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COMMITTEE REPORT

May 24, 2012

**H. 5025**

Introduced by Reps. Govan, Cobb‑Hunter, King, Limehouse, J.H. Neal, Ott, R.L. Brown and Gilliard

S. Printed 5/24/12--S. [SEC 5/25/12 2:31 PM]

Read the first time May 1, 2012.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 5025) to amend Section 59‑127‑20, Code of Laws of South Carolina, 1976, relating to the Board of Trustees of South Carolina State University, so as to revise, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Section 59‑127‑20 of the 1976 Code is amended to read:

“Section 59‑127‑20. (A) South Carolina State University is managed and controlled by a board of trustees, composed of ~~thirteen~~ eleven members, ~~twelve~~ nine of whom are elected by the General Assembly~~, one member from each congressional district and six~~ from the State at large for terms of four years each and until their successors are elected and qualify. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina. A graduate of South Carolina State University, elected at large by secret ballot by the members of the South Carolina State University National Alumni Association, or its successor, is the tenth member of the board of trustees. The Governor of the State or his designee is ex officio, the ~~thirteenth~~ eleventh member of the board of trustees. In case of a vacancy on the board, the Governor may fill it by appointment until the next session of the General Assembly, except that the vacancies as provided in subsection (B) do not constitute a vacancy pursuant to this provision. Members of the board are entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively, ~~one corresponding in number to each congressional district and~~ Seats ~~7‑12~~ 1‑11 at large. Seat 10 shall be occupied by a South Carolina State University graduate elected at large by secret ballot by members of the South Carolina State University National Alumni Association, or its successor. The Governor or his designee occupies Seat ~~13~~ 11. ~~Of the three present members of the board who reside in the sixth congressional district, the member with the longest remaining current term shall be the resident member selected from that congressional district occupying Seat 6. The two remaining members not determined to be the resident member from the sixth congressional district shall be considered at‑large members of the board occupying Seats 8 and 12, respectively. The terms of each of these three members shall not be affected by the provisions of this paragraph.~~

~~The~~ Except as provided in subsection (B), the terms of the ~~present~~ members of the board who are elected by the General Assembly expire on the thirtieth day of June of the year in which the terms are scheduled to expire. The General Assembly shall elect successors to the elective trustees not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to fill the vacancy expires on the last day of June of the year in which the term of the former member would have expired.

(B) ~~Beginning with members elected to the board during 1992, terms of members are four years. In 1993, members from Seats 1, 2, 3, 4, 5, and 11 must be elected, and the term of the member elected in 1993 from Seat 3 shall be one year, the terms of the members elected in 1993 from Seats 1, 2, and 4 shall be two years each, the term of the member elected in 1993 from Seat 11 shall be three years, and the term of the member elected in 1993 from Seat 5 shall be four years. Thereafter, successors to the members of the board elected in 1993 and successors to members of the board provided six‑year terms by the provisions of this subsection must be elected for terms of four years each.~~

(1) The terms of persons serving on former Seats 11 and 12 end as of June 30, 2012. On or after June 30, 2012, the Governor or his designee serves on Seat 11. The terms of persons serving on former Seats 5, 6, 8, and 10 end as of June 30, 2013. The General Assembly shall elect in 2013 from the State at large the persons to serve on Seats 5, 6, and 8 for terms of four years to begin on July 1, 2013. Pursuant to subsection (A), the South Carolina State University National Alumni Association shall elect by secret ballot, on or before June 30, 2013, a graduate to serve on Seat 10.

(2) As of June 30, 2014, the terms of the persons serving on former Seats 3, 7, and 9 end. The General Assembly shall elect in 2014 from the State at large the persons to serve on Seats 3, 7, and 9 for terms of four years to begin on July 1, 2014.

(3) As of June 30, 2015, the terms of the persons serving on former Seats 1, 2, and 4 end. The General Assembly shall elect in 2015 from the State at large the persons to serve on Seats 1, 2, and 4 for terms of four years to begin on July 1, 2015.

(C)(1) By no later than August 30, 2013, the South Carolina Commission on Higher Education shall produce a draft report, provided to all members of the board of trustees, that contains a review of the policies on personnel, procurement, and accounting of finances that have been promulgated and implemented by South Carolina State University and its board of trustees as of that date. The report shall contain recommendations for changes to these policies consistent with improving institutional effectiveness, accountability, and performance. The board and all personnel in the university must cooperate with the Commission on Higher Education in its review of these policies.

(2) Upon receipt of the draft report, the board of trustees shall have forty days to respond to the South Carolina Commission on Higher Education on each of the recommendations and on any inaccuracies in the draft report. The response must include information as to the acceptance or rejection of each recommendation. If a recommendation is rejected, the board must provide in its response why it has rejected the recommendation. If a recommendation is accepted, the board must provide in its response how the recommendation shall be implemented.

(3) The Commission on Higher Education, within forty‑five days of receipt of the responses from the board of trustees, shall make any revisions to the draft report necessary to correct inaccurate statements and include the responses from the board of trustees. This will be considered the final report. This final report shall be posted on the websites of the South Carolina Commission on Higher Education and South Carolina State University, and an electronic copy shall also be provided to the President Pro Tempore of the South Carolina Senate and to the Speaker of the House of Representatives. ” /

Renumber sections to conform.

Amend title to conform.

JOHN E. COURSON for Committee.

**A** **BILL**

TO AMEND SECTION 59‑127‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF TRUSTEES OF SOUTH CAROLINA STATE UNIVERSITY, SO AS TO REVISE THE NUMBER OF BOARD MEMBERS AND THE MANNER IN WHICH MEMBERS OF THE BOARD ARE ELECTED TO ACCOUNT FOR THE NEW SEVENTH CONGRESSIONAL DISTRICT AND THREE ALUMNI MEMBERS, AND TO REVISE OTHER PROVISIONS RELATING TO TERMS OF BOARD MEMBERS, INCLUDING A PROVISION THAT THE TERMS OF ALL PRESENTLY ELECTED MEMBERS OF THE BOARD SHALL EXPIRE ON JUNE 30, 2012, AT WHICH TIME THEIR SUCCESSORS ELECTED AS PROVIDED BY THIS SECTION SHALL TAKE OFFICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 59‑127‑20 of the 1976 Code is amended to read:

“Section 59‑127‑20. (A)(1) South Carolina State University is managed and controlled by a board of trustees, composed of ~~thirteen~~ eleven members, ~~twelve~~ seven of whom are elected by the General Assembly, one member from each of the seven congressional ~~district~~ districts and ~~six~~ one from the State at large for terms of four years each and, except as otherwise provided in subsection (B)(1), until their successors are elected and qualify. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.

(2) In addition, there must be one alumni member of the board who must be elected for a term of four years and until his successor is elected and qualifies by the means and methods determined by the National Alumni Association of the university or any succeeding organization. The result of this election must be certified by the president of the alumni association to the Secretary of State within ten days of the alumni member being elected and taking office.

(3) The president of the student body or student government association of the University, if he or she is a qualified elector of this State, shall serve ex officio as the tenth member of the board with full privileges, including the right to vote. If the president of the student body or student government association is not a qualified elector of this State, he or she shall designate another student body officer or officer of the student government association who is such a qualified elector to serve in his place.

(4) The Governor of the State or his designee is ex officio, the ~~thirteenth~~ eleventh member of the board of trustees. Except as otherwise provided in subsection (B)(1), in case of a vacancy on the board, the Governor may fill it by appointment until the ~~next session of the General Assembly~~ successor is elected in the manner of original election. Members of the board are entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively, one corresponding in number to each congressional district and ~~Seats 7‑12~~ Seat 8 at large, Seat 9 for the alumni member, and Seat 10 for the president of the student body, the student government association, or the other designated student officer. The Governor or his designee occupies Seat ~~13~~ 11.

~~Of the three present members of the board who reside in the sixth congressional district, the member with the longest remaining current term shall be the resident member selected from that congressional district occupying Seat 6. The two remaining members not determined to be the resident member from the sixth congressional district shall be considered at‑large members of the board occupying Seats 8 and 12, respectively. The terms of each of these three members shall not be affected by the provisions of this paragraph.~~

Except as otherwise provided in subsections (B) and (C), the terms of the ~~present~~ members of the board who are elected by the General Assembly expire on the thirtieth day of June of the year in which the terms are scheduled to expire~~.~~, and the General Assembly shall elect successors to the elective trustees not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to fill the vacancy expires on the last day of June of the year in which the term of the former member would have expired.

(B) ~~Beginning with members elected to the board during 1992, terms of members are four years. In 1993, members from Seats 1, 2, 3, 4, 5, and 11 must be elected, and the term of the member elected in 1993 from Seat 3 shall be one year, the terms of the members elected in 1993 from Seats 1, 2, and 4 shall be two years each, the term of the member elected in 1993 from Seat 11 shall be three years, and the term of the member elected in 1993 from Seat 5 shall be four years. Thereafter, successors to the members of the board elected in 1993 and successors to members of the board provided six‑year terms by the provisions of this subsection must be elected for terms of four years each.~~ (1) Notwithstanding any other provision of law, the current terms of all present members of the board are terminated on the effective date of this item (1). On the effective date of this item (1), these present member’s terms come to an end and they may not serve in a hold‑over capacity until members of the interim governing board provided for in subsection (C) are appointed, qualify, and take office. The termination of the present member’s terms as provided in this item (1) does not constitute a vacancy which may be filled by appointment of the Governor as provided in subsection (A).

(2) The General Assembly as provided in subsection (A) shall elect the eight members it elects to the board during its 2014 session as provided by law with such newly elected members to take office on July 1, 2014. Notwithstanding the provisions of subsection (A), members elected in 2014 from the First, Third, Fifth, and Seventh Congressional Districts shall serve initial terms of four years each, and members elected from the Second, Fourth, and Sixth Congressional Districts and from the state at large shall serve initial terms of two years each. Successors to all these members shall then be elected for terms of four years each.

(3) The member elected by the National Alumni Association as provided in subsection (A) shall be elected by the National Alumni Association on or before June 30, 2014, with such newly elected member to take office on July 1, 2014. This member shall serve a term of four years and until his successor is elected and qualifies.

(C)(1) Between the effective date of this subsection and June 30, 2014, an interim governing board for South Carolina State University is hereby established. The interim governing board shall consist of seven members, three appointed by the Speaker of the House of Representatives, three appointed by the President Pro Tempore of the Senate, and one appointed by the Governor. Each of the seven members shall serve for terms to expire on June 30, 2014, and must meet all qualifications provided by law for a public official or officer of this State, including being a qualified elector of this State.

(2)(a) Each of the seven members of the interim governing board must possess a background of at least ten years in any one or any combination of the following fields of expertise:

(1) economics or economic development;

(2) finance or accounting;

(3) law or government;

(4) higher education gained from serving as an administrator or tenured faculty member of an accredited four‑year college or university;

(5) business management gained from serving as a chief executive officer, director, or executive in an upper level management position of an ongoing and successful business enterprise.

(b) At least one of the members of the interim governing board appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate must be an alumnus of the university in addition to possessing the qualifications identified in subitem (a) of item (2).

(3) The members of the interim governing board shall serve from the date of their appointment until June 30, 2014, at which time the interim governing board is abolished. Vacancies must be filled in the manner of original appointment. The interim governing board after appointment at its first meeting shall elect a chairman, vice chairman, and such other officers as it considers necessary. The interim governing board shall possess all powers, duties, and authority granted or imposed by law upon the board of trustees of the university.

(4) During the period the interim governing board is performing the duties imposed upon it as provided by this section and by law, the former board members have no authority over the affairs of the institution and may not act or purport to act on behalf of the institution in any manner under which they were empowered to act before the interim governing board went into effect and its membership appointed.

(5) The General Assembly acknowledges the importance of South Carolina State University as a land grant institution and historically black college and university (HBCU) and it’s unique role in South Carolina’s higher education community. Further, the General Assembly expresses its strong belief that South Carolina State University needs a new direction and new executive leadership and instructs the interim governing board to immediately terminate any individual then serving as president of the university at the time the interim governing board comes into existence. It may then select another person to serve as president, but is not required to do so. In this event, it may designate someone to serve as acting president until a permanent successor is selected at a later time by the interim governing board or by the newly established board of trustees of the university. If the interim governing board refuses to follow the provisions of this item (5), it shall notify the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor of the reasons why in writing within ten days of its decision not to terminate the individual then serving as president.”

SECTION 2. Nothing in this act may be construed to effect the historically black colleges or universities designation of South Carolina State University.

SECTION 3. This act takes effect upon approval by the Governor.

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