

HOUSE BILL No. 2734

By Committee on Health and Human Services

1-29

AN ACT concerning the university of Kansas hospital authority act; amending K.S.A. 2001 Supp. 76-3303, 76-3304, 76-3311, 76-3315, 76-3321 and 76-3322 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 76-3303 is hereby amended to read as follows: 76-3303. As used in K.S.A. 2001 Supp. 76-3301 through 76-3323, and amendments thereto, the following words and phrases have the following meanings unless a different meaning clearly appears from the content:

(a) "Authority" means the university of Kansas hospital authority created by this act.

(b) "Board" means the board of directors of the authority created by this act.

(c) "Health sciences schools" means the schools of medicine, nursing, allied health, pharmacy and any other schools operated by the university of Kansas at the university of Kansas medical center.

(d) "Bonds" means any bonds, notes, lease certificates of participation or other evidences of indebtedness, whether or not the interest on which is subject to federal income taxation, issued by the authority pursuant to this act.

(e) "Hospital assets" means all records, property or rights in property, real and personal, tangible and intangible existing on the transfer date specified by this act, used by or accruing to university of Kansas or the university of Kansas medical center for the benefit of the university of Kansas hospital in the normal course of its operations as a teaching, research and medical treatment facility.

(f) "Hospital obligations" means all debts or other obligations, contingent or certain, owing on the transfer date under this act to any person or other entity, arising out of the operation of the university of Kansas hospital as a medical treatment facility, and including, without limitation, all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

(g) "Regents" means the board of regents of the state of Kansas.

1 (h) “State employee” means a person employed by the state of Kansas
2 whether or not a classified or unclassified employee in the state personnel
3 system. *Hospital or authority employees shall not be considered state em-*
4 *ployees, as such term is defined in this act or in any other statute or*
5 *regulation. The provisions of this subsection are to be construed and ap-*
6 *plied retroactively to the date of the original enactment of K.S.A. 2001*
7 *Supp. 76-3303.*

8 (i) “Transfer date” means a date or dates agreed to by the regents
9 and the authority which shall be on or after March 1, 1998, but not later
10 than December 31, 1998, for the transfer of hospital assets to and the
11 assumption of hospital obligations by such authority.

12 (j) “University of Kansas hospital” means the hospital and hospital
13 clinics operated by the university of Kansas, separately or jointly with
14 another health care provider.

15 (k) “State” means the state of Kansas.

16 (l) “Initial board” means the board of directors initially appointed by
17 the governor under this act.

18 (m) “Medical center employee” means an employee of the university
19 of Kansas medical center whose salary is not paid in whole or in part from
20 the hospital revenue fund.

21 (n) “Hospital *or authority* employee” means an employee of the ~~uni-~~
22 ~~versity of Kansas medical center authority~~ who performs services for the
23 university of Kansas hospital ~~as part of one or more departments or other~~
24 ~~administrative units of the hospital~~ *or otherwise performs services for the*
25 *authority* and whose salary is paid in whole or in part ~~from by the hospital~~
26 ~~revenue fund authority~~. *A hospital authority employee shall not be con-*
27 *sidered to be a state employee, as such term is defined in this act or in*
28 *any other statute or regulation. The provisions of this subsection are to*
29 *be construed and applied retroactively to the date of the original enact-*
30 *ment of K.S.A. 2001 Supp. 76-3303.*

31 (o) “President” means the chief executive officer of the authority.

32 (p) “This act” means the university of Kansas hospital authority act.

33 Sec. 2. K.S.A. 2001 Supp. 76-3304 is hereby amended to read as
34 follows: 76-3304. (a) There is hereby established a body politic and cor-
35 porate, with corporate succession, to be known as the university of Kansas
36 hospital authority. The authority shall be an independent instrumentality
37 of this state. Its exercise of the rights, powers and privileges conferred by
38 this act shall be deemed and held to be the performance of an essential
39 governmental function.

40 (b) The authority shall be governed by a ~~fourteen-member~~ *nineteen-*
41 *member* board of directors. ~~Eight~~ *Thirteen* of the members shall be rep-
42 resentatives of the general public who are recognized for outstanding
43 knowledge and leadership in the fields of finance, business, health-care

1 management, health care providers, legal affairs, education or govern-
2 ment. Of the ~~eight~~ 13 members representing the general public, there
3 shall be at least one member from each congressional district. ~~Three~~ Six
4 members shall be ex officio voting members consisting of the chancellor
5 of the university of Kansas, the executive vice chancellor of the university
6 of Kansas medical center ~~and~~, the executive dean of the university of
7 Kansas school of medicine. ~~Three members shall be nonvoting ex officio~~
8 ~~members consisting of~~, the chief of staff of the university of Kansas hos-
9 pital medical staff, the president of the authority and the dean of the
10 university of Kansas school of nursing.

11 (c) The ~~eight~~ 13 members representing the general public appointed
12 to the ~~initial~~ board shall be appointed by the governor *pursuant to sub-*
13 *section (f) and* subject to senate confirmation as provided in K.S.A. 75-
14 4315b, and amendments thereto. Any member whose nomination is sub-
15 ject to confirmation during a regular session of the legislature shall be
16 deemed terminated when the senate rejects the nomination. No such
17 termination shall affect the validity of any action taken by such member
18 prior to such termination. ~~Of the eight members appointed to the initial~~
19 ~~board, two shall be members of the Kansas board of regents and two~~
20 ~~members shall be members of the Kansas legislature. The two legislative~~
21 ~~appointees shall be appointed by the governor from a panel of four nom-~~
22 ~~inees composed of (1) one member of the legislature nominated by the~~
23 ~~speaker of the house of representatives, (2) one member of the legislature~~
24 ~~nominated by the minority leader of the house of representatives, (3) one~~
25 ~~member of the legislature nominated by the president of the senate, and~~
26 ~~(4) one member of the legislature nominated by the minority leader of~~
27 ~~the senate.~~

28 (d) ~~Of the members appointed to the initial board by the governor,~~
29 ~~two members shall be appointed for a term which expires March 15, 1999,~~
30 ~~three members shall be appointed for a term which expires March 15,~~
31 ~~2000, and three members shall be appointed for a term which expires~~
32 ~~March 15, 2001. On the effective date of this act, the terms of the general~~
33 ~~public board members then serving on the board shall expire, and, pur-~~
34 ~~suant to subsection (f), the governor shall appoint all such general public~~
35 ~~board members. Of the general public members appointed to the board~~
36 ~~by the governor under this section, three shall have a term of office of one~~
37 ~~year, three shall have a term of office of two years, three shall have a term~~
38 ~~of office of three years and four shall have a term of office of four years.~~
39 ~~Terms of general public members appointed pursuant to this section shall~~
40 ~~expire on March 15. Any general public member whose term expires under~~
41 ~~this section and thereafter is reappointed under this section shall be ex-~~
42 ~~empt to the requirements of subsection (f) for the term of office appointed~~
43 ~~under this section.~~

1 (e) After the ~~initial~~ board of directors is appointed *under subsection*
2 *(d)*, members other than ex officio shall be appointed for a term of ~~three~~
3 *four* years each, except in the event of a vacancy the appointment shall
4 be for the remainder of the unexpired portion of the term. Each member
5 shall hold office for the term of appointment and until the successor has
6 been confirmed. Any member is eligible for reappointment, but members
7 shall not be eligible to serve more than ~~two~~ *three* consecutive ~~three-year~~
8 *four-year* terms, *except that this limitation shall not include any previous*
9 *term of office of any general public member serving on the board on the*
10 *effective date of this act.*

11 ~~Except for appointment of the initial board,~~ When a vacancy oc-
12 curs or is announced regarding a member or members representing the
13 general public, a nominating committee of the board *after receiving input*
14 *from the board and conferring with the board* shall ~~forward~~ *assemble* a
15 slate of ~~candidates~~ *not less than two nor more than three persons for each*
16 *vacancy and shall forward each slate to the governor for consideration.*
17 ~~Appointment to the board shall be made by the governor subject to senate~~
18 ~~confirmation.~~ *The governor shall appoint one board member from each*
19 *slate and shall forward each appointment to the senate for confirmation*
20 *as provided in K.S.A. 75-4315b, and amendments thereto. Except as pro-*
21 *vided by K.S.A. 2001 Supp. 46-2601, and amendments thereto, no person*
22 *appointed to the board shall exercise any power, duty or function as a*
23 *member of the board until confirmed by the senate.*

24 (g) The terms of members serving by virtue of their office shall expire
25 immediately upon termination of their holding such office.

26 (h) The board annually shall elect one of their number as chairperson
27 and another as vice-chairperson. The board also shall elect a secretary
28 and treasurer for terms determined by the board. The same person may
29 serve as both secretary and treasurer. The board shall establish an execu-
30 tive committee, nominating committee and other standing or special
31 committees and prescribe their duties and powers, and any executive
32 committee may exercise all such powers and duties of the board as the
33 board may delegate.

34 (i) Members of the board of directors of the authority shall serve
35 without compensation. Members of the board attending meetings of the
36 board, or attending a subcommittee meeting thereof authorized by the
37 board, shall be paid ~~subsistence allowances,~~ mileage and *all other appli-*
38 *cable expenses as provided in K.S.A. 75-3223, and amendments thereto,*
39 *provided such expenses are consistent with policies established from time-*
40 *to-time by the authority's board of directors and as required by subsection*
41 *(j).*

42 (j) No part of the funds of the authority shall inure to the benefit of,
43 or be distributed to, its employees, officers or members of the board,

1 except that the authority may make reasonable payments for expenses
2 incurred on its behalf relating to any of its lawful purposes and the au-
3 thority shall be authorized and empowered to pay reasonable compen-
4 sation for services rendered to or for its benefit relating to any of its lawful
5 purposes including to pay its employees reasonable compensation.

6 (k) Any member of the board of directors other than an ex officio
7 member may be removed by an affirmative vote of ~~seven~~ 10 of the mem-
8 bers of the board for malfeasance or misfeasance in office, regularly failing
9 to attend meetings, or for any cause which renders the member incapable
10 of or unfit to discharge the duties of director.

11 (l) The board shall meet at least six times per year and at such other
12 times as it deems appropriate, or upon call by the president or the chair-
13 person, or upon written request of a majority of the directors. The board
14 may adopt, repeal and amend such rules, procedures and bylaws, not
15 contrary to law or inconsistent with this act, as it deems expedient for its
16 own governance and for the governance and management of the author-
17 ity. A majority of the total voting membership of the board shall constitute
18 a quorum for meetings. The board may act by a majority of those at any
19 meeting where a quorum is present, except upon such issues as the board
20 may determine shall require a vote of ~~seven~~ 10 members for approval.
21 The ~~initial~~ board shall meet for the initial meeting upon call by the chan-
22 cellor of the university of Kansas who shall act as temporary chairperson
23 until officers of the board are elected pursuant to subsection (h).

24 (m) The board shall appoint a president who shall serve at the plea-
25 sure of the board. The president shall serve as the chief executive officer
26 of the authority. The president's salary shall be set by the board. The
27 board may negotiate and enter into an employment agreement with the
28 individual selected as president of the authority which may provide for
29 compensation allowances, benefits and expenses as may be included in
30 such agreement. The president shall direct and supervise administrative
31 affairs and the general management of the authority. ~~The president shall~~
32 ~~be a nonvoting ex officio member of the board.~~

33 (n) The board may provide to the president of the authority and other
34 employees designated by the board supplemental benefits in addition to
35 the benefits provided in K.S.A. 2001 Supp. 76-3322, and amendments
36 thereto.

37 (o) The authority shall continue until terminated by law, except that
38 no such law shall take effect so long as the authority has bonds outstand-
39 ing, unless adequate provision has been made for the payment or retire-
40 ment of such debts or obligations. Upon any such dissolution of the au-
41 thority, all property, funds and assets thereof shall be vested in the state,
42 university of Kansas medical center or other hospital entity as designated
43 by the board and approved by act of the Kansas legislature.

1 Sec. 3. K.S.A. 2001 Supp. 76-3311 is hereby amended to read as
2 follows: 76-3311. (a) The authority may employ such employees as it may
3 require and upon such terms and conditions as it may establish. The
4 authority shall establish personnel, payroll, benefit and other such systems
5 as authorized by the board, such systems to be initially established or
6 contracted by the transfer date, or at such later date designated by the
7 board. The authority shall determine the qualifications and duties of its
8 employees subject to any statutes concerning licensure, certification or
9 registration under state law. The board shall develop and adopt policies
10 and procedures that will afford its employees grievance rights, ensure that
11 employment decisions shall be based upon merit and fitness of applicants
12 and shall prohibit discrimination because of race, religion, color, sex or
13 national origin.

14 (b) Nothing in this act or any act of which it is amendatory shall be
15 construed as placing any officer or employee of the authority in the clas-
16 sified or the unclassified service under the Kansas civil service act.

17 (c) All current hospital employees of the university of Kansas medical
18 center shall transfer to the authority. The authority and the university of
19 Kansas medical center shall then jointly determine any medical center
20 employees whose employment shall be transferred to the authority. The
21 university shall issue a written notice to all persons whose employment
22 will be transferred to the authority. After receipt of such notice, each
23 such employee may elect not to be employed by the authority by sub-
24 mitting a written statement of such election within 45 days after receipt
25 of such notice. Any classified employee of the university of Kansas med-
26 ical center who receives such notice of transfer to the authority and elects
27 not to become employed by the authority and who is not reemployed by
28 any department, institution, board, commission or agency of the state
29 shall be subject to the provisions of K.S.A. 75-2948 *et seq.* and amend-
30 ments thereto. Any unclassified employee or unclassified health care
31 worker of the university of Kansas medical center who receives such no-
32 tice of transfer to the authority and elects not to become employed by
33 the authority shall be subject to the employment policies of the university
34 of Kansas medical center. Any employee who accepts employment with
35 the authority shall not be considered to be involuntarily separated from
36 state employment. The authority shall not be treated as a state agency for
37 purposes of the state leave payment reserve fund under K.S.A. 75-5542
38 through 75-5545, and amendments thereto.

39 (d) Hospital employees and medical center employees of the univer-
40 sity of Kansas medical center who transfer to the authority to a position
41 of similar duties as of the transfer date shall receive the same rate of
42 compensation as was received by the employee prior to such transfer.

43 (e) Notwithstanding the provisions of K.A.R. 1-9-13 or any other rules

1 and regulations or of any statute to the contrary, all vacation leave and
2 sick leave balances of employees of the university of Kansas medical cen-
3 ter who accept employment with the authority as of the transfer date shall
4 be transferred from the university of Kansas medical center to the
5 authority.

6 (f) The authority and the university of Kansas medical center may
7 enter into agreements providing for the purchase of services of employees
8 of the university of Kansas medical center utilized in support of the hos-
9 pital by payment of such amounts as may be agreed upon by the parties.

10 (g) Nothing in this act shall affect the representation rights of collec-
11 tive bargaining organizations that represent employees of the university
12 of Kansas medical center who transfer to the authority, nor shall it affect
13 any term or condition of any collective bargaining agreement in effect on
14 the effective date of this act. The authority shall be a public agency for
15 purposes of the Kansas public employer-employee relations act, K.S.A.
16 75-4321 *et seq.*, and amendments thereto.

17 (h) The authority is authorized to establish a health insurance plan
18 for the benefit of its employees or to enter into agreements with the
19 department of administration in accordance with K.S.A. 75-6503 and
20 amendments thereto, providing for the coverage of its employees under
21 the state employees' health insurance plan. Notwithstanding any other
22 provision of law to the contrary, any person whose employment is trans-
23 ferred to the authority as a result of this act and who is a member of any
24 plan providing health insurance coverage as an employee of the university
25 of Kansas medical center and who so elects to continue such coverage
26 shall continue to be a member of such health insurance plan under the
27 same terms and conditions as if no transfer had occurred, with such elec-
28 tion to continue through the current state employees' health insurance
29 coverage period. Alternatively, an employee may elect to become a mem-
30 ber of any health insurance plan established by the authority.

31 (i) *Except as specifically set forth in this act, no Kansas law solely*
32 *applicable to Kansas state employees shall apply to hospital or authority*
33 *employees.*

34 Sec. 4. K.S.A. 2001 Supp. 76-3315 is hereby amended to read as
35 follows: 76-3315. Notwithstanding any other provision of law to the con-
36 trary, the authority, its officers, directors, employees ~~and~~ agents, *and the*
37 *authority's affiliates, and any officers, directors, employees and agents of*
38 *the authority's affiliates shall continue to be subject to and covered by*
39 *the Kansas tort claims act, K.S.A. 75-6101, et seq. and amendments*
40 *thereto. An affiliate of the authority shall be any entity in which the*
41 *authority either fully owns or controls such entity.*

42 Sec. 5. K.S.A. 2001 Supp. 76-3321 is hereby amended to read as
43 follows: 76-3321. The authority is exempt from the provisions of K.S.A.

1 12-1675 through 12-1677, *45-401 through 45-413*, 75-1250 through 75-
2 1270, 75-2925 through 75-2975, 75-3701 through 75-37,119, 75-4363, 75-
3 4701 through 75-4744, and 77-501 through 77-550 and K.S.A. 2001 Supp.
4 75-4362 and amendments thereto.

5 Sec. 6. K.S.A. 2001 Supp. 76-3322 is hereby amended to read as
6 follows: 76-3322. The authority shall affiliate with the Kansas public em-
7 ployees retirement system on the transfer date as defined in K.S.A. 2001
8 Supp. 76-3303 and amendments thereto, in accordance with the provi-
9 sions of K.S.A. 74-4910 and 74-4927 and amendments thereto ~~for current~~
10 ~~and future employees with respect to transferred employees. The author-~~
11 ~~ity may, at the election of the board, affiliate with the system with respect~~
12 ~~to any or all employees employed by the authority after the transfer date.~~
13 Any person who was an employee of the university of Kansas medical
14 center and a member of the system on the transfer date and whose em-
15 ployment is transferred to the authority as provided in the university of
16 Kansas hospital authority act shall continue to be a member of the system.
17 For all those members of the faculty and other persons employed by the
18 board of regents who were receiving assistance in the purchase of retire-
19 ment annuities as provided in K.S.A. 74-4925 and amendments thereto
20 on the transfer date and whose employment is transferred to the authority
21 as provided in the university of Kansas hospital authority act, the authority
22 shall ~~at the election of the board, either (1) assist such employees in the~~
23 ~~purchase of retirement annuities as provided in K.S.A. 74-4925 and~~
24 ~~amendments thereto or (2) adopt, in accordance with requirements of~~
25 ~~the federal internal revenue code, retirement plans sponsored by the~~
26 ~~authority providing substantially similar benefits as such retirement an-~~
27 ~~nuities and the authority shall continue to provide the insured death and~~
28 ~~disability benefits as provided in K.S.A. 74-4927a and 74-4927g and~~
29 ~~amendments thereto. For future employees employed by the authority~~
30 ~~on or after the transfer date, the authority shall designate whether such~~
31 ~~employee shall be a member of the system or whether the authority shall~~
32 ~~either (1) provide assistance in the purchase of retirement annuities as~~
33 ~~provided in K.S.A. 74-4925 and amendments thereto adopt, in accord-~~
34 ~~ance with requirements of the federal internal revenue code, a retirement~~
35 ~~plan or plans sponsored by the authority providing substantially similar~~
36 ~~benefits as such retirement annuities. The authority shall continue to pro-~~
37 ~~vide the insured death and disability benefits as provided in K.S.A. 74-~~
38 ~~4927a and 74-4927g and amendments thereto with respect to transferred~~
39 ~~employees who are members of the system. The authority may, at the~~
40 ~~election of the board, provide death and disability benefits as provided in~~
41 ~~K.S.A. 74-4927a and 74-4927g and amendments thereto with respect to~~
42 ~~other transferred employees and employees hired after the transfer date~~
43 ~~or the authority may provide similar death and disability benefits to such~~

1 *employees. For employees employed by the authority on or after the trans-*
2 *fer date, the authority may, at the election of the board, either (1) enroll*
3 *such employees as member of the system, or (2) provide that such em-*
4 *ployee shall be eligible for participation in a retirement plan or plans*
5 *sponsored by the authority.*

6 Sec. 7. K.S.A. 2001 Supp. 76-3303, 76-3304, 76-3311, 76-3315, 76-
7 3321 and 76-3322 are hereby repealed.

8 Sec. 8. This act shall take effect and be in force from and after its
9 publication in the Kansas register.

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