

SENATE BILL No. 642

AN ACT concerning the university of Kansas hospital authority act; amending K.S.A. 2001 Supp. 76-3303, 76-3304, 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.

(h) "State employee" means a person employed by the state of Kansas whether or not a classified or unclassified employee in the state personnel system. *Hospital or authority employees shall not be considered state employees, as such term is defined in this act or in any other statute or regulation. The provisions of this subsection are to be construed and applied retroactively to the date of the original enactment of K.S.A. 2001 Supp. 76-3303, and amendments thereto.*

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

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

(k) "State" means the state of Kansas.

(l) "Initial board" means the board of directors initially appointed by the governor under this act.

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

(n) "Hospital or authority employee" means an employee of the ~~university of Kansas medical center~~ *authority* who performs services for the university of Kansas hospital ~~as part of one or more departments or other administrative units of the hospital~~ *or otherwise performs services for the authority* and whose salary is paid in whole or in part ~~from by the hospital revenue fund~~ *authority*. *A hospital authority employee shall not be considered to be a state employee, as such term is defined in this act or in any other statute or regulation. The provisions of this subsection are to be construed and applied retroactively to the date of the original enactment of K.S.A. 2001 Supp. 76-3303, and amendments thereto.*

(o) "President" means the chief executive officer of the authority.

(p) "This act" means the university of Kansas hospital authority act.

Sec. 2. K.S.A. 2001 Supp. 76-3304 is hereby amended to read as follows: 76-3304. (a) There is hereby established a body politic and cor-

porate, with corporate succession, to be known as the university of Kansas hospital authority. The authority shall be an independent instrumentality of this state. Its exercise of the rights, powers and privileges conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The authority shall be governed by a ~~fourteen-member~~ *nineteen-member* board of directors. ~~Eight~~ *Thirteen* of the members shall be representatives of the general public who are recognized for outstanding knowledge and leadership in the fields of finance, business, health-care management, health care providers, legal affairs, education or government. Of the ~~eight~~ *13* members representing the general public, there shall be at least one member from each congressional district. ~~Three~~ *Six* members shall be ex officio voting members consisting of the chancellor of the university of Kansas, the executive vice chancellor of the university of Kansas medical center ~~and~~, the executive dean of the university of Kansas school of medicine. ~~Three members shall be nonvoting ex officio members consisting of~~, the chief of staff of the university of Kansas hospital medical staff, the president of the authority and the dean of the university of Kansas school of nursing.

(c) The ~~eight~~ *13* members representing the general public appointed to the ~~initial~~ board shall be appointed by the governor *pursuant to subsection (f) and* subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto. Any member whose nomination is subject to confirmation during a regular session of the legislature shall be deemed terminated when the senate rejects the nomination. No such termination shall affect the validity of any action taken by such member prior to such termination. ~~Of the eight members appointed to the initial board, two shall be members of the Kansas board of regents and two members shall be members of the Kansas legislature. The two legislative appointees shall be appointed by the governor from a panel of four nominees composed of (1) one member of the legislature nominated by the speaker of the house of representatives, (2) one member of the legislature nominated by the minority leader of the house of representatives, (3) one member of the legislature nominated by the president of the senate, and (4) one member of the legislature nominated by the minority leader of the senate.~~

(d) ~~Of the members appointed to the initial board by the governor, two members shall be appointed for a term which expires March 15, 1999, three members shall be appointed for a term which expires March 15, 2000, and three members shall be appointed for a term which expires March 15, 2001. On the effective date of this act, the terms of the general public board members then serving on the board shall expire, and, pursuant to subsection (f), the governor shall reappoint all such general public board members. Of the general public members appointed to the board by the governor under this section, three shall have a term of office of one year, three shall have a term of office of two years, three shall have a term of office of three years and four shall have a term of office of four years. Terms of general public members appointed pursuant to this section shall expire on March 15. Any general public member whose term expires under this section and thereafter is reappointed under this section shall be exempt to the requirements of subsection (f) for the term of office appointed under this section.~~

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

(f) ~~Except for appointment of the initial board,~~ When a vacancy occurs or is announced regarding a member or members representing the general public, a nominating committee of the board *after receiving input from the board and conferring with the board* shall ~~forward~~ *assemble* a slate of ~~candidates~~ *not less than two nor more than three persons for each vacancy and shall forward each slate to the governor for consideration.*

~~Appointment to the board shall be made by the governor subject to senate confirmation.~~ *The governor shall appoint one board member from each slate and shall forward each appointment to the senate for confirmation* as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 2001 Supp. 46-2601, and amendments thereto, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate.

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

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

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

(j) No part of the funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers or members of the board, except that the authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the authority shall be authorized and empowered to pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes including to pay its employees reasonable compensation.

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

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

(m) The board shall appoint a president who shall serve at the pleasure of the board. The president shall serve as the chief executive officer of the authority. The president's salary shall be set by the board. The board may negotiate and enter into an employment agreement with the individual selected as president of the authority which may provide for compensation allowances, benefits and expenses as may be included in such agreement. The president shall direct and supervise administrative affairs and the general management of the authority. ~~The president shall be a nonvoting ex officio member of the board. The president, as a member of the board of directors, may not vote on such president's salary.~~

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

(o) The authority shall continue until terminated by law, except that no such law shall take effect so long as the authority has bonds outstanding, unless adequate provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the au-

thority, all property, funds and assets thereof shall be vested in the state, university of Kansas medical center or other hospital entity as designated by the board and approved by act of the Kansas legislature.

Sec. 3. K.S.A. 2001 Supp. 76-3321 is hereby amended to read as follows: 76-3321. The authority is exempt from the provisions of K.S.A. 12-1675 through 12-1677, *45-401 through 45-413*, 75-1250 through 75-1270, 75-2925 through 75-2975, 75-3701 through 75-37,119, 75-4363, 75-4701 through 75-4744, and 77-501 through 77-550 and K.S.A. 2001 Supp. 75-4362 and amendments thereto.

Sec. 4. K.S.A. 2001 Supp. 76-3322 is hereby amended to read as follows: 76-3322. The authority shall affiliate with the Kansas public employees retirement system on the transfer date as defined in K.S.A. 2001 Supp. 76-3303 and amendments thereto, in accordance with the provisions of K.S.A. 74-4910 and 74-4927 and amendments thereto ~~for current and future employees with respect to transferred employees. The Notwithstanding the provisions of K.S.A. 74-4910, and amendments thereto, the authority may, at the election of the board, affiliate with the system with respect to any or all employees employed by the authority after the transfer date, except that the authority, with respect to any employee who is enrolled in the system after the transfer date, may not change such employee's membership status retroactively.~~ Any person who was an employee of the university of Kansas medical center and a member of the system on the transfer date and whose employment is transferred to the authority as provided in the university of Kansas hospital authority act shall continue to be a member of the system. For all those members of the faculty and other persons employed by the board of regents who were receiving assistance in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto on the transfer date and whose employment is transferred to the authority as provided in the university of Kansas hospital authority act, the authority shall ~~at the election of the board, either (1) assist such employees in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto or (2) adopt, in accordance with requirements of the federal internal revenue code, retirement plans sponsored by the authority providing substantially similar benefits as such retirement annuities and the authority shall continue to provide the insured death and disability benefits as provided in K.S.A. 74-4927a and 74-4927g and amendments thereto. For future employees employed by the authority on or after the transfer date, the authority shall designate whether such employee shall be a member of the system or whether the authority shall either (1) provide assistance in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto adopt, in accordance with requirements of the federal internal revenue code, a retirement plan or plans sponsored by the authority providing substantially similar benefits as such retirement annuities. The authority shall continue to provide the insured death and disability benefits as provided in K.S.A. 74-4927a and 74-4927g and amendments thereto with respect to transferred employees who are members of the system. The authority, at the election of the board, may provide death and disability benefits as provided in K.S.A. 74-4927a and 74-4927g and amendments thereto with respect to other transferred employees and employees hired after the transfer date or the authority may provide similar death and disability benefits to such employees. For employees employed by the authority on or after the transfer date, the authority, at the election of the board, either may (1) enroll such employees as member of the system, or (2) provide that such employee shall be eligible for participation in a retirement plan or plans sponsored by the authority.~~

Sec. 5. K.S.A. 2001 Supp. 76-3303, 76-3304, 76-3321 and 76-3322 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.