

1 HB679  
2 140803-1  
3 By Representative Williams (D)  
4 RFD: Education Policy  
5 First Read: 12-APR-12

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

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

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

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

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

24 This bill would provide for the filling of  
25 vacancies on the board and for the creation and use  
26 of a nominating committee to fill vacancies on the  
27 board.

1                   This bill would provide for the appointment  
2                   and duties of a president of the university.

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

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

11  
12                                   A BILL  
13                                   TO BE ENTITLED  
14                                   AN ACT  
15

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

1 president of the university; to provide for the employment of  
2 suitable persons to act as police officers for the university;  
3 and to authorize the Code Commissioner to revise references to  
4 Athens State University in the Code of Alabama 1975, as  
5 appropriate, to reflect the status of the university under  
6 this act.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 16-60-110 of the Code of Alabama  
9 1975, is amended to read as follows:

10 "§16-60-110.

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

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

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

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

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

22 ~~"(5) ATHENS STATE COLLEGE. An educational~~  
23 ~~institution offering instruction on the level of difficulty of~~  
24 ~~the third and fourth years above the high school level.~~

25 ~~Wherever used herein, the phrase "junior colleges and trade~~  
26 ~~schools" shall be understood to include Athens State College.~~

1                   "~~(5)(6)~~ POSTSECONDARY EDUCATION DEPARTMENT. A  
2 parallel organization to the State Department of Education  
3 directly responsible to the State Board of Education for the  
4 direction and supervision of junior colleges and trade schools  
5 and community colleges with a chief executive officer entitled  
6 ~~chancellor~~ Chancellor."

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

24                   Section 3. Commencing on the effective date of this  
25 act, the Athens State University Board of Trustees, as created  
26 in Section 5, shall have exclusive jurisdiction, supervision,  
27 and control of Athens State University and the State Board of

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

21 Section 4. (a) Athens State University shall  
22 provide, maintain, and operate public higher education  
23 programs and facilities dedicated to the preparation of  
24 students in a variety of preprofessional and professional  
25 fields at the baccalaureate and graduate degree levels for  
26 which they are approved. The university shall provide  
27 educational services for the greater community including

1 advanced education for mature students, private citizens, and  
2 service men and women. The university shall provide an  
3 academic, cultural, and social environment that fosters  
4 individuality and develops productive members of society. The  
5 mission of the university shall be accomplished by providing  
6 services to students and the greater community through the  
7 utilization of university staff and facilities and through  
8 superior teaching, scholarship, creative activities, and  
9 public service.

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

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

18 (d) Resulting from and inherent in the mission of  
19 the university are a number of ongoing goals that the board,  
20 from time to time, may affirm on the basis of recommendations  
21 of the president of the university.

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

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

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

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

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

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

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

19           (b) Except as otherwise provided in this act,  
20 trustees shall be appointed by the Governor, subject to  
21 confirmation by the Senate, and shall hold office for a term  
22 of seven years and until their successors are appointed and  
23 qualified. Of the initial members appointed to the board  
24 pursuant to subdivisions (1) and (2) of subsection (a), three  
25 members shall be appointed for terms of three years, three  
26 members shall be appointed for terms of five years, and two  
27 members shall be appointed for terms of seven years. These



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

15 (c) No member of the board, individually, as a  
16 partner, as a stockholder, a board member, or an officer of a  
17 corporate body, shall conduct any business transaction,  
18 directly or indirectly, with the university. Any person who  
19 violates this subsection shall be immediately removed from the  
20 board, and replaced for the unexpired portion of his or her  
21 term by appointment of the Governor. The president of the  
22 university may not as an individual, or as an incorporator,  
23 officer, or director of any for profit entity, engage in any  
24 business in any manner which would conflict with his or her  
25 duties as president or with the best interests of the  
26 university or the students enrolled in the university. Nothing  
27 in this subsection shall be construed as forbidding the

1 president from serving as a trustee of any other educational  
2 institution, as an officer of a church or other eleemosynary  
3 institution, or as an officer, director, or trustee of any  
4 organization from which no profit would accrue to him or her,  
5 or his or her immediate family, from any business of the  
6 organization for or with the university or the students  
7 enrolled in the university. Should the president of the  
8 university engage in any business in violation of this  
9 subsection, such action shall be sufficient cause for his or  
10 her immediate removal by the board.

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

18 Section 6. (a) The board shall have all the rights,  
19 privileges, and franchises necessary to the promotion of the  
20 ends of its creation, and shall be charged with all  
21 corresponding duties, liabilities, and responsibilities. The  
22 board may hold and may lease, sell, or, in any other manner  
23 not inconsistent with the object or terms of the grant or  
24 grants under which it holds, dispose of any property, real or  
25 personal, or any estate or interest therein remaining, of any  
26 grant by any governmental unit or by any person, or accruing  
27 to the corporation from any source, as the board may deem best

1 for the purposes of the university. The president of the  
2 university, with the approval of the board, may execute any  
3 lease, deed, or other instrument of conveyance on behalf of  
4 the corporation, without additional approval.

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

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

26 (1) A special meeting of the board may be called by  
27 the Governor. In calling a special meeting, the Governor shall

1 mail a written notice to each trustee at least 10 days in  
2 advance of the date of the meeting.

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

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

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

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

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

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

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

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

10 (3) The presiding officer of the Athens State  
11 University Staff Senate.

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

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

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

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

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

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

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

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

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

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

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

23           (3) Remove any instructors or officers.

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

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

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

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

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

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

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

1 warrant. Such officers, with a warrant, may arrest any person  
2 found upon or near the premises of the university charged with  
3 any public offense and take them before any proper officer.

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

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

20 Section 15. This act shall become effective October  
21 1, 2012, following its passage and approval by the Governor,  
22 or its otherwise becoming law.