

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

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8 SYNOPSIS: Under existing law, Athens State University
9 is included under the definition of a junior
10 college or trade school.

11 This bill would remove Athens State
12 University from under the jurisdiction,
13 supervision, and control of the State Board of
14 Education and Department of Postsecondary
15 Education.

16 This bill would provide for the mission of
17 the university.

18 This bill would create and provide for the
19 governance of the university under the Board of
20 Trustees of Athens State University.

21 This bill would provide for certain powers
22 and duties of the board, meetings of the board, and
23 for a quorum for the transaction of business.

24 This bill would provide for the filling of
25 vacancies on the board and for the creation and use

1 of a nominating committee to fill vacancies on the
2 board.

3 This bill would provide for the appointment
4 and duties of a president of the university.

5 This bill would provide for the employment
6 of suitable persons to act as police officers for
7 the university.

8 This bill would also authorize the Code
9 Commissioner to revise references to Athens State
10 University in the Code of Alabama 1975, as
11 appropriate, to reflect the changed status of the
12 university.

13
14 A BILL

15 TO BE ENTITLED

16 AN ACT
17

18 To amend Section 16-60-110, Code of Alabama 1975, to
19 remove Athens State University from under the jurisdiction,
20 supervision, and control of the State Board of Education and
21 Department of Postsecondary Education; to provide for the
22 mission of the university; to create and provide for the
23 governance of the university under the Board of Trustees of
24 Athens State University; to provide for certain powers and
25 duties of the board; to provide for meetings of the board; to
26 provide for a quorum for the transaction of business; to

1 provide for the filling of vacancies on the board and for the
2 creation and use of a nominating committee to fill vacancies
3 on the board; to provide for the appointment and duties of a
4 president of the university; to provide for the employment of
5 suitable persons to act as police officers for the university;
6 and to authorize the Code Commissioner to revise references to
7 Athens State University in the Code of Alabama 1975, as
8 appropriate, to reflect the status of the university under
9 this act.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 16-60-110 of the Code of Alabama
12 1975, is amended to read as follows:

13 "§16-60-110.

14 "For purposes of this article, the following words
15 and phrases shall have the respective meaning ascribed to them
16 by this section:

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

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

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

22 "(4) TRADE SCHOOL. An educational institution
23 offering instruction primarily in useful trades, occupations
24 or vocational skills.

25 "~~(5) ATHENS STATE COLLEGE. An educational~~
26 ~~institution offering instruction on the level of difficulty of~~

1 ~~the third and fourth years above the high school level.~~
2 ~~Wherever used herein, the phrase "junior colleges and trade~~
3 ~~schools" shall be understood to include Athens State College.~~

4 " ~~(5) (6)~~ POSTSECONDARY EDUCATION DEPARTMENT. A
5 parallel organization to the State Department of Education
6 directly responsible to the State Board of Education for the
7 direction and supervision of junior colleges and trade schools
8 and community colleges with a chief executive officer entitled
9 ~~chancellor~~ Chancellor."

10 Section 2. The school heretofore established in
11 Athens, Alabama, and previously known as Athens State College
12 and now known as Athens State University, is and shall remain
13 a body corporate under the corporate name of Athens State
14 University, and by that name, and under the direction of a
15 board of trustees, may sue and contract, acquire, and hold
16 real and personal property, and have and exercise all the
17 powers of a corporation established to be a state educational
18 institution of higher learning and shall succeed to all the
19 rights, privileges, emoluments, benefits, interests, and
20 titles heretofore at any time vested in the institution in its
21 respective names. None of the powers, authority, or functions
22 of the corporation provided for in this act shall be abated or
23 impaired by this section. Whenever the institution is referred
24 to in the laws of Alabama, by any one of the respective names
25 by which it has been known, the same shall be considered to
26 refer to Athens State University.

1 Section 3. Commencing on the effective date of this
2 act, the Athens State University Board of Trustees, as created
3 in Section 5, shall have exclusive jurisdiction, supervision,
4 and control of Athens State University and the State Board of
5 Education shall be divested of all jurisdiction, power, and
6 authority with regard to the supervision, management, and
7 control of the university, except as otherwise provided in
8 this act. In addition to the powers, duties, and authority
9 vested in the board by this section, the board shall have and
10 exercise all power, authority, and duties conferred on, vested
11 in, or required of the State Board of Education or the
12 Department of Postsecondary Education before the effective
13 date of this act, under the laws of this state with regard to
14 the supervision, management, and control of the university. On
15 or before the effective date of this act, the State Board of
16 Education shall transfer to the board all supplies, funds,
17 books, documents, records, and other property or effects of
18 the university. After the effective date of this act, the
19 university may continue to offer all current units or programs
20 of instruction for academic credit without new or additional
21 approval from the Alabama Commission on Higher Education, so
22 long as those units or programs of instruction for academic
23 credit were offered by the university before the effective
24 date of this act.

25 Section 4. (a) Athens State University shall
26 provide, maintain, and operate public higher education

1 programs and facilities dedicated to the preparation of
2 students in a variety of preprofessional and professional
3 fields at the baccalaureate and graduate degree levels for
4 which they are approved. The university shall provide
5 educational services for the greater community including
6 advanced education for mature students, private citizens, and
7 service men and women. The university shall provide an
8 academic, cultural, and social environment that fosters
9 individuality and develops productive members of society. The
10 mission of the university shall be accomplished by providing
11 services to students and the greater community through the
12 utilization of university staff and facilities and through
13 superior teaching, scholarship, creative activities, and
14 public service.

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

18 (c) The university may provide onsite academic
19 instruction on the campuses of those community colleges where
20 the senior institution in whose service area or areas the
21 community college is located is unable or unwilling to provide
22 the onsite instruction.

23 (d) Resulting from and inherent in the mission of
24 the university are a number of ongoing goals that the board,
25 from time to time, may affirm on the basis of recommendations
26 of the president of the university.

1 (e) The annual objectives of the university, as
2 determined by the president of the university, shall be
3 consistent with the ongoing goals and mission of the
4 university.

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

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

13 (2) Two members shall be appointed from the state at
14 large.

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

19 (4) The Chancellor of the Department of
20 Postsecondary Education.

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

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

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

20 (c) No member of the board, individually, as a
21 partner, as a stockholder, a board member, or an officer of a
22 corporate body, shall conduct any business transaction,
23 directly or indirectly, with the university. Any person who
24 violates this subsection shall be immediately removed from the
25 board, and replaced for the unexpired portion of his or her
26 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
26 ends of its creation, and shall be charged with all

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

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

23 Section 7. (a) The board shall hold its regular
24 annual meeting each year, on the first Monday in June, at the
25 main campus of the university, unless the board shall in
26 regular session determine to hold its meeting at some other

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

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

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

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

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

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

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

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

16 (1) One member of the board as elected by the
17 membership of the board.

18 (2) The presiding officer of the Athens State
19 University Faculty Senate.

20 (3) The presiding officer of the Athens State
21 University Staff Senate.

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

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

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

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

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

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

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

20 Section 11. No grant or gift, by will or otherwise,
21 shall fail on account of any misnomer or informality when the
22 intent of the grantor or donor can be determined; nor shall
23 any default, malfeasance, or nonuser on the part of the
24 trustees or other officers or agents of such corporation work
25 a forfeiture of any of its rights, privileges, powers, or
26 franchises.

1 Section 12. (a) The president of the university
2 shall be appointed by the board and shall do all of the
3 following:

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

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

8 (3) Remove any instructors or officers.

9 (4) Fix the salaries or compensation of the
10 instructors or officers.

11 (5) Define the authority or duty of the instructors
12 or officers.

13 (6) Regulate, alter, and modify the organization of
14 the university, subject to the review and concurrence of the
15 board.

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

18 (b) Full-time employees, whether tenured,
19 nontenured, nonprobationary, or probationary, who are employed
20 on the effective date of this act by the university, shall
21 retain any and all rights and privileges as provided in
22 Chapter 24C of Title 16, Code of Alabama 1975.

23 (c) The president of the university, upon the
24 recommendation of the faculty, may confer academic degrees and
25 such honorary degrees as are usually conferred by institutions
26 of similar character.

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

17 (b) The police officers provided for in this section
18 shall cooperate with and, when requested, furnish assistance
19 to the regularly constituted authorities of the City of Athens
20 and Limestone County and their jurisdictions and authority
21 shall be coextensive within the corporate limits of each
22 municipality or county.

23 Section 14. Commencing on the effective date of this
24 act, the terms junior college, trade school, community
25 college, and technical college, or any combination of these
26 terms, as used in the Code of Alabama 1975, may not be

1 interpreted to include Athens State University or its
2 predecessor, Athens State College. After the effective date of
3 this act, the Code Commissioner may revise any reference to
4 Athens State University that refers to or classifies the
5 university as a junior college, trade school, community
6 college, or technical college.

7 Section 15. This act shall become effective October
8 1, 2012, following its passage and approval by the Governor,
9 or its otherwise becoming law.