serve until leaving~~  
5 ~~the office of superintendent, one additional at-large member~~  
6 ~~who shall be a resident of the continental United States, and~~  
7 ~~who shall succeed the current State Superintendent of~~  
8 ~~Education on the board of trustees immediately upon the~~  
9 ~~superintendent leaving office,~~ two additional at-large members  
10 who shall be residents of the continental United States and  
11 who shall enhance the diversity of the board of trustees by  
12 reflecting the racial, gender, and economic diversity of the  
13 state, and the ~~governor~~ Governor, who shall be ex officio  
14 president of the board.

15 " (b) The Appointment of the initial two at-large  
16 ~~members shall be made by the Governor by and with the advice~~  
17 ~~and consent of the Senate. Otherwise, the trustees from each~~  
18 ~~congressional district, from Lee County, and all subsequent~~  
19 ~~at-large trustees, including the at-large position created~~  
20 ~~upon the vacating of office of the current State~~  
21 ~~Superintendent of Education,~~ two additional at-large members  
22 who shall enhance the diversity of the board, shall be  
23 appointed by the appointing committee created herein, by and  
24 with the advice and consent of the ~~senate~~ Senate. The  
25 appointment of members to fill a vacated position with a  
26 partially expired term of office shall also be made by the  
27 appointing committee as provided herein.

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

3           "(1) The President Pro Tem of the Board of Trustees  
4 of Auburn University or the designee of the President Pro Tem.  
5 The designee shall be a member of the Board of Trustees of  
6 Auburn University.

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

9           "(3) Two members of the Auburn Alumni Association  
10 Board of Directors, who are not current employees of Auburn  
11 University, selected by the Auburn Alumni Association Board of  
12 Directors.

13           "(4) The Governor or a designee of the Governor who  
14 is an alumnus of Auburn University but who is not a current  
15 member of the Auburn Board of Trustees nor a current member of  
16 the Auburn Alumni Association Board of Directors nor a current  
17 employee of Auburn University.

18           "(d) The Governor, or the designee of the Governor,  
19 shall serve as chairperson of the appointing committee. If the  
20 chairperson fails to call a meeting within 90 days prior to  
21 the expiration of the term of a sitting board member or within  
22 30 days following the creation of a vacancy by death,  
23 resignation, or other cause, a majority of the committee, in  
24 writing, may call a meeting giving at least 10 days notice. In  
25 the absence of the chairperson or another member designated by  
26 the chairperson to preside, the majority of the committee  
27 shall choose its own chairperson.

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

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

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

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

15           "(f) The appointing committee, by majority vote,  
16 shall appoint an individual to fill the respective position on  
17 the board of trustees. The committee shall ensure that  
18 appointments are solicited from all constituencies, are  
19 inclusive, and reflect the racial, gender, and economic  
20 diversity of the state. A person may not be appointed to the  
21 Board of Trustees of Auburn University while serving on the  
22 appointing committee.

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

1           "(h) For purposes of ensuring that transitions in  
2 board membership occur in a stable manner, if the secretary of  
3 the board determines that, as of January 1 of any calendar  
4 year, four or more members of the board hold seats the terms  
5 for which will expire during that calendar year, then the  
6 secretary shall provide written notice to the board of such  
7 fact and the term of the trustees whose term would otherwise  
8 expire during that subject year shall be adjusted in the  
9 following manner: The trustee who was first confirmed to a  
10 term expiring in the subject year shall have his or her term  
11 extended to the same month and day in the first subsequent  
12 year in which there are less than three trustees with terms  
13 expiring; if, after making this initial adjustment, there are  
14 still four or more trustees with terms expiring during the  
15 subject year, then the term of the next trustee or trustees  
16 whose terms are to expire during the subject year shall be  
17 adjusted, in order of their original confirmation to the term,  
18 to expire on the same month and day as their original term but  
19 in the next subsequent year or years in which there are less  
20 than three trustees with terms expiring that year; term  
21 adjustments to the next subsequent year or years in which  
22 there are less than three trustees with terms expiring shall  
23 occur regardless of whether the expiration is due to an  
24 original expiration date or due to an expiration date adjusted  
25 under this subsection, but in no case shall the term of more  
26 than three trustees expire during the same calendar year; and  
27 in making adjustments, the terms of the final three trustees

1 with terms expiring during the subject year shall expire on  
2 the originally established dates. For purposes of this  
3 subsection, if two or more trustees were confirmed on the same  
4 date, then the order of expiration the terms of those trustees  
5 shall be determined alphabetically by last name.

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

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

13 ~~"Of the two persons initially appointed by the~~  
14 ~~Governor to serve in the at-large positions, one shall be~~  
15 ~~appointed to serve an initial term of four years and one shall~~  
16 ~~be appointed to serve an initial term of seven years.~~  
17 ~~Thereafter, successors to these positions, who shall be~~  
18 ~~appointed by the appointing committee, shall serve terms of~~  
19 ~~office of the same duration as other members. These initial~~  
20 ~~terms shall be considered as full terms in applying the~~  
21 ~~two-term limit.~~

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

25 "(l) A term shall begin only upon confirmation by  
26 the Senate. A member may continue to serve until a successor



1 is confirmed, but in no case for more than one year after  
2 completion of a term.

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

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

8 "(o) (1) ~~The appointing committee, or the Governor,~~  
9 ~~in regard to the two initial at-large appointments,~~ shall  
10 submit the name of the persons selected for appointment to the  
11 Secretary of the Senate, who shall inform the Senate of the  
12 receipt of such submission. If the Senate is in regular  
13 session at that time, the submission shall be made by the  
14 conclusion of the next legislative day following the  
15 appointment. If the Senate is not in regular session at the  
16 time of appointment, the submission shall be made before the  
17 commencement of the next regular session.

18 "(2) If the entire Senate, by a majority vote,  
19 confirms the submission, the appointee shall immediately  
20 assume office. An appointee may not begin service prior to  
21 Senate confirmation.

22 "(3) If the submission is not confirmed by the  
23 entire Senate by a majority vote by the conclusion of the  
24 legislative session, the submission shall be considered  
25 rejected.

26 "(4) ~~A submission to the Senate may be withdrawn at~~  
27 ~~any time by the Governor in regard to the two initial at-large~~

1 ~~appointments made by the Governor.~~ A submission to the Senate  
2 may be withdrawn at any time by the appointing committee in  
3 regard to appointments made by the committee.

4 "(5) Upon the rejection of a submission or the  
5 withdrawal of a submission, the appointment and confirmation  
6 process specified in this amendment shall commence anew.

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

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

19 "(r) If any position on the board of trustees  
20 becomes vacant during a term of office by reason of death,  
21 resignation, or other cause, a person shall be appointed by  
22 the appointing committee to fill the remainder of the  
23 unexpired term of office pursuant to the procedure provided  
24 for other appointments made by the appointing committee. The  
25 position shall be considered vacant until a person is  
26 confirmed by a majority vote of the entire Senate.

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

3                   Section 2. An election upon the proposed amendment  
4 shall be held in accordance with Sections 284 and 285 of the  
5 Constitution of Alabama of 1901, now appearing as Sections 284  
6 and 285 of the Official Recompilation of the Constitution of  
7 Alabama of 1901, as amended, and the election laws of this  
8 state.

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

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

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

21                   This description shall be followed by the following  
22 language:

23                   "Yes ( ) No ( )."