

FIDELITY SOUTHERN CORP
Form DEF 14A
April 03, 2013

SCHEDULE 14A
(Rule 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934

Filed by the registrant Filed by a party other than the registrant

Check the appropriate box:

- Preliminary proxy statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive proxy statement
- Definitive additional materials
- Soliciting material pursuant to Rule 14a-11(c) or Rule 14a-12

FIDELITY SOUTHERN CORPORATION

(Name of Registrant as Specified in its Charter)

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FIDELITY SOUTHERN CORPORATION
3490 Piedmont Road NE
Suite 1550
Atlanta, Georgia 30305

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS
To Be Held on April 25, 2013

The Annual Meeting of Shareholders of Fidelity Southern Corporation will be held at One Securities Centre, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305, on Thursday, April 25, 2013, at 3:00 p.m. for the following purposes:

1. To elect nine directors to serve until their successors are duly elected and qualified at the next Annual Meeting of Shareholders;
2. To ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2013;
3. An advisory (non-binding) vote on executive compensation;
4. An advisory (non-binding) vote on the frequency of future advisory votes on executive compensation; and
5. To transact such other business as may properly come before the Annual Meeting or any adjournment thereof.

Only shareholders of record at the close of business on March 1, 2013, will be entitled to notice of and to vote at the Annual Meeting or any adjournment thereof.

It is important that your shares be presented and voted at the meeting. You can vote your shares over the Internet or by telephone. You may also vote by completing, signing, dating, and returning the Proxy Card in the envelope provided. For specific instructions on how to vote your shares, see the information beginning on page one of the Proxy Statement.

A Proxy Statement, a Proxy Card, and a copy of Fidelity's 2012 Annual Report to Shareholders, including Form 10-K, are enclosed.

By Order of the Board of Directors,

Martha C. Fleming
Corporate Secretary

March 28, 2013

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FIDELITY SOUTHERN CORPORATION

3490 Piedmont Road NE

Suite 1550

Atlanta, Georgia 30305

PROXY STATEMENT

GENERAL INFORMATION

The enclosed Proxy is solicited on behalf of the Board of Directors of Fidelity Southern Corporation (“Fidelity” or “Company”) in connection with the Annual Meeting of Shareholders (“Annual Meeting”) to be held at One Securities Centre, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305, on Thursday, April 25, 2013, at 3:00 p.m., and at any adjournment thereof. This Proxy Statement, the enclosed Proxy Card, and Fidelity's 2012 Annual Report to Shareholders, including its Form 10-K, are being mailed to our shareholders on or about March 28, 2013.

Your vote is very important. For this reason, the Board of Directors is requesting that you permit your common stock (“Common Stock”) to be represented at the Annual Meeting by the Proxy Committee elected by the Board of Directors and composed of Wm. Millard Choate and H. Palmer Proctor, Jr.

The presence of a majority of the votes entitled to be cast at the Annual Meeting, represented in person or by Proxy, will constitute a quorum. The nine nominees receiving the highest vote totals will be elected as directors of Fidelity. A majority of the votes cast at the Annual Meeting is required to approve all other proposals, unless the vote of a greater number is required by law.

Who Can Vote

Each shareholder of record at the close of business on March 1, 2013, is entitled to notice of and to vote at the Annual Meeting or any adjournment thereof. Each share of Fidelity Common Stock entitles the shareholder to one vote on any matter coming before a meeting of Fidelity shareholders. On March 1, 2013, the record date for the Annual Meeting, there were 14,845,688 shares of Fidelity Common Stock outstanding and eligible to vote. The enclosed Proxy Card shows the number of shares that you are entitled to vote. If you own any shares in Fidelity's Direct Stock Purchase and Dividend Reinvestment Plan or the Employee Stock Purchase Plan, the enclosed Proxy Card includes the number of shares you had in each plan on the record date for the Annual Meeting, as well as the number of shares registered in your name. If you hold shares of Common Stock in the Company's 401(k) Plan, you will receive a separate Proxy Card for those shares. Follow the voting instructions included with the Proxy Card.

How Do I Cast My Vote

If you hold your shares of Common Stock in your name as a holder of record (either in certificates, book entry, or in the Direct Stock Purchase and Dividend Reinvestment Plan, the Employee Stock Purchase Plan or the 401(k) Plan), there are three ways you can vote by proxy:

By Internet Go to www.investorvote.com/LION and follow the instructions when prompted.

You will need to have the control number that appears on the proxy materials you received.

By Telephone Call 1-800-652-VOTE (8683) and follow the recorded instructions. You will also need your control number referred to above.

By Mail Complete, sign, date, and return the Proxy Card you received in the mail.

If you received more than one Proxy Card, this means you hold shares of our Common Stock in more than one account. You must complete, sign, date, and return each Proxy Card or vote all shares over the Internet or by telephone for each of your accounts. If you vote by the Internet or by telephone, you should not mail back a Proxy Card for those shares.

We encourage you to vote your shares by proxy, even if you plan to attend the Annual Meeting.

If you provide specific voting instructions, your shares will be voted as instructed. If you hold shares in your name and do not vote either by Internet, telephone, return a completed and signed Proxy Card, or vote in person at the Annual Meeting, your shares will not be voted.

If you hold your shares in a brokerage account or through another nominee, your broker or nominee (the “record holder”) is forwarding these Proxy materials to you along with voting instructions. The record holder is required to vote your shares in accordance with your instructions. If you do not give the record holder instructions, the record holder

has the authority to vote your shares on certain “routine” matters. At the Annual Meeting, the ratification of auditors is deemed “routine” which means that the record holder can vote your shares if you do not timely provide instructions. Although most

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brokers and nominees offer telephone and Internet voting, availability and specific procedures will depend on their voting arrangements. Please follow their directions carefully.

Every vote is important! Please vote your shares promptly.

What Am I Voting On

There are four proposals that will be presented for your consideration at the Annual Meeting:

• To elect nine directors;

• To ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2013;

• An advisory (non-binding) vote on executive compensation; and

• An advisory (non-binding) vote on the frequency of future advisory votes on executive compensation.

Other business may be addressed at the Annual Meeting if it properly comes before the Annual Meeting. However, we are not aware of any such other business.

Can I Change My Vote

If you are the record holder of the shares, you may change your vote by:

• Submitting written notice of revocation to our Corporate Secretary;

• If you voted by the Internet or by telephone, voting again over the Internet or by telephone prior to the deadline of 12:00 AM Eastern Time on April 25, 2013;

• If you completed and returned a Proxy Card, submitting a new Proxy Card with a later date and returning it prior to the vote at the Annual Meeting; or

• Attending the Annual Meeting in person and voting your shares by ballot at the meeting.

If your shares are held in a nominee or "street name," you should contact your broker or other nominee regarding the revocation of proxies.

If you participate in the Company Plans, you may change your vote by submitting new voting instructions to the administrator or custodian of the Plan.

What Quorum is Needed to Hold the Annual Meeting

In order to conduct the Annual Meeting, a majority of Fidelity shares entitled to vote must be present in person or by Proxy. This is called a quorum. If you return a valid Proxy Card or elect to vote by Internet, by telephone, or in person at the Annual Meeting, you will be considered part of the quorum.

Abstentions, withheld votes, and broker non-votes will be included in the calculation of the number of votes represented in person or by Proxy at the Annual Meeting in determining whether the quorum requirement is satisfied.

What are Broker Non-Votes

A broker "non-vote" occurs when a brokerage firm, bank or other nominee does not vote shares that it holds in "street name" on behalf of a beneficial owner because the beneficial owner has not provided voting instructions to the nominee with respect to a nondiscretionary item to be voted upon. Proposals 1, 3, and 4 are nondiscretionary items for which a nominee will not have the discretion to vote without voting instructions from the beneficial owner. Proposal 2 is a discretionary item for which a nominee will have the discretion to vote, even without voting instructions from the beneficial owner. Broker non-vote shares will be included in the number of shares considered present at the meeting for the purpose of determining whether there is a quorum. The effect of a broker non-vote on the outcome of the vote on a proposal will depend on the applicable voting standard for the proposal. For instance, if the approval of the proposal requires the affirmative vote of a majority of the outstanding shares, a broker non-vote would have the effect of a negative vote in determining the outcome of the vote on the proposal. On the other hand, if the approval of the proposal requires the affirmative vote of the majority of the shares present in person or represented by Proxy at the meeting and entitled to vote on the proposal, a broker non-vote, being shares not entitled to vote, would not have any effect on the outcome of the vote on the proposal.

What Vote is Needed

The nine nominees for director receiving the highest vote totals will be elected as directors of Fidelity. All other matters will be decided by the affirmative vote of the majority of the votes cast at the Annual Meeting.

What is our Voting Recommendation

Our Board of Directors recommends that you vote "FOR" each of the four proposals.

Proxy Solicitation

Fidelity will bear the expenses of soliciting proxies, including the cost of preparing and mailing this Proxy Statement. Fidelity will furnish solicitation materials to banks, brokerage houses, and other custodians, nominees, and fiduciaries for forwarding to beneficial owners of shares of the Common Stock, and normal handling charges may be paid for such forwarding service. In addition, directors, officers, and other employees of Fidelity who will not be additionally compensated therefor may solicit proxies in person or by telephone, email, or other means.

Notice Regarding the Availability of Proxy Materials

We have posted materials related to the 2013 Annual Meeting on the Internet. The materials listed below are available on a secure Internet website located at <https://materials.proxyvote.com/316394>. This website is compliant with regulatory standards and does not utilize tracking cookies or site visit intelligence tracking.

• This Proxy Statement for the 2013 Annual Meeting, and

• Fidelity's 2012 Annual Report to Shareholders, including its Form 10-K, filed with the Securities and Exchange Commission.

PROPOSAL # 1 – ELECTION OF DIRECTORS

Shareholder Nominees

The policy of the Nominating Committee is to consider proposed nominations for membership on the Board of Directors properly submitted by shareholders who own at least 1,000 shares of Common Stock of Fidelity and have held the stock for at least one year. Any proposed nomination by a shareholder for consideration by the Nominating Committee must include the proposed nominee's name and qualifications and a statement to the effect that the proposed nominee has agreed to the submission of his/her name as a candidate for nomination as a director. The proposed nomination should be sent to the Chairman of the Nominating Committee of Fidelity Southern Corporation, 3490 Piedmont Road NE, Suite 1550, Atlanta, Georgia 30305. In order to timely consider any candidate, the shareholder must submit the recommendation on or before November 1 immediately preceding the next annual meeting of shareholders. None of our qualifying shareholders nominated any prospective nominees to our Nominating Committee for consideration at the Annual Meeting.

Identifying and Evaluating Nominees for Director

The Nominating Committee utilizes a variety of methods for identifying and evaluating nominees for director. Nominees for director are selected for their character, judgment, diversity of experience, acumen, ability to work with others, and their ability to act for the benefit of Fidelity and its shareholders. The Nominating Committee evaluates the totality of the merits of each prospective nominee and does not restrict itself by establishing minimum qualifications or attributes. The Nominating Committee has a written policy regarding diversity that seeks to provide the Board with a depth of experience and differences in viewpoints and skills. The Nominating Committee's Director Qualification Standards and Procedure for Identifying and Evaluating Candidates is available under the Investor Relations section of our website at www.fidelitysouthern.com.

The name of any candidate for nomination as a director may be submitted to the Nominating Committee by shareholders, as described above, and directors. The Nominating Committee will review the qualifications of each candidate submitted and conduct such inquiries as it determines appropriate. There is no difference in the manner by which the Nominating Committee evaluates prospective nominees for director based on the source from which the individual was first identified. The Nominating Committee recommends, by a majority vote of its members, to the entire Board of Directors those director candidates it believes will best serve Fidelity and its shareholders, meet the qualifications set forth in the director qualification standards, and have such other requisite skills and knowledge deemed necessary by the Nominating Committee.

The number of directors is currently set at nine by resolution of the Board of Directors. The number of directors may be increased or decreased from time to time by resolution of the Board of Directors or of the shareholders, but no decrease shall have the effect of shortening the term of an incumbent director. The terms of office for directors continue until the next annual meeting of shareholders or until their successors are elected and qualified.

Fidelity's Board of Directors has determined that each member of its Board, other than James B. Miller, Jr., Chief Executive Officer of Fidelity, and H. Palmer Proctor, Jr., President of Fidelity, were "independent" during 2012 as defined in the NASDAQ Marketplace Rules.

In the event that any nominee withdraws or for any reason is not able to serve as a director, the Proxy will be voted for such other person as may be designated by the Board of Directors as substitute nominee unless the Board of Directors or shareholders by resolution provide for a lesser number of directors, but in no event will the Proxy be voted for more than nine nominees. Management has no reason to believe that any nominee will not serve if elected.

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Nominating Committee Report

The Nominating Committee reviewed the qualifications of the director nominees, found them to meet the criteria for directors established by the Nominating Committee, and recommended the slate to the Board of Directors as director nominees for election at the 2013 Annual Meeting of Shareholders.

Major General (Ret) David R. Bockel, Chairman

Wm. Millard Choate

W. Clyde Shepherd III

Rankin M. Smith, Jr.

Information About Nominees for Director

The following information as of March 1, 2013, has been furnished by the respective nominees for director. All nominees for election to the Board of Directors set forth in this Proxy Statement currently serve as directors of Fidelity. Except as otherwise indicated, each nominee has been engaged in his present principal employment, in the same position, for more than five years. As described below, the Nominating Committee, after giving consideration to the Company's business operations and corporate structure, has determined that each nominee is qualified to serve on the Board.

Name	Age	Year	Business Experience During Past Five Years and Other Information
		First Elected	
James B. Miller, Jr. ⁽¹⁾	72	1,979	Chairman of the Board and Chief Executive Officer of Fidelity since 1979. President of Fidelity from 1979 to April 2006. A director of Fidelity Bank, a wholly owned subsidiary of Fidelity, since 1976; President of Fidelity Bank from 1977 to 1997 and from December 2003 through September 2004; and Chief Executive Officer of Fidelity Bank from 1977 to 1997, and from December 2003 until present. Chairman of Fidelity Bank since 1998. Chairman of LionMark Insurance Company, a wholly owned subsidiary, since November 2004. Chairman of Berlin American Companies and other family investment companies since 1977. A director of Interface, Inc., a carpet and fabric manufacturing company, since 2000, and of American Software Inc., a software development company, since 2002.
Major General (Ret) David R. Bockel ^{(2) (3) (4)}	68	1,997	Mr. Miller's education and experience as an attorney, experience running a company in Germany, in addition to the years of experience employed as an executive officer of Fidelity, serving on Fidelity's Board of Directors as well as serving on the boards of various community organizations and public companies qualify him to serve as a director. Executive Director, Georgia Military Affairs Coordinating Committee, Georgia Chamber of Commerce, since October 2011; Executive Director, Reserve Officers Association of the United States, a 63,000 member organization headquartered in Washington, D.C., from November 2009 to September 2011; Deputy Executive Director, from October 2003 to November 2009; USO of Georgia board member since February 2012. A director of Fidelity Bank since 1997.
Wm. Millard Choate ⁽⁴⁾	60	2,010	Major General (Ret) Bockel's previous experience as founder and head of an advertising company, his military experience commanding 18,000 soldiers with responsibility for military facilities and equipment over five states, and his current position qualify him to serve as a director.

Founder and President of Choate Construction Company, a commercial construction and interior construction firm with offices headquartered in Atlanta, Georgia, since 1989. A director of Fidelity Bank since April 2010.

The experience Mr. Choate received founding his company and establishing all operations, procedures, banking, insurance and bonding relationships, marketing, preconstruction estimating, and technology, in addition to his degrees in economics and business, qualify him to serve as a director.

Dr. Donald A. Harp, Jr. ⁽²⁾ ₍₃₎	74	2,008	<p>Adjunct Professor, Candler School of Theology, Emory University, since September 2008. Minister Emeritus of Peachtree Road United Methodist Church since July 2008. Senior Minister of Peachtree Road United Methodist Church from 1988 to July 2008. A director of Fidelity Bank since 2008.</p> <p>Dr. Harp brings to the Board of Directors his experience of over 20 years managing a \$7 million church budget and 60 member staff, as well as his membership on many non-profit boards and experience as mayor pro-tem of a city with budget and other management responsibilities, which qualify him to serve as a director.</p> <p>An attorney in Georgia from 1972 to present. Of Counsel, Isenberg & Hewitt, P.C., Atlanta, Georgia, from January 2011 to August 2011. A director of Fidelity Bank since 1998.</p>
Kevin S. King ⁽¹⁾ ₍₃₎	65	1,998	<p>Mr. King's qualifications to serve as director include degrees earned in accounting and law, and various business and legal positions over 40 years, including executive vice president/general counsel, a member of several for profit and non-profit boards, and as a lawyer in private practice.</p> <p>Member of Moore Stephens Tiller, LLC, from 1979 to present.</p>
William C. Lankford, Jr. ₍₃₎	63	2,010	<p>Managing Member from 1990 to September 2009. A director of Fidelity Bank since January 2010.</p> <p>Mr. Lankford's position as a CPA with broad accounting, tax, and business experience gained from being in public practice for 40 years qualify him to serve as a director.</p> <p>President of Fidelity since April 2006; Senior Vice President of Fidelity from January 2006 to April 2006; Vice President of Fidelity from April 1996 to January 2006. President of Fidelity Bank since October 2004. Director and Secretary/Treasurer of LionMark Insurance Company, a wholly owned subsidiary, since November 2004. A director of Fidelity Bank since 2004. A director of Brown and Brown, Inc., an independent insurance intermediary, since 2012.</p>
H. Palmer Proctor, Jr. ⁽¹⁾	45	2,004	<p>As an executive of Fidelity and Fidelity Bank, Mr. Proctor offers expertise in financial services and a unique understanding of our markets, operations, and competition, which qualify him to serve as a director.</p>
W. Clyde Shepherd III ⁽¹⁾ ₍₄₎	52		