

Regular Session, 2011

SENATE BILL NO. 140

BY SENATOR APPEL

POSTSECONDARY ED. Constitutional Amendment to abolish the Board of Regents and the postsecondary management boards and transfer their powers, duties, and responsibilities to a newly created La. Postsecondary Education Board of Trustees. (2/3 - CA13s1(A))

1 A JOINT RESOLUTION

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

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

1 §22. Term Limits; Certain Boards and Commissions

2 (A) A person who has served as a member of any one or more of the
3 following boards or commissions for more than two and one-half terms in three
4 consecutive terms combined shall not serve as a member of any of the following
5 boards or commissions for a period of at least two years after the completion of such
6 consecutive terms of service:

- 7 (1) The Public Service Commission.
- 8 (2) The State Board of Elementary and Secondary Education.
- 9 (3) The ~~Board of Regents~~ **Louisiana Postsecondary Education Board of**
- 10 **Trustees.**
- 11 (4) ~~The Board of Supervisors for the University of Louisiana System.~~
- 12 (5) ~~The Board of Supervisors of Louisiana State University and Agricultural~~
- 13 ~~and Mechanical College.~~
- 14 (6) ~~The Board of Supervisors of Southern University and Agricultural and~~
- 15 ~~Mechanical College.~~
- 16 (7) ~~The Board of Supervisors of Community and Technical Colleges.~~
- 17 (8) The Forestry Commission.
- 18 (9) **(5)** The State Civil Service Commission.
- 19 (10) **(6)** The State Police Commission.

20 * * *

21 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
22 elected to each house concurring, that there shall be submitted to the electors of the state of
23 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
24 amend Article VII, Section 10.1(C)(1) and (3) and (D)(1)(introductory paragraph) and
25 10.4(B)(1), (3), and (4) of the Constitution of Louisiana, to read as follows:

26 §10.1. Quality Trust Fund; Education

27 Section 10.1.

28 * * *

29 (C) Reports; Allocation. (1) The State Board of Elementary and Secondary

1 Education and the ~~Board of Regents~~ **Louisiana Postsecondary Education Board**
 2 **of Trustees** shall annually submit to the legislature and the governor not less than
 3 sixty days prior to the beginning of each regular session of the legislature a proposed
 4 program and budget for the expenditure of the monies in the Support Fund.
 5 Proposals for such expenditures shall be designed to improve the quality of education
 6 and shall specifically designate those monies to be used for administrative costs, as
 7 defined and authorized by law.

8 * * *

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

15 * * *

16 (D) Disbursement; Higher Education and Elementary and Secondary
 17 Education.

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

23 * * *

24 §10.4. Higher Education Louisiana Partnership Fund; Program

25 Section 10.4.

26 * * *

27 (B) Higher Education Louisiana Partnership Program. (1) Upon
 28 appropriation by the legislature, the monies in the fund shall be divided into
 29 matching grants for the Higher Education Louisiana Partnership Program which shall

1 be administered by the ~~Board of Regents~~ **Louisiana Postsecondary Education**
 2 **Board of Trustees**. The ~~Board of Regents~~ **board** may allocate program funds to
 3 each public or independent institution of higher education on a one to one and
 4 one-half matching basis or one twenty thousand dollar state matching grant for each
 5 thirty thousand dollars raised specifically for the purposes of participation in the
 6 Higher Education Louisiana Partnership Program by the institutions of higher
 7 education from private sources. The state matching portion shall be allocated by the
 8 ~~Board of Regents~~ **Louisiana Postsecondary Education Board of Trustees** only
 9 after it determines that an eligible institution has accumulated not less than the
 10 minimum required amount from private sources for the purposes of the Higher
 11 Education Louisiana Partnership Program.

12 * * *

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

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

25 * * *

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

1 §5. ~~Board of Regents~~ **Louisiana Postsecondary Education Board of Trustees**

2 Section 5.(A) Creation; Functions. The ~~Board of Regents~~ **Louisiana**
3 **Postsecondary Education Board of Trustees, referred to in this Section as the**
4 **board or the Board of Trustees,** is created as a body corporate. It shall plan,
5 coordinate, **supervise, manage,** and have budgetary responsibility for all public
6 postsecondary education. ~~and~~ **The board** shall have other powers, duties, and
7 responsibilities provided in this Section or by law.

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

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

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

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

27 (D) Powers. The Board of ~~Regents~~ **Trustees** shall meet with the State Board
28 of Elementary and Secondary Education at least twice a year to coordinate programs
29 of public elementary, secondary, vocational-technical, career, and higher education.

1 The Board of ~~Regents~~ **Trustees** shall have the following powers, duties, and
2 responsibilities relating to public institutions of postsecondary education:

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

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

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

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

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

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

1 postsecondary education in the state. It shall recommend priorities for capital
2 construction and improvements.

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

14 * * *

15 §16. Public Hospitals

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

27 Section 4. Be it further resolved by the Legislature of Louisiana, two-thirds of the
28 members elected to each house concurring, that there shall be submitted to the electors of
29 the state of Louisiana, for their approval or rejection in the manner provided by law, a

1 proposal to add Part IV of Article XIV of the Constitution of Louisiana, to be comprised of
2 Section 41, to read as follows:

3 PART IV

4 §41. Louisiana Postsecondary Education Board of Trustees; Implementation

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

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

25 (C) The legislature shall provide by law, not inconsistent with the
26 constitutional amendment creating the Trustees, for the implementation of such
27 amendment and for the transfer of such powers, duties, functions, and
28 responsibilities.

29 Section 5. Be it resolved by the Legislature of Louisiana, two-thirds of the members

1 elected to each house concurring, that there shall be submitted to the electors of the state of
2 Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal
3 Article VIII, Sections 6, 7, 7.1, 8(B), and 12 of the Constitution of Louisiana.

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

7 Section 7. Be it further resolved that this proposed amendment shall be submitted
8 to the electors of the state of Louisiana at the statewide election to be held on October 22,
9 2011.

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

14 To reorganize the governance of public postsecondary education, including
15 provisions to create the Louisiana Postsecondary Education Board of
16 Trustees as a single governing board for postsecondary education, to abolish
17 the Board of Regents and the management boards of the postsecondary
18 education systems and institutions, and to transfer the powers, duties, and
19 responsibilities of the abolished boards to the new board of trustees.

20 (Effective January 1, 2013, except implementation provisions are effective
21 January 1, 2012)

22 (Amends Const. Art. IV, Section 22(A), Art. VII, Sections 10.1(C)(1) and (3)
23 and (D)(1)(introductory paragraph) and 10.4(B)(1), (3), and (4), and Art.
24 VIII, Sections 5 and 16; adds Art. XIV, Section 41; repeals Art. VIII,
25 Sections 6, 7, 7.1, 8(B), and 12)

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jeanne C. Johnston.

DIGEST

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 Louisiana 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 creates and provides for the Board of Regents. Provides that the 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 Louisiana 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 should 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 Louisiana 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, establishing a new management board, and transferring a college or university from one board to another.

Provides that, if the creation of a new institution, the merger of institutions, the addition of another management board, or the transfer of an existing institution from one board to another is proposed, 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 instead authorizes the new board of trustees to study only the need for and feasibility of creating a new institution of postsecondary education or the merger of institutions.

Retains explanation of what creation of a new institution includes.

Deletes authority to study and make recommendations relative to the establishment of a new management board or the transfer of an institution from one management board to another.

Removes the requirement that legislative approval be by a 2/3 vote of each house.

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. At a minimum, the plan 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. The board shall submit its budget recommendations for all postsecondary education institutions. It shall 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 instead 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 constitutional provisions for limitations of the terms a member may serve - not more than two and one-half in three consecutive terms - and makes them applicable to the Louisiana Postsecondary Education Board of Trustees.

Proposed constitutional amendment changes references to the Board of Regents in provisions for the Higher Education Louisiana 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 January 1, 1997.

Proposed constitutional amendment authorizes the legislature to provide for operation and management of public hospitals by the Louisiana Postsecondary Education Board of Trustees. Removes exception for institutions and programs operated by a management board prior to January 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 College, the Board of Supervisors of Southern University and Agricultural 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 Postsecondary Education 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 January 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 January 1, 2013.

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

Specifies submission of the amendment to the voters at the statewide election to be held on October 22, 2011.

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