

Regular Session, 2011

HOUSE BILL NO. 391

BY REPRESENTATIVE TUCKER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HIGHER EDUCATION: (Constitutional Amendment) Relative to management of postsecondary education, abolishes the Board of Regents and the management boards and transfers their powers, duties, and responsibilities to a newly created La. Postsecondary Education Board of Trustees

A JOINT RESOLUTION

Proposing to amend Article IV, Section 22(A), Article VII, Sections 10.1(C)(1) and (3) and (D)(1)(introductory paragraph), and 10.4(B)(1), (3), and (4), and Article VIII, Sections 5 and 16, to add Part IV of Article XIV, to be comprised of Section 41, and to repeal Article VIII, Sections 6, 7, 7.1, 8(B), and 12 of the Constitution of Louisiana, to provide for the governance of public postsecondary education; to create the Louisiana Postsecondary Education Board of Trustees; to abolish the Board of Regents and the postsecondary education management boards and transfer their powers, duties, and responsibilities to the board of trustees; to provide relative to the operation and management of public hospitals by the board of trustees; to provide relative to creation of new institutions of postsecondary education; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article IV, Section 22(A) of the Constitution of Louisiana, to read as follows:

§22. Term Limits; Certain Boards and Commissions

(A) A person who has served as a member of any one or more of the following boards or commissions for more than two and one-half terms in three

1 consecutive terms combined shall not serve as a member of any of the following  
2 boards or commissions for a period of at least two years after the completion of such  
3 consecutive terms of service:

4 (1) The Public Service Commission.

5 (2) The State Board of Elementary and Secondary Education.

6 (3) The ~~Board of Regents~~ Louisiana Postsecondary Education Board of  
7 Trustees.

8 (4) ~~The Board of Supervisors for the University of Louisiana System.~~

9 (5) ~~The Board of Supervisors of Louisiana State University and Agricultural~~  
10 ~~and Mechanical College.~~

11 (6) ~~The Board of Supervisors of Southern University and Agricultural and~~  
12 ~~Mechanical College.~~

13 (7) ~~The Board of Supervisors of Community and Technical Colleges.~~

14 (8) The Forestry Commission.

15 (9) (5) The State Civil Service Commission.

16 (10) (6) The State Police Commission.

17 \* \* \*

18 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
19 elected to each house concurring, that there shall be submitted to the electors of the state of  
20 Louisiana, for their approval or rejection in the manner provided by law, a proposal to  
21 amend Article VII, Sections 10.1(C)(1) and (3) and (D)(1)(introductory paragraph), and  
22 10.4(B)(1), (3), and (4) of the Constitution of Louisiana, to read as follows:

23 §10.1. Quality Trust Fund; Education

24 Section 10.1.

25 \* \* \*

26 (C) Reports; Allocation. (1) The State Board of Elementary and Secondary  
27 Education and the ~~Board of Regents~~ Louisiana Postsecondary Education Board of  
28 Trustees shall annually submit to the legislature and the governor not less than sixty  
29 days prior to the beginning of each regular session of the legislature a proposed

1 program and budget for the expenditure of the monies in the Support Fund.  
2 Proposals for such expenditures shall be designed to improve the quality of education  
3 and shall specifically designate those monies to be used for administrative costs, as  
4 defined and authorized by law.

5 \* \* \*

6 (3) The legislature shall appropriate the total amount intended for higher  
7 educational purposes to the ~~Board of Regents~~ Louisiana Postsecondary Education  
8 Board of Trustees and the total amount intended for elementary and secondary  
9 educational purposes to the State Board of Elementary and Secondary Education  
10 which boards shall allocate the monies so appropriated to the programs as previously  
11 approved by the legislature.

12 \* \* \*

13 (D) Disbursement; Higher Education and Elementary and Secondary  
14 Education.

15 (1) The treasurer shall disburse not more than fifty percent of the monies in  
16 the Support Fund as that money is appropriated by the legislature and allocated by  
17 the ~~Board of Regents~~ Louisiana Postsecondary Education Board of Trustees for any  
18 or all of the following higher educational purposes to enhance economic  
19 development:

20 \* \* \*

21 §10.4. Higher Education Louisiana Partnership Fund; Program

22 Section 10.4.

23 \* \* \*

24 (B) Higher Education Louisiana Partnership Program. (1) Upon  
25 appropriation by the legislature, the monies in the fund shall be divided into  
26 matching grants for the Higher Education Louisiana Partnership Program which shall  
27 be administered by the ~~Board of Regents~~ Louisiana Postsecondary Education Board  
28 of Trustees. The ~~Board of Regents~~ board may allocate program funds to each public  
29 or independent institution of higher education on a one to one and one-half matching

1 basis or one twenty thousand dollar state matching grant for each thirty thousand  
 2 dollars raised specifically for the purposes of participation in the Higher Education  
 3 Louisiana Partnership Program by the institutions of higher education from private  
 4 sources. The state matching portion shall be allocated by the ~~Board of Regents~~  
 5 Louisiana Postsecondary Education Board of Trustees only after it determines that  
 6 an eligible institution has accumulated not less than the minimum required amount  
 7 from private sources for the purposes of the Higher Education Louisiana Partnership  
 8 Program.

9 \* \* \*

10 (3) State matching funds shall be applied only to private source funds  
 11 contributed after July 1, 1991, and pledged for the purposes of this Section as  
 12 certified by the ~~Board of Regents~~ Louisiana Postsecondary Education Board of  
 13 Trustees. Pledged contributions shall not be eligible for state matching funds prior  
 14 to their actual collection.

15 (4) Each institution of higher education may establish its own Higher  
 16 Education Louisiana Partnership Program fund as a depository for private  
 17 contributions and state matching funds as provided herein. The state matching funds  
 18 allocated by the ~~Board of Regents~~ Louisiana Postsecondary Education Board of  
 19 Trustees shall be transferred to an institution upon notification that the institution has  
 20 received and deposited the necessary private contributions in its own Higher  
 21 Education Louisiana Partnership Program fund.

22 \* \* \*

23 Section 3. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
 24 elected to each house concurring, that there shall be submitted to the electors of the state of  
 25 Louisiana, for their approval or rejection in the manner provided by law, a proposal to  
 26 amend Article VIII, Sections 5 and 16 of the Constitution of Louisiana, to read as follows:

27 §5. ~~Board of Regents~~ Louisiana Postsecondary Education Board of Trustees

28 Section 5.(A) Creation; Functions. The ~~Board of Regents~~ Louisiana  
 29 Postsecondary Education Board of Trustees, referred to in this Section as the board

1        or the Board of Trustees, is created as a body corporate. It shall plan, coordinate,  
2        supervise, manage, and have budgetary responsibility for all public postsecondary  
3        education. ~~and~~ The board shall have other powers, duties, and responsibilities  
4        provided in this Section or by law.

5                (B)(1) Membership; Terms. The board shall be composed of two members  
6        from each congressional district and one from the state at large appointed by the  
7        governor, with consent of the Senate, for overlapping terms of six years, following  
8        initial terms which shall be fixed by law. The board ~~should~~ shall be representative  
9        of the state's population by race and gender to ensure diversity. Members serving on  
10       a date when a change in congressional districts becomes effective shall complete  
11       their terms, and successors shall be appointed as provided in this Subparagraph.

12                (2) No person who has served as a member of the board for more than two  
13        and one-half terms in three consecutive terms shall be appointed to the board for the  
14        succeeding term. ~~This Subparagraph shall not apply to any person appointed to the~~  
15       ~~board prior to the effective date of this Subparagraph, except that it shall apply to any~~  
16       ~~term of service of any such person that begins after such date.~~

17                (3) The legislature may provide for the membership of one student on the  
18        board. The term of a student member shall not exceed one year, and no student  
19        member shall be eligible to succeed himself. A student member shall have all of the  
20        privileges and rights of other board members.

21                (C) Vacancy. A vacancy occurring prior to the expiration of a term shall be  
22        filled for the remainder of the unexpired term by appointment by the governor, with  
23        consent of the Senate.

24                (D) Powers. The Board of ~~Regents~~ Trustees shall meet with the State Board  
25        of Elementary and Secondary Education at least twice a year to coordinate programs  
26        of public elementary, secondary, vocational-technical, career, and higher education.  
27        The Board of ~~Regents~~ Trustees shall have the following powers, duties, and  
28        responsibilities relating to public institutions of postsecondary education:

1           (1) To revise or eliminate an existing degree program, department of  
2 instruction, division, or similar subdivision.

3           (2) To approve, disapprove, or modify a proposed degree program,  
4 department of instruction, division, or similar subdivision.

5           (3)(a) To study the need for and feasibility of creating a new institution of  
6 postsecondary education, which includes establishing a branch of such an institution  
7 or converting any non-degree granting institution to an institution which grants  
8 degrees or converting any college or university which is limited to offering degrees  
9 of a lower rank than baccalaureate to a college or university that offers baccalaureate  
10 degrees or merging any institution of postsecondary education into any other  
11 institution of postsecondary education, ~~establishing a new management board, and~~  
12 ~~transferring a college or university from one board to another.~~

13           (b) If the creation of a new institution; or the merger of any institutions; ~~the~~  
14 ~~addition of another management board, or the transfer of an existing institution of~~  
15 ~~higher education from one board to another~~ is proposed, the Board of ~~Regents~~  
16 Trustees shall report its written findings and recommendations to the legislature  
17 within one year. Only after the report has been filed, or after one year from the  
18 receipt of a request for a report from the legislature if no report is filed, may the  
19 legislature take affirmative action on such a proposal and then only by law enacted  
20 by two-thirds of the elected members of each house.

21           (4) To formulate and make timely revision of a master plan for  
22 postsecondary education. As a minimum, the plan shall include a formula for  
23 equitable distribution of funds to the institutions of postsecondary education.

24           (5) To require that every postsecondary education ~~board~~ institution submit  
25 to it, at a time it specifies, an annual budget proposal for its operational ~~needs~~ and  
26 ~~for capital needs of each institution under the control of each board.~~ The Board of  
27 ~~Regents~~ Trustees shall submit its budget recommendations for all institutions of  
28 postsecondary education in the state. It shall recommend priorities for capital  
29 construction and improvements.

1           (E) ~~Powers Not Vested.~~ Powers of management over public institutions of  
2           postsecondary education not specifically vested by this Section in the Board of  
3           Regents are reserved to the Board of Supervisors of Louisiana State University and  
4           Agricultural and Mechanical College, the Board of Supervisors of Southern  
5           University and Agricultural and Mechanical College, the Board of Trustees for State  
6           Colleges and Universities, the Board of Supervisors of Community and Technical  
7           Colleges, and any other such board created pursuant to this Article, as to the  
8           institutions under the control of each. Appropriations. Appropriations for the  
9           institutions of public postsecondary education and for all other public postsecondary  
10           education purposes shall be made to and administered by the Board of Trustees and  
11           shall be used solely as provided by law.

\* \* \*

13           §16. Public Hospitals

14           Section 16. Notwithstanding any provision of this Article to the contrary, the  
15           legislature may provide by law for the supervision, operation, and management of  
16           public hospitals and their programs by the Louisiana Postsecondary Education Board  
17           of Regents or by any board having powers of management over public institutions  
18           of higher education created by this constitution or pursuant to this Article Trustees.  
19           Such laws may include but shall not be limited to laws providing for the submission  
20           and approval of capital and operating budgets, appropriations and expenditures, the  
21           supervision, management, and oversight of the hospitals and their programs, and  
22           legislative review and disapproval of related rules. ~~This Section shall not apply to~~  
23           ~~institutions and programs operated or managed prior to January 1, 1997, by any~~  
24           ~~higher education management board created by this Article.~~

25           Section 4. Be it further resolved by the Legislature of Louisiana, two-thirds of the  
26           members elected to each house concurring, that there shall be submitted to the electors of  
27           the state of Louisiana, for their approval or rejection in the manner provided by law, a  
28           proposal to add Part IV of Article XIV of the Constitution of Louisiana, comprised of  
29           Section 41, to read as follows:

1 PART IV2 §41. Louisiana Postsecondary Education Board of Trustees; Implementation

3 (A) On January 1, 2013, the Board of Regents, the Board of Supervisors of  
4 Louisiana State University and Agricultural and Mechanical College, the Board of  
5 Supervisors of Southern University and Agricultural and Mechanical College, the  
6 Board of Supervisors for the University of Louisiana System, and the Board of  
7 Supervisors of Community and Technical Colleges are abolished and on that date,  
8 except as inconsistent with the amendment creating the Louisiana Postsecondary  
9 Education Board of Trustees, referred to in this Section as the "Trustees", the  
10 Trustees is created and the powers, duties, functions, and responsibilities of such  
11 abolished boards are transferred to the Trustees.

12 (B) The Board of Regents, the Board of Supervisors of Louisiana State  
13 University and Agricultural and Mechanical College, the Board of Supervisors of  
14 Southern University and Agricultural and Mechanical College, the Board of  
15 Supervisors for the University of Louisiana System, and the Board of Supervisors  
16 of Community and Technical Colleges shall take such action prior to January 1,  
17 2013, to provide for implementation of the Trustees on that date. The governor shall  
18 appoint the initial members of the Trustees not later than March 1, 2012, for initial  
19 terms as provided by law, and such members shall take such actions as authorized  
20 by law to provide for implementation of the Trustees on January 1, 2013.

21 (C) The legislature shall provide by law, not inconsistent with the  
22 constitutional amendment creating the Trustees, for the implementation of such  
23 amendment and for the transfer of such powers, duties, functions, and  
24 responsibilities.

25 Section 5. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
26 elected to each house concurring, that there shall be submitted to the electors of the state of  
27 Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal  
28 Article VIII, Sections 6, 7, 7.1, 8(B), and 12 of the Constitution of Louisiana.



1 Section 6. Be it further resolved that the provisions of this amendment shall become  
2 effective on January 1, 2013, except that the provisions of Article XIV, Section 41 shall  
3 become effective on January 1, 2012.

4 Section 7. Be it further resolved that this proposed amendment shall be submitted  
5 to the electors of the state of Louisiana at the statewide election to be held on October 22,  
6 2011.

7 Section 8. Be it further resolved that on the official ballot to be used at said election  
8 there shall be printed a proposition, upon which the electors of the state shall be permitted  
9 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall  
10 read as follows:

11 To reorganize the governance of public postsecondary education, including  
12 provisions to create the Louisiana Postsecondary Education Board of  
13 Trustees as a single governing board for postsecondary education, to abolish  
14 the Board of Regents and the management boards of the postsecondary  
15 education systems and institutions, and to transfer the powers, duties, and  
16 responsibilities of the abolished boards to the new board of trustees.  
17 (Effective January 1, 2013, except implementation provisions are effective  
18 January 1, 2012) (Amends Const. Art. IV, §22(A), Art. VII, §§10.1(C)(1) and  
19 (3) and (D)(1)(introductory paragraph), and 10.4(B)(1), (3), and (4), and Art.  
20 VIII, §§5 and 16; Adds Art. XIV, §41; Repeals Art. VIII, §§6, 7, 7.1, 8(B),  
21 and 12)

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Tucker

HB No. 391

**Abstract:** Creates the La. Postsecondary Education Board of Trustees, a single governing board for postsecondary education; abolishes the Board of Regents and the management boards of the postsecondary education systems, and transfers the powers, duties, and responsibilities of the abolished boards to the new Board of Trustees.

Present constitution establishes the Board of Regents to plan, coordinate, and have budgetary responsibility for all public postsecondary education. Provides that the board is comprised of two members from each congressional district and one member from the state at large, all appointed by the governor, subject to Senate confirmation, for staggered six-year terms. Provides that the board should be representative of the state's population by race and gender to ensure diversity.

Present constitution creates the Board of Supervisors for the University of Louisiana System, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and the Board of Supervisors of Southern University and Agricultural and Mechanical College all having supervision and management of certain "four-year" colleges and universities and, in the case of the LSU and SU boards, statewide agricultural programs and other programs administered through their systems. Provides that each board is comprised of two members from each congressional district and one member from the state at large, all appointed by the governor, subject to Senate confirmation, for staggered six-year terms.

Present constitution creates and provides for the Board of Supervisors of Community and Technical Colleges, which is the management board for the La. Technical College and specified community colleges. Provides that the system includes all programs of public postsecondary vocational-technical training, and, as provided by law, institutions of higher education which offer associate degrees but not baccalaureate degrees. Provides that the board has 15 members appointed by the governor (two members from each congressional district and the remainder from the state at large) subject to Senate confirmation, for staggered six-year terms, and two student members.

Present constitution specifies the powers of the Board of Regents. Provides that powers of management over public institutions of postsecondary education not specifically vested by the constitution in the Board of Regents are reserved to the management boards as to the institutions under the control of each.

Proposed constitutional amendment abolishes the Board of Regents, the three management boards of four-year colleges and universities, and the Board of Supervisors of Community and Technical Colleges. Creates instead the La. Postsecondary Education Board of Trustees. Provides that the board is comprised of two members from each congressional district and one from the state at large, all appointed by the governor, subject to Senate confirmation, for staggered six-year terms. Specifies that members serving on a date when a change in congressional districts becomes effective shall complete their terms and successors shall be appointed as provided in proposed constitutional amendment. Authorizes the board to provide for one student member to serve one term of one year and to have the rights of other board members. Provides that the board shall be representative of the state's population by race and gender to ensure diversity.

Proposed constitutional amendment provides for the powers and duties of the La. Postsecondary Education Board of Trustees. Grants the Board of Trustees the powers of supervision and management of institutions and programs of the LSU board, the SU board, the UL board, and the community and technical colleges board, all to be abolished by proposed constitutional amendment.

Present constitution authorizes the Board of Regents to study the need for and feasibility of creating a new institution of postsecondary education, which includes establishing a branch of an institution, converting an institution that does not grant degrees to one that does and converting an institution that grants degrees of lower rank than a baccalaureate degree to one that offers such degrees, or merging any institution of postsecondary education into another. Provides that if the creation of a new institution or the merger of institutions, addition of management boards, or transfer of institutions among boards is proposed by the legislature, the board shall report its written findings and recommendations to the legislature within one year after such a proposal. Provides that only after the report has been filed, or after one

year after the legislative proposal if no report is filed, may the legislature take affirmative action on such a proposal and then only by law enacted by two-thirds of the elected members of each house.

Proposed constitutional amendment retains present constitution except removes the provisions relative to proposals to add management boards and transfer institutions among boards thus making the requirement for a 2/3 vote of each house for the legislature to take action applicable only to proposals to create new institutions or merge institutions.

Proposed constitutional amendment otherwise generally provides that the trustees exercise the powers and duties of the Board of Regents being abolished by proposed constitutional amendment, including authority:

- (1) To plan, coordinate, and exercise budgetary responsibility for all postsecondary education institutions.
- (2) To revise or eliminate an existing degree program, department of instruction, division, or similar subdivision.
- (3) To approve, disapprove, or modify a proposed degree program, department of instruction, division, or similar subdivision.
- (4) To formulate and make timely revision of a master plan for postsecondary education which as a minimum shall include a formula for equitable distribution of funds to the institutions of postsecondary education.
- (5) To require that each institution (instead of each management board) submit to it, at a time it specifies, an annual budget proposal for its operational and capital needs. Requires the board to submit its budget recommendations for all postsecondary education institutions and recommend priorities for capital construction and improvements.
- (6) To meet with the State Board of Elementary and Secondary Education at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education.

Present constitution provides that appropriations for the institutions of higher education be made to their managing boards and that the funds appropriated be administered by the managing boards and used solely as provided by law.

Proposed constitutional amendment provides that appropriations for public postsecondary education institutions and other public postsecondary education purposes be made to and administered by the Board of Trustees and used solely as provided by law.

Proposed constitutional amendment retains present constitution provisions for limitations of the terms a member may serve, not more than two and 1/2 in three consecutive terms, and makes them applicable to the Board of Trustees.

Proposed constitutional amendment changes references to the Board of Regents in provisions for the Higher Education La. Partnership Program to the Board of Trustees.

Present constitution authorizes the legislature to provide for operation and management of public hospitals and their programs by the Board of Regents or a management board. Excepts from such authority institutions and programs operated by a management board prior to Jan. 1, 1997.

Proposed constitutional amendment authorizes the legislature to provide for operation and management of public hospitals by the Board of Trustees. Removes exception for institutions and programs operated by a management board prior to Jan. 1, 1997.

Relative to implementation (implementation provisions are effective Jan. 1, 2012), proposed constitutional amendment provides that on the effective date of the amendment (Jan. 1, 2013), the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, and the Board of Supervisors for the University of Louisiana System are abolished and on that date, except as inconsistent with the amendment, the Louisiana University System Board of Trustees, the "Trustees" is created and the powers, duties, functions, and responsibilities of such abolished boards are transferred to the Trustees. Requires the legislature to provide by law for the implementation of the amendment and for the transfer of such powers, duties, functions, and responsibilities. Further provides that the Board of Regents and the management boards shall take such action prior to Jan. 1, 2013, as necessary to provide for implementation of the Trustees on that date. Requires the governor to appoint the initial members of the Trustees not later than March 1, 2012, for initial terms as provided by law, and that such members shall take such actions as authorized by law to provide for implementation of the Trustees on Jan. 1, 2013.

Effective Jan. 1, 2013, except transition provisions are effective Jan. 1, 2012.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 22, 2011.

(Amends Const. Art. IV, §22(A), Art. VII, §§10.1(C)(1) and (3) and (D)(1)(intro. para.), and 10.4(B)(1), (3), and (4), and Art. VIII, §§5 and 16; Adds Const. Art. XIV, §41; Repeals Const. Art. VIII, §§6, 7, 7.1, 8(B), and 12)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Provides that the Board of Trustees shall be representative of the state's population by race and gender instead of should be so representative.
2. Reinstates present constitution that requires a 2/3 vote of each house for the legislature to take action on proposals to create new institutions or merge institutions.