SB499

139592-3

By Senators Holtclaw and Orr

RFD: Finance and Taxation Education

First Read: 10-APR-12
ENROLLED, An Act,

To amend Section 16-60-110, Code of Alabama 1975, to remove Athens State University from under the jurisdiction, supervision, and control of the State Board of Education and Department of Postsecondary Education; to provide for the mission of the university; to create and provide for the governance of the university under the Board of Trustees of Athens State University; to provide for certain powers and duties of the board; to provide for meetings of the board; to provide for a quorum for the transaction of business; to provide for the filling of vacancies on the board and for the creation and use of a nominating committee to fill vacancies on the board; to provide for the appointment and duties of a president of the university; to provide for the employment of suitable persons to act as police officers for the university; and to authorize the Code Commissioner to revise references to Athens State University in the Code of Alabama 1975, as appropriate, to reflect the status of the university under this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

"(3) STATE. The State of Alabama.

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

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

Section 2. The school heretofore established in Athens, Alabama, and previously known as Athens State College and now known as Athens State University, is and shall remain a body corporate under the corporate name of Athens State University, and by that name, and under the direction of a board of trustees, may sue and contract, acquire, and hold real and personal property, and have and exercise all the
powers of a corporation established to be a state educational
institution of higher learning and shall succeed to all the
rights, privileges, emoluments, benefits, interests, and
titles heretofore at any time vested in the institution in its
respective names; however, Athens State University is not
authorized to acquire, be acquired, merge or consolidate with
any university or college located more than 50 miles from its
current campus. None of the powers, authority, or functions of
the corporation provided for in this act shall be abated or
impaired by this section, except as noted above. Whenever the
institution is referred to in the laws of Alabama, by any one
of the respective names by which it has been known, the same
shall be considered to refer to Athens State University.

Section 3. Commencing on the effective date of this
act, the Athens State University Board of Trustees, as created
in Section 5, shall have exclusive jurisdiction, supervision,
and control of Athens State University and the State Board of
Education shall be divested of all jurisdiction, power, and
authority with regard to the supervision, management, and
control of the university, except as otherwise provided in
this act. In addition to the powers, duties, and authority
vested in the board by this section, the board shall have and
exercise all power, authority, and duties conferred on, vested
in, or required of the State Board of Education or the
Department of Postsecondary Education before the effective
date of this act, under the laws of this state with regard to
the supervision, management, and control of the university. On
or before the effective date of this act, the State Board of
Education shall transfer to the board all supplies, funds,
books, documents, records, and other property or effects of
the university. After the effective date of this act, the
university may continue to offer all current units or programs
of instruction for academic credit without new or additional
approval from the Alabama Commission on Higher Education, so
long as those units or programs of instruction for academic
credit were offered by the university before the effective
date of this act. The University shall continue to be under
the jurisdiction of, and shall be subject to, the rules,
regulations and procedures of the Alabama Commission on Higher
Education.

Section 4. (a) Athens State University shall
provide, maintain, and operate public higher education
programs and facilities dedicated to the preparation of
students. The university shall provide educational services
for the greater community including advanced education for
mature students, private citizens, and service men and women,
in a manner that does not violate or cause a violation of
Title VI of the Civil Rights Act of 1964 or the United States
Constitution. The university shall provide an academic,
cultural, and social environment that fosters individuality
and develops productive members of society. The mission of the university shall be accomplished by providing services to students and the greater community through the utilization of university staff and facilities and through superior teaching, scholarship, creative activities, and public service.

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

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

(d) Resulting from and inherent in the mission of the university are a number of ongoing goals that the board, from time to time, may affirm on the basis of recommendations of the president of the university; however, the mission of the university, unique in Alabama higher education, shall remain limited to serving the upper division needs of transfer students. The university shall only offer strategic graduate programs approved by Alabama Commission on Higher Education with the intent to avoid duplication of programs by other state universities and colleges.

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

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

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

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

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

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

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

(b) Except as otherwise provided in this act, trustees shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office for a term of seven years and until their successors are appointed and qualified. Of the initial members appointed to the board
pursuant to subdivisions (1) and (2) of subsection (a), three members shall be appointed for terms of three years, three members shall be appointed for terms of five years, and two members shall be appointed for terms of seven years. These initial trustees, appointed after the effective date of this act, shall have immediate, interim authority to conduct such business as may be necessary to fulfill the intent of this act without Senate confirmation for not more than 12 months after appointment. No trustee shall receive any pay or emolument, other than his or her actual expenses incurred in the discharge of his or her duties as a trustee. No employee of the university, or any person related by blood or marriage to the president of the university, shall be eligible to serve on the board. No trustee may serve more than two terms of office, except that the initial trustees appointed pursuant to subdivisions (1) or (2) of subsection (a) may be appointed to one additional term regardless of the previous number of terms served.

(c) No member of the board, individually, as a partner, as a stockholder, a board member, or an officer of a corporate body, shall conduct any business transaction, directly or indirectly, with the university. Any person who violates this subsection shall be immediately removed from the board, and replaced for the unexpired portion of his or her term by appointment of the Governor. The president of the
university may not as an individual, or as an incorporator, officer, or director of any for profit entity, engage in any business in any manner which would conflict with his or her duties as president or with the best interests of the university or the students enrolled in the university. Nothing in this subsection shall be construed as forbidding the president from serving as a trustee of any other educational institution, as an officer of a church or other eleemosynary institution, or as an officer, director, or trustee of any organization from which no profit would accrue to him or her, or his or her immediate family, from any business of the organization for or with the university or the students enrolled in the university. Should the president of the university engage in any business in violation of this subsection, such action shall be sufficient cause for his or her immediate removal by the board.

(d) The Governor, the Chancellor of the Department of Postsecondary Education, and the member appointed pursuant to subdivision (3) of subsection (a), by virtue of his or her respective office, and the trustees appointed pursuant to subdivisions (1) and (2) of subsection (a), and their successors in office, are constituted and shall be considered a body corporate under the name of Athens State University.

Section 6. (a) The board shall have all the rights, privileges, and franchises necessary to the promotion of the
ends of its creation, and shall be charged with all
corresponding duties, liabilities, and responsibilities. The
board may hold and may lease, sell, or, in any other manner
not inconsistent with the object or terms of the grant or
grants under which it holds, dispose of any property, real or
personal, or any estate or interest therein remaining, of any
grant by any governmental unit or by any person, or accruing
to the corporation from any source, as the board may deem best
for the purposes of the university. The president of the
university, with the approval of the board, may execute any
lease, deed, or other instrument of conveyance on behalf of
the corporation, without additional approval.

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

Section 7. (a) The board shall hold its regular
annual meeting each year, on the first Monday in June, at the
main campus of the university, unless the board shall in
regular session determine to hold its meeting at some other
time and place. Thereafter, the board shall hold quarterly
meetings on the first Monday of each third month after the
annual meeting, unless the board shall in regular session
determine to hold its quarterly meeting at some other time or
place. Special meetings of the board may be assembled by
either of the two following methods:

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

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

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

(c) All meetings of the board shall be subject to
and comply with all applicable provisions of state law.
Section 8. Six members of the board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day until a quorum is present.

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

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

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

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

(3) The presiding officer of the Athens State University Staff Senate.
(4) One member of the Limestone County Legislative Delegation, as selected by the delegation.

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

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

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

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

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

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

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

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

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

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

(3) Remove any instructors or officers.

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

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

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

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

(b) Full-time employees, whether tenured,
nontenured, nonprobationary, or probationary, who are employed
on the effective date of this act by the university, shall
retain any and all rights and privileges as provided in

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

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

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

Section 14. Commencing on the effective date of this act, the terms junior college, trade school, community college, and technical college, or any combination of these terms, as used in the Code of Alabama 1975, may not be interpreted to include Athens State University or its predecessor, Athens State College. After the effective date of this act, the Code Commissioner may revise any reference to Athens State University that refers to or classifies the university as a junior college, trade school, community college, or technical college.

Section 15. This act shall become effective October 1, 2012, following its passage and approval by the Governor, or its otherwise becoming law.
Kay Ivey
President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 26-APR-12.
I hereby certify that the within Act originated in and passed
the Senate.

Senate 16-MAY-12
I hereby certify that the within Act originated in and passed
the Senate, as amended by Executive Amendment.

Patrick Harris
Secretary

House of Representatives
Amended and Passed: 10-MAY-12

House of Representatives
Passed: 16-MAY-12, as amended by Executive Amendment.

By: Senator Holtzclaw

Alabama Secretary Of State
Act Num....: 2012-497
Bill Num....: S-499
Recvd 05/22/12  03:53pmSLF
I hereby certify that the notice & proof is attached to the Bill, SB ________, as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

This Bill was referred to the Standing Committee of the Senate on F+TE and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) ______ w/sub____ w/eng sub____

yeas 10 nays 0 abstain 0
this 14th day of May 2012

PATRICK HARRIS
Chairperson

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Education Policy was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amd(s) 1 w/sub 18 this 2nd day of May 2012.

M.M. McCLENDON
Chairperson
Chairperson

This day of 20

Nays

Abstain

By a vote of

W/Amd(s)
w/eng sub

Returned thereto with a favorable report

session and is by order of the Committee

and was acted upon by such Committee in

of the Senate on

This Bill was referred to the Standing Committee

COMMITTEE

☐ RE-REFERRED ☐ RE-REFERRED

DATE: 20

Greg Pappas, Clerk

Date: 1.1.19

F. 24 Nays 7 Abs

R. 36 Nays H Passed

HOUSE OF REPRESENTATIVES

RECONSIDERED

YEARS

NAVS

20

DATE:

INDEFINITELY POSTPONED

YEARS

NAVS

20

DATE:

(Continued)

HOUSE ACTION

(Continued)

SENATE ACTION