

MINUTES OF THE HOUSE HIGHER EDUCATION COMMITTEE

The meeting was called to order by Chairman Terrie Huntington at 1:30 p.m. on March 4, 2009, in Room 786 of the Docking State Office Building.

All members were present except:

Representative Joe McLeland- excused

Committee staff present:

Renae Jefferies, Office of the Revisor of Statutes
Mary Galligan, Kansas Legislative Research Department
Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Linda Fund, Executive Director, Kansas Association of Community College Trustees
Dave Reist, President, Highland Community College
Dr. Tom Burke, President, Kansas City, Kansas, Community College
Reginald Robinson, President & CEO, Kansas Board of Regents (written only)

Others attending:

See attached list.

Hearing on SB 11 - Community colleges; acquisition of real property within service area

Chairman Huntington opened the hearing on **SB 11**. Renae Jefferies, Office of the Revisor of Statutes, explained that **SB 11** deals with the powers and duties of the board of trustees of community colleges. On page 5, subsection (d) is amended to now allow a community college to purchase land or otherwise acquire land or land and improvements within the community college district and within the service area of the community college. The service area of a community college would be the designated geographic area of the state established as the service area for that community college pursuant to an agreement of the presidents of the community colleges and adopted in policy by the State Board of Regents. The fiscal note shows no effect on the Board of Regents, but notes that should a community college acquire land or land and improvements, the acquisition would be financed by that community college. She indicated that a technical amendment would be necessary when the bill is worked. (Attachment 1)

Linda Fund, Executive Director, Kansas Association of Community College Trustees, testified in support of **SB 11** to allow community colleges to acquire and accept donations of land and land improvements within their service areas. She explained that in the 1970's the Kansas Department of Education divided the state into service areas for each of the state's nineteen community colleges. In 2003, the Board of Regents initiated a comprehensive review of service areas. The System Council of Presidents (made up of CEO's from community colleges, technical colleges, Washburn, and the state universities) supported maintaining the concept. Current law prohibits community college boards of trustees from purchasing or otherwise acquiring land or land and improvements outside the community college district, which is defined as the taxing district of a community college. This means that a college cannot accept a donation of land in another county even though that county is in its service area. She provided a balloon amendment to **SB 11** making the technical change previously noted. (Attachment 2)

When asked if it would be helpful to have this legislation take effect and be in force from and after its publication in the Kansas register, Ms. Fund responded that possibly yes.

Dave Reist, President, Highland Community College, and Dr. Tom Burke, President, Kansas City, Kansas, Community College, related specific instances where this legislation would have been very beneficial to their respective colleges. Dr. Burke also provided a brief history of this limitation dating back to out-district tuition concerns in the 1980's. As out-district tuition has been phased out, this reason no longer exists. It was noted that increased enrollment from students in these service areas, plus state money, helps with the tax structure in the taxing districts of the community colleges.

Reginald Robinson, President & CEO, Kansas Board of Regents, submitted written testimony in support of **SB 11**. The Kansas Association of Community College Trustees forwarded this proposal to the Board in

CONTINUATION SHEET

Minutes of the House Higher Education Committee at 1:30 p.m. on March 4, 2009, in Room 786 of the Docking State Office Building.

October, the Board formally adopted this piece of legislation in November as part of its 2009 legislative agenda, and it was introduced in January by the Legislative Education Planning Committee. He noted that it was unanimously approved by the Senate. (Attachment 3)

The hearing on **SB 11** was closed.

The meeting was adjourned at 2:30 p.m. The next meeting of the House Higher Education Committee is scheduled for March 5, 2009.

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MEMORANDUM

To: House Committee on Higher Education
From: Renae Jefferies, Assistant Revisor
Date: March 4, 2009
Subject: Senate Bill No. 11

SB 11 amends K.S.A. 71-201 which deals with the powers and duties of the board of trustees of community colleges.

On page 5, subsection (d) is amended to now allow a community college to purchase land or otherwise acquire land or land and improvements within the community college district and within the service area of the community college. The service area of a community college would be the designated geographic area of the state established as the service area for that community college pursuant to an agreement of the presidents of the community colleges and adopted in policy by the state board of regents.

The bill would become effective upon publication in the statute book.

The fiscal note shows no effect on the board of regents but notes that should a community college acquire land or land and improvements, the acquisition would be finance by that community college.



KANSAS ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES

700 SW Jackson, Suite 1000 • Topeka, KS 66603-3757 • Phone: 785-357-5156 • Fax: 785-357-5157

Linda Fund, Executive Director • E-mail: lfund@kacct.org

House Higher Education Committee

March 4, 2009

RE: SB11

Madam Chair and members of the committee, my name is Linda Fund and I am the Executive Director of the Kansas Association of Community College Trustees (KACCT).

Thank you for the opportunity to testify in support and passage of SB 11. Last November, the LEPC unanimously recommended and introduced the language in SB 11.

This is a simple amendment to K.S.A. 71-201, with no fiscal cost to the State, to allow community colleges to acquire and accept donations of land and land improvements within their service areas. These service areas are designated by the Kansas Board of Regents and are detailed on the map attached to my testimony.

In the 1970's the Kansas Department of Education divided the state into service areas for each of the state's nineteen community colleges. In 2003, the Board of Regents initiated a comprehensive review of service areas. The System Council of Presidents (made up of CEOs from community colleges, technical colleges, Washburn and the state universities) was asked to do the review and determine whether there was persuasive rationale to continue the concept of service areas.

The Council determined that persuasive rationale supported maintaining the concept and providing rationale for their continuance generally because they: prevent duplication, prevent the emergence of unproductive competition among institutions, foster cooperation and collaboration, ensure delivery to Kansas rural areas and prevent a "mad dash" to serve the state's population centers.

House Higher Education Committee
March 4, 2009
Attachment 2

recognize established relationships and investments that have already been made to service areas, recognize the strong partnerships that exist between community colleges and Unified School Districts in the service areas, and because the cooperative efforts derived from service areas continue to benefit Kansans.

Current law prohibits community college boards of trustees from purchasing or otherwise acquiring land or land improvements outside the community college district, which is defined as the taxing district and territory of a community college.

This means currently if a college is located in one county or taxing district, it cannot accept a donation of land in another county even though that county is in its service area.

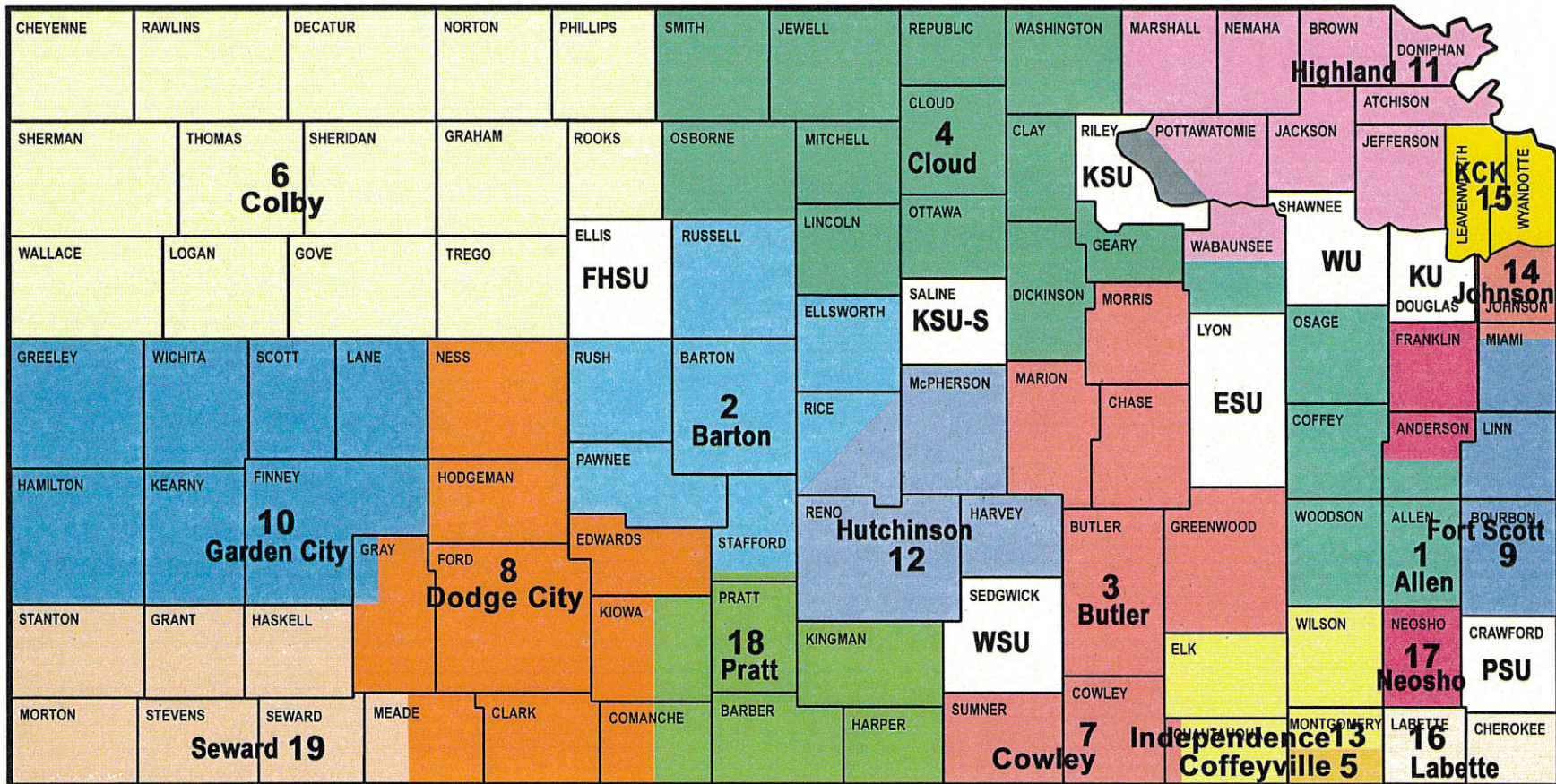
In economic times such as these, we believe it is important to allow community colleges to acquire and accept land and land improvement donations as long as it is within their service territory and has no fiscal affect on the State.

Thank you for considering the passage of SB 11 and I will stand for questions at the appropriate time. Dr. Tom Burke, President of Kansas City Community College, and David Reist, President of Highland Community College are also available to answer any questions you might have.

Kansas Community Colleges and Service Areas for Kansas Community Colleges

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2-3



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| <ul style="list-style-type: none"> 1. Allen County Community College, Iola 2. Barton County Community College, Great Bend 3. Butler County Community College, El Dorado 4. Cloud County Community College, Concordia 5. Coffeyville Community College, Coffeyville 6. Colby Community College, Colby 7. Cowley County Community College, Arkansas City 8. Dodge City Community College, Dodge City 9. Fort Scott Community College, Fort Scott 10. Garden City Community College, Garden City 11. Highland Community College, Highland | <ul style="list-style-type: none"> 12. Hutchinson Community College, Hutchinson 13. Independence Community College, Independence 14. Johnson County Community College Overland Park 15. Kansas City Kansas Community College, Kansas City 16. Labette Community College, Parsons 17. Neosho County Community College, Chanute 18. Pratt Community College, Pratt 19. Seward County Community College, Liberal |
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| State Universities/Washburn |
| Unassigned |

[As Amended by Senate Committee of the Whole]

Session of 2009

SENATE BILL No. 11

By Legislative Educational Planning Committee

1-6

10 AN ACT concerning postsecondary institutions; relating to community
11 colleges and the powers and duties thereof; amending K.S.A. 2008
12 Supp. 71-201 and repealing the existing section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 ~~New Section 1. The state board of regents shall establish, by policy,~~
16 ~~the boundaries of the service area of each community college.~~

17 ~~Sec. 2. [Section 1.]~~ K.S.A. 2008 Supp. 71-201 is hereby amended
18 to read as follows: 71-201. (a) The board of trustees, in accordance with
19 the provisions of law and the rules and regulations of the state board of
20 regents, shall have custody of and be responsible for the property of the
21 community college and shall be responsible for the operation, manage-
22 ment and control of the college. The board of trustees shall hold at least
23 one regular meeting each month at a time prescribed by the board. The
24 board shall make an annual report in the manner prescribed by the state
25 board of regents. Members of the board of trustees shall be paid subsis-
26 tence allowances, mileage and other actual and necessary expenses in-
27 curred in the performance of their official duties.

28 (b) For effectuation of the purposes of this act, the board of trustees
29 in addition to such other powers expressly granted to it by law and subject
30 to the rules and regulations of the state board of regents is hereby granted
31 the following powers:

32 (1) To select its own chairperson and such other officers as it may
33 deem desirable, from among its own membership. The secretary may be
34 chief administrative officer of the college.

35 (2) To sue and be sued.

36 (3) To determine the educational program of the college subject to
37 prior approval thereof as provided in this act and to grant certificates of
38 completion of courses or curriculum.

39 (4) To appoint and fix the compensation and term of office of a pres-
40 ident or chief administrative officer of the college.

41 (5) To appoint upon nomination of the president or the chief admin-
42 istrative officer members of the administrative and teaching staffs, to fix
43 and determine within state adopted standards their specifications, define

- 1 their duties, and to fix their compensation and terms of employment. No
2 community college teacher shall be required to meet licensure require-
3 ments greater than those required in the state educational institutions.
- 4 (6) Upon recommendation of the chief administrative officer, to ap-
5 point or employ such other officers of the college, agents and employees
6 as may be required to carry out the provisions of law and to fix and
7 determine within state adopted standards their qualifications, duties,
8 compensation, terms of office or employment and all other items and
9 conditions of employment.
- 10 (7) To enter into contracts.
- 11 (8) To accept from any government or governmental agency, or from
12 any other public or private body, or from any other source, grants or
13 contributions of money or property which the board may use for or in
14 aid of any of its purposes.
- 15 (9) To acquire by gift, purchase, lease-purchase, condemnation or
16 otherwise, and to own, lease, use and operate property, whether real,
17 personal, or mixed, or any interest therein, which is necessary or desirable
18 for community college purposes. Any lease-purchase agreement entered
19 into under authority of this subsection shall be subject to the conditions
20 set forth in K.S.A. 10-1116c, and amendments thereto. The term of any
21 lease entered into under authority of this subsection may be for not to
22 exceed 10 years. Such lease may provide for annual or other payment of
23 rent or rental fees and may obligate the community college to payment
24 of maintenance or other expenses. Any lease or lease-purchase agreement
25 entered into under authority of this subsection shall be subject to change
26 or termination at any time by the legislature. Any assignment of rights in
27 any lease or lease-purchase made under this subsection shall contain a
28 citation of this section and a recitation that the lease or lease-purchase
29 agreement and assignment thereof are subject to change or termination
30 by the legislature. To the extent that the provisions of the cash-basis and
31 budget laws conflict with this subsection in such a manner as to prevent
32 the intention of this subsection from being made effective, the provisions
33 of this subsection shall control. This provision is subject to the provisions
34 of subsection (d).
- 35 (10) To enter into lease agreements as lessor of any property, whether
36 real, personal, or mixed, which is owned or controlled by the community
37 college. Any such agreement may specify the purposes for which the
38 property may be used, require that the property be maintained and op-
39 erated by the lessee, and may contain such restrictions or limitations on
40 the use of the property, be entered into for such period of time, and
41 include such other terms and conditions as the board of trustees deter-
42 mines to be necessary and proper. Every such agreement shall be subject
43 to change or termination at any time by the legislature. Any assignment

1 of rights under any such agreement shall be subject to approval by the
2 board of trustees and shall contain a citation of this section and a recitation
3 that the lease agreement and assignment of rights thereunder are subject
4 to change or termination by the legislature.

5 (11) To determine that any property owned by the college is no
6 longer necessary for college purposes and to dispose of the same in such
7 manner and upon such terms and conditions as provided by law.

8 (12) To exercise the right of eminent domain, pursuant to chapter 26
9 of Kansas Statutes Annotated.

10 (13) To make and promulgate such rules and regulations, not incon-
11 sistent with the provisions of law or with rules and regulations of the state
12 board of regents, that are necessary and proper for the administration
13 and operation of the community college, and for the conduct of the busi-
14 ness of the board of trustees.

15 (14) To exercise all other powers not inconsistent with the provisions
16 of law or with the rules and regulations of the state board of regents which
17 may be reasonably necessary or incidental to the establishment, mainte-
18 nance and operation of a community college.

19 (15) To appoint a member to fill any vacancy on the board of trustees
20 for the balance of the unexpired term. When a vacancy occurs, the board
21 shall publish a notice one time in a newspaper having general circulation
22 in the community college district stating that the vacancy has occurred
23 and that it will be filled by appointment by the board not sooner than 15
24 days after such publication.

25 (16) To contract with one or more agencies, either public or private,
26 whether located within or outside the community college district or
27 whether located within or outside the state of Kansas for the conduct by
28 any such agencies of academic or vocational education for students of the
29 community college, and to provide for the payment to any such agencies
30 for their contracted educational services from any funds or moneys of the
31 community college, including funds or moneys received from student
32 tuition and fees, funds received from the state of Kansas or the United
33 States for academic or vocational education, or taxes collected under
34 K.S.A. 71-204, and amendments thereto. Any contract made under this
35 subsection with an institution of another state shall be subject to the
36 provisions of K.S.A. 71-202, and amendments thereto.

37 (17) To authorize by resolution the establishment of a petty cash fund
38 in an amount not to exceed \$1,000, and to designate in such resolution
39 an employee to maintain such petty cash fund. The employee designated
40 in any resolution provided for in this subsection receiving such funds shall
41 keep a record of all receipts and expenditures from the fund, and shall
42 from time to time, and at the end of the fiscal year, prepare a statement
43 for the board showing all receipts, expenditures, and the balance in the

1 petty cash fund. The board of trustees may authorize the employee des-
2 ignated to maintain any petty cash fund to make a claim for replenishment
3 of the fund to its original amount in advance of approval by the board of
4 trustees if, at any time during the period between regular monthly meet-
5 ings of the board of trustees, the balance remaining in the fund is insuf-
6 ficient to make needed expenditures for any purpose for which the petty
7 cash fund is maintained. No petty cash fund may be replenished more
8 than one time during each period between regular monthly meetings of
9 the board of trustees. If a petty cash fund is replenished prior to the end
10 of the fiscal year in accordance with the foregoing authorization, the em-
11 ployee authorized to maintain the petty cash fund shall keep an accurate
12 record of all expenditures made therefrom, and the purpose therefor, and
13 shall submit the record to the board of trustees at the next regular
14 monthly meeting thereof. The petty cash fund shall be replenished by
15 payment from the appropriate funds of the community college to the
16 petty cash fund upon proper claim. The fund shall be kept separate from
17 all other funds and shall be used only for authorized expenditures and
18 itemized receipts shall be taken for each expenditure. No part of such
19 fund may be loaned or advanced against the salary of an employee. All
20 employees entrusted with such funds under this subsection shall be
21 bonded by the community college district.

22 (c) Subject to the provisions of subsection (d), the board of trustees
23 may purchase or otherwise acquire land or land and improvements and
24 may acquire, construct, reconstruct, repair or remodel improvements
25 thereon or additions thereto, including furnishings, equipment, and ar-
26 chitectural and incidental expense related thereto, and for such purposes
27 the board of trustees is authorized to issue and sell general obligation
28 bonds, the cumulative total not to exceed the following amounts: Where
29 the community college district has a taxable tangible valuation of less than
30 \$90,000,000 or is located in a county designated as urban under the pro-
31 visions of K.S.A. 19-3524, and amendments thereto, not to exceed 5% of
32 the taxable tangible property of the community college district, and where
33 the community college district has a taxable tangible valuation of more
34 than \$90,000,000 not to exceed 3% except as provided above for any
35 community college district located in a county designated as urban under
36 the provisions of K.S.A. 19-3524, and amendments thereto, of the taxable
37 tangible property of the community college district. If any increase in the
38 valuation of a community college district results in an outstanding bonded
39 indebtedness in excess of that provided in this subsection, such increase
40 shall not constitute a violation of this subsection. No such bonds shall be
41 issued until the question of their issuance shall have been submitted to a
42 vote of the electors of the community college district at a regular election
43 or at a special election called for that purpose and the majority of the

1 electors voting on the proposition in such community college district shall
2 have voted in favor of the issuance of the bonds. Such election shall be
3 called, noticed and held and the bonds issued, sold, delivered and retired
4 in accordance with the provisions of the general bond law except as herein
5 otherwise expressly provided.

6 (d) The board of trustees of a community college may ~~not~~ purchase
7 or otherwise acquire land or land and improvements ~~outside~~ *within*: (1)
8 The community college district; or (2) *the service area of the community*
9 ~~college as established by the state board of regents pursuant to section 1,~~
10 ~~and amendments thereto.~~ Nothing in this subsection shall be construed
11 or operate in any manner to require a board of trustees to sell, convey or
12 otherwise dispose of land or land and improvements located outside the
13 community college district *or the service area of the community college*
14 and owned or being acquired by the community college on the effective
15 date of this act; ~~but no board of trustees may enter into a contract for the~~
16 ~~construction of improvements on any such land after the effective date~~
17 ~~of this act.~~

18 *[For the purposes of this subsection, "service area" means des-*
19 *ignated geographic areas of the state established pursuant to agree-*
20 *ment of the presidents of the community colleges and adopted in*
21 *policy by the state board of regents.]*

22 Sec. ~~3.~~ [2.] K.S.A. 2008 Supp. 71-201 is hereby repealed.

23 Sec. ~~4.~~ [3.] This act shall take effect and be in force from and after
24 its publication in the statute book.

2-8



KANSAS BOARD OF REGENTS

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March 4, 2009

Representative Terrie Huntington, Chair
House Higher Education Committee
Docking S.O.B.
Topeka, KS 66612

Representative Ann Mah, Ranking Member
House Higher Education Committee
Docking S.O.B.
Topeka, KS 66612

Dear Chairwoman Huntington and Ranking Member Mah:

On behalf of the Kansas Board of Regents, I write to you in support of Senate Bill 11, legislation that would permit community colleges to own property outside their local college taxing district, but within their assigned service area. The Kansas Association of Community College Trustees forwarded this proposal to the Board in October, the Board formally adopted this piece of legislation in November as part of its 2009 legislative agenda, it was introduced in January by the Legislative Educational Planning Committee, and it was unanimously approved by the Senate last month.

Historically, community college funding included out-district tuition which was paid by all Kansas counties and which was based on the number of students from a particular county attending community college outside that county. Similarly, community colleges have been prohibited from owning property outside the local taxing district because “out counties” were concerned that ownership in their local county would increase their local enrollment and thus increasing the amount they would have to pay. With the passage of SB 345 in 1999, out-district tuition was phased-out and this “out county” concern has been removed. Out-of-county ownership would provide community colleges with the flexibility to take advantage of intentional unexpected opportunities (provisions from estates, un-used government property transfers, and/or the ability to cost-effectively provide service area classroom space).

Thank you for the opportunity to comment on Senate Bill 11.

Sincerely,

Reginald L. Robinson
President & CEO

House Higher Education Committee
March 4, 2009
Attachment 3