

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

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; and to
11 provide for related matters.

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

16 §22. Term Limits; Certain Boards and Commissions

17 (A) A person who has served as a member of any one or more of the
18 following boards or commissions for more than two and one-half terms in three
19 consecutive terms combined shall not serve as a member of any of the following

boards or commissions for a period of at least two years after the completion of such consecutive terms of service:

(1) The Public Service Commission.

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

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

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

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

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

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

~~(8)~~ The Forestry Commission.

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

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

* * *

Section 2. 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 VII, Sections 10.1(C)(1) and (3) and (D)(1)(introductory paragraph) and 10.4(B)(1), (3), and (4) of the Constitution of Louisiana, to read as follows:

§10.1. Quality Trust Fund; Education

Section 10.1.

* * *

(C) Reports; Allocation. (1) The State Board of Elementary and Secondary Education and the ~~Board of Regents~~ Louisiana Postsecondary Education Board of Trustees shall annually submit to the legislature and the governor not less than sixty days prior to the beginning of each regular session of the legislature a proposed program and budget for the expenditure of the monies in the Support Fund.

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

4 * * *

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

11 * * *

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

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

19 * * *

20 §10.4. Higher Education Louisiana Partnership Fund; Program

21 Section 10.4.

22 * * *

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

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

8 * * *

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

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

21 * * *

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

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

27 Section 5.(A) Creation; Functions. The ~~Board of Regents~~ Louisiana
28 Postsecondary Education Board of Trustees, referred to in this Section as the board
29 or the Board of Trustees, is created as a body corporate. It shall plan, coordinate,

1 supervise, manage, and have budgetary responsibility for all public postsecondary
2 education. ~~and~~ The board shall have other powers, duties, and responsibilities
3 provided in this Section or by law.

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

(E) Powers Not Vested. Powers of management over public institutions of postsecondary education not specifically vested by this Section in the Board of Regents are reserved to 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, the Board of Trustees for State Colleges and Universities, the Board of Supervisors of Community and Technical Colleges, and any other such board created pursuant to this Article, as to the institutions under the control of each. Appropriations. Appropriations for the institutions of public postsecondary education and for all other public postsecondary education purposes shall be made to and administered by the Board of Trustees and shall be used solely as provided by law.

* * *

§16. Public Hospitals

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

Section 4. Be it further 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 add Part IV of Article XIV of the Constitution of Louisiana, comprised of 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)

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)]

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 and creates the La. Postsecondary Education Board of Trustees. Provides that the board is comprised of 15 members, with at least two members from each congressional district and the remainder 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 2/3 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 2-1/2 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.

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the engrossed bill.

1. Provided for the addition or loss of a congressional district by clarifying that the board shall consist of 15 members, with at least two from each congressional district and the remainder appointed at large.