

2018 Regular Session

SENATE BILL NO. 43

BY SENATOR APPEL

POSTSECONDARY ED. Constitutional Amendment to abolish the Board of Regents and the postsecondary management boards and transfer their powers, duties, functions, and responsibilities to a newly created Board of Trustees for Postsecondary Education. (2/3-CA13sl(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 the introductory paragraph of (D)(1) 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 (D), and 12 of the Constitution of  
6 Louisiana, to provide for the governance of public postsecondary education; to create  
7 the Board of Trustees for Postsecondary Education; to abolish the Board of Regents  
8 and the postsecondary education management boards and transfer their powers,  
9 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 specify an election for submission of the proposition to electors and provide a ballot  
12 proposition.

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

17 §22. Term Limits; Certain Boards and Commissions

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

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

18 \* \* \*

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

24 §10.1. Quality Trust Fund; Education

25 Section 10.1.

26 \* \* \*

27 (C) Reports; Allocation. (1) The State Board of Elementary and Secondary  
28 Education and the Board of Regents **Trustees for Postsecondary Education** shall  
29 annually submit to the legislature and the governor, not less than sixty days prior to

1 the beginning of each regular session of the legislature, a proposed program and  
2 budget for the expenditure of the monies in the Support Fund. Proposals for such  
3 expenditures shall be designed to improve the quality of education and shall  
4 specifically designate those monies to be used for administrative costs, as defined  
5 and authorized by law.

6 \* \* \*

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

13 \* \* \*

14 (D) Disbursement; Higher Education and Elementary and Secondary  
15 Education. (1) The treasurer shall disburse not more than fifty percent of the monies  
16 in the Support Fund as that money is appropriated by the legislature and allocated by  
17 the Board of ~~Regents~~ **Trustees for Postsecondary Education** for any or all of the  
18 following higher educational purposes to enhance economic 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 appropriation  
24 by the legislature, the monies in the fund shall be divided into matching grants for  
25 the Higher Education Louisiana Partnership Program which shall be administered by  
26 the Board of ~~Regents~~ **Trustees for Postsecondary Education**. The ~~Board of~~  
27 ~~Regents~~ **board** may allocate program funds to each public or independent institution  
28 of higher education on a one to one and one-half matching basis or one twenty  
29 thousand dollar state matching grant for each thirty thousand dollars raised

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

7 \* \* \*

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

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

20 \* \* \*

21 Section 3. 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 VIII, Sections 5 and 16 of the Constitution of Louisiana, to read as follows:

25 §5. Board of ~~Regents~~ **Trustees for Postsecondary Education**

26 Section 5.(A) Creation; Functions. The Board of ~~Regents~~ **Trustees for**  
 27 **Postsecondary Education, referred to in this Section as the board or the Board**  
 28 **of Trustees**, is created as a body corporate. It shall plan, coordinate, **supervise,**  
 29 **manage,** and have budgetary responsibility for all public postsecondary education.

1 ~~and~~ **The board** shall have other powers, duties, and responsibilities provided in this  
2 Section or by law.

3 (B)(1) Membership; Terms. The board shall be composed of fifteen members,  
4 of whom two members shall be from each congressional district and the remaining  
5 member or members shall be from the state at large, **and all of whom shall be**  
6 **appointed by the governor, with consent of the Senate, for overlapping terms of six**  
7 **years, following initial terms which shall be fixed by law.** The board should be  
8 representative of the state's population by race and gender to ensure diversity.

9 ~~(2) No person who has served as a member of the board for more than two~~  
10 ~~and one-half terms in three consecutive terms shall be appointed to the board for the~~  
11 ~~succeeding term. This Subparagraph shall not apply to any person appointed to the~~  
12 ~~board prior to the effective date of this Subparagraph, except that it shall apply to any~~  
13 ~~term of service of any such person that begins after such date.~~ **In addition to the**  
14 **members provided for in Subparagraph (1) of this Paragraph, the legislature**  
15 **may provide for the membership of one student on the board. The term of a**  
16 **student member shall not exceed one year, and no student member shall be**  
17 **eligible to succeed himself. A student member shall have all of the privileges and**  
18 **rights of other board members.**

19 (C) Vacancy. A vacancy occurring prior to the expiration of a term shall be  
20 filled for the remainder of the unexpired term by appointment by the governor, with  
21 consent of the Senate. **A change in congressional districts does not cause a**  
22 **vacancy, regardless of the geographic distribution of members resulting from**  
23 **the change; however, based on congressional districts as they exist at the time**  
24 **a vacancy is being filled, the governor shall, to the extent possible, fill vacancies**  
25 **so that there will be at least two members from each congressional district as**  
26 **required by Subparagraph (B)(1) of this Section.**

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 postsecondary  
24 education. As a minimum, the plan shall include a formula for equitable distribution  
25 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 Board of Regents or by any board having  
19 powers of management over public institutions of higher education created by this  
20 constitution or pursuant to this Article Trustees for Postsecondary Education.  
21 Such laws may include but shall not be limited to laws providing for the submission  
22 and approval of capital and operating budgets, appropriations and expenditures, the  
23 supervision, management, and oversight of the hospitals and their programs, and  
24 legislative review and disapproval of related rules. ~~This Section shall not apply to~~  
25 ~~institutions and programs operated or managed prior to January 1, 1997, by any~~  
26 ~~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, comprised of  
2 Section 41, to read as follows:

3 PART IV

4 **§41. Board of Trustees for Postsecondary Education; Implementation**

5 **(A) On January 1, 2020, 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 Board**  
11 **of Trustees for Postsecondary Education, referred to in this Section as the**  
12 **"Board of Trustees", the Board of Trustees is created and the powers, duties,**  
13 **functions, and responsibilities of such abolished boards are transferred to the**  
14 **Board of 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, 2020, to provide for implementation of the Board of Trustees on**  
21 **that date. The governor shall appoint the initial members of the Board of**  
22 **Trustees not later than March 1, 2019, and such members shall take such**  
23 **actions as authorized by law to provide for implementation of the Board of**  
24 **Trustees on January 1, 2020. In making initial appointments, the governor shall**  
25 **designate the expiration date of the term to which each initial member is**  
26 **appointed. The designations shall be made in such manner as to cause the terms**  
27 **of five initial members to expire in 2021, five in 2023, and five in 2025.**

28 **(C) The legislature shall provide by law, not inconsistent with the**  
29 **constitutional amendment creating the Board of Trustees, for the**



1           **implementation of such amendment and for the transfer of such powers, duties,**  
2           **functions, and responsibilities.**

3           Section 5. Be it resolved by the Legislature of Louisiana, two-thirds of the members  
4           elected to each house concurring, that there shall be submitted to the electors of the state of  
5           Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal  
6           Article VIII, Sections 6, 7, 7.1, 8(B) and (D), and 12 of the Constitution of Louisiana.

7           Section 6. 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 November 6,  
9           2018.

10          Section 7. Be it further resolved that the provisions of this amendment shall become  
11          effective on January 1, 2020, except that the provisions of Article XIV, Section 41 shall  
12          become effective on January 1, 2019.

13          Section 8. Be it further resolved that on the official ballot to be used at the election,  
14          there shall be printed a proposition, upon which the electors of the state shall be permitted  
15          to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as  
16          follows:

17                 Do you support an amendment to reorganize the governance of public  
18                 postsecondary education, including provisions to create the Board of Trustees  
19                 for Postsecondary Education as a single governing board for public  
20                 postsecondary education, to abolish the Board of Regents and the  
21                 management boards of the postsecondary education systems, and to transfer  
22                 the powers, duties, and responsibilities of the abolished boards to the new  
23                 board of trustees? (Effective January 1, 2020, except that implementation  
24                 provisions are effective January 1, 2019)

25                 (Amends Article IV, Section 22(A), Article VII, Sections 10.1(C)(1) and (3)  
26                 and (D)(1)(intro para) and 10.4(B)(1), (3), and (4), and Article VIII, Sections  
27                 5 and 16; adds Article XIV, Section 41; repeals Article VIII, Sections 6, 7,  
28                 7.1, 8(B) and (D), and 12)

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

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DIGEST

SB 43 Original 2018 Regular Session Appel

Present constitution, relative to public postsecondary education governance:

- (1) Establishes the Board of Regents to plan, coordinate, and have budgetary responsibility for all public postsecondary education.
- (2) Creates the Board of Supervisors for the University of La. System, the Board of Supervisors of La. 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 responsibilities for "four-year" colleges and universities and agricultural and other system programs.
- (3) Creates and provides for the Board of Supervisors of Community and Technical Colleges, which is the management board for 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.

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 and all four postsecondary management boards and creates the Board of Trustees for Postsecondary Education (Board of Trustees). Provides that the Board of Trustees shall have the powers of the Board of Regents to plan, coordinate, and have budgetary responsibility for all public postsecondary education and shall also have the management and supervision authority of the management boards.

Present constitution provides that the Board of Regents is composed of two members from each congressional district and remaining members 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. Proposed constitutional amendment retains these provisions applicable to the Board of Trustees.

Present constitution authorizes the legislature to provide for one student member to serve on the Board of Regents for one term of one year and to have the rights of other board members. Proposed constitutional amendment retains these provisions applicable to the Board of Trustees.

Proposed constitutional amendment otherwise generally provides that the Board of Trustees exercises the powers and duties of the abolished Board of Regents, including authority:

- (1) To revise or eliminate an existing degree program, department of instruction, division, or similar subdivision.
- (2) To approve, disapprove, or modify a proposed degree program, department of instruction, division, or similar subdivision.
- (3) To study the need for and feasibility of creating a new institution of postsecondary education, 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.

- (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. 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.

Proposed constitutional amendment retains present constitution provisions for limitations of the terms a member may serve, not more than 2 ½ in three consecutive terms, and makes them applicable 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, proposed constitutional amendment provides that on the effective date of the amendment (Jan. 1, 2020), the powers, duties, functions, and responsibilities of the abolished boards are transferred to the Board of 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, 2020, as necessary to provide for implementation of the Board of Trustees on that date. Requires the governor to appoint the initial members of the Board of Trustees not later than March 1, 2019. Such members shall take actions as authorized by law to provide for implementation of the Board of Trustees on Jan. 1, 2020.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 6, 2018.

Effective January 1, 2020, except transition provisions are effective January 1, 2019.

(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 (D), and 12)