

House Substitute for SENATE BILL No. 40

By Committee on Appropriations

3-19

1 AN ACT concerning the Kansas bioscience authority; amending K.S.A.
2 2011 Supp. 74-99b04, 74-99b08 and 74-99b17 and repealing the
3 existing sections.
4

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

6 Section 1. K.S.A. 2011 Supp. 74-99b04 is hereby amended to read as
7 follows: 74-99b04. (a) There is hereby established a body politic and
8 corporate, with corporate succession, to be known as the Kansas
9 bioscience authority. The authority shall be an independent instrumentality
10 of the state. Its exercise of the rights, powers and privileges conferred by
11 this act shall be deemed and held to be the performance of an essential
12 governmental function.

13 (b) In order to accelerate any and all synergy and opportunities for the
14 growth of the authority, the authority shall be headquartered and establish
15 its principal operation in the county in the state with the highest number of
16 bioscience employees associated with bioscience companies as of the
17 effective date of this act. The exact location of the authority's headquarters
18 and principal operations in such county shall be at the discretion of the
19 authority's board.

20 (c) The authority shall be governed by an eleven-member board. One
21 member of the board shall be an agricultural expert who is recognized for
22 outstanding knowledge and leadership in the field of bioscience. Eight of
23 the members of the board shall be representatives of the general public
24 who are recognized for outstanding knowledge and leadership in the fields
25 of finance, business, bioscience research, plant biotechnology, basic
26 research, health care, legal affairs, bioscience manufacturing or product
27 commercialization, education or government. Of the nine voting members,
28 five must be residents of the state. The other two members of the board
29 shall be nonvoting members with research expertise representing state
30 universities and shall be appointed by the Kansas board of regents.
31 Nonvoting members shall serve at the pleasure of the board of regents.

32 (d) Of the nine voting members who will be appointed to the
33 authority's first board, two shall be appointed by the governor for a term of
34 office of four years, two shall be appointed by the speaker of the house of
35 representatives, ~~one of which shall be the agricultural expert as authorized~~
36 ~~in subsection (e)~~, for a term of office of three years, two shall be appointed

1 by the president of the senate for a term of office of three years, one shall
2 be appointed by the minority leader of the house of representatives for a
3 term of office of two years, one shall be appointed by the minority leader
4 of the senate for a term of office of two years, and one member shall be the
5 secretary of commerce. Members of the first board shall be appointed by
6 August 1, 2004. No more than three voting members shall be appointed
7 from any one congressional district. All voting members of the board shall
8 be subject to senate confirmation as provided in K.S.A. 75-4315b, and
9 amendments thereto. Any member of the board whose nomination is
10 subject to confirmation during a regular session of the legislature shall be
11 deemed terminated when the senate rejects the nomination. No such
12 termination shall affect the validity of any action taken by such member of
13 the board before such termination.

14 (e) Terms of voting members appointed pursuant to this section shall
15 expire on March 15.

16 (f) (1) After the expiration of the terms of the authority's first board,
17 or whenever a vacancy occurs or is announced regarding a voting member
18 or members of the board, such voting member or members shall be
19 appointed as described in subsections (c) and (d), except that such
20 members shall be appointed for terms of four years each. In the event of a
21 vacancy the appointment shall be for the remainder of the unexpired
22 portion of the term.

23 (2) Each member of the board shall hold office for the term of
24 appointment and until a successor has been confirmed. Any member of the
25 board is eligible for reappointment, but members of the board shall not be
26 eligible to serve more than ~~three~~ two consecutive four-year terms.

27 (g) Except for appointments of nonvoting members, each
28 appointment shall be forwarded to the senate for confirmation as provided
29 in K.S.A. 75-4315b, and amendments thereto. Except as provided by
30 K.S.A. 2011 Supp. 46-2601, and amendments thereto, no person appointed
31 to the board shall exercise any power, duty or function as a member of the
32 board until confirmed by the senate. In case of a vacancy when the senate
33 is not in session, the appointing entity may make a temporary appointment
34 to the board until the next meeting of the senate. Any person who is
35 temporarily appointed by the appointing entity to the board shall have all
36 of the powers, duties and functions as a member of the board during such
37 temporary appointment.

38 (h) The board annually shall elect a voting member as chairperson
39 and at least one other as vice-chairperson. The board also shall elect a
40 secretary and treasurer for terms to be determined by the board. The board
41 may elect the same person to serve as both secretary and treasurer. The
42 board shall establish an executive committee, nominating committee and
43 other standing or special committees, and prescribe their duties and

1 powers. Any executive committee of the board may exercise all such
2 powers and duties of the board as the board may delegate.

3 (i) Members of the board are entitled to compensation and expenses
4 as provided in K.S.A. 75-3223, and amendments thereto. Members of the
5 board attending board meetings or subcommittee meetings authorized by
6 the board, shall be paid mileage and all other applicable expenses,
7 provided such expenses are consistent with policies established from time-
8 to-time by the board and as required by subsection (j).

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

17 (k) Any member of the board other than a nonvoting member may be
18 removed by an affirmative vote by six members of the board for
19 malfeasance or misfeasance in office, regularly failing to attend meetings,
20 or for any cause which renders the member incapable of or unfit to
21 discharge the duties of director.

22 (l) The board shall meet at least four times per year and at such other
23 times as it deems appropriate, or upon call by the president or the
24 chairperson, or upon written request of a majority of the directors of the
25 board. The board may adopt, repeal and amend such rules, procedures and
26 bylaws, not contrary to law or inconsistent with this act, as it deems
27 expedient for its own governance and for the governance and management
28 of the authority. A majority of the total voting membership of the board
29 shall constitute a quorum for meetings. The board may act by a majority of
30 those at any meeting where a quorum is present, except upon such issues
31 as the board may determine shall require a vote of six members of the
32 board for approval. The board shall meet for the initial meeting upon call
33 by the member of the board appointed by the secretary of commerce, who
34 shall act as temporary chairperson until officers of the board are elected
35 pursuant to subsection (h).

36 (m) The board shall appoint a president who shall serve at the
37 pleasure of the board. The president shall serve as the chief executive
38 officer of the authority. The president's salary shall be set by the board.
39 The board may negotiate and enter into an employment agreement with the
40 individual selected as president of the authority, which may provide for
41 compensation allowances, benefits and expenses as may be included in
42 such agreement. The president shall direct and supervise administrative
43 affairs and the general management of the authority.

1 (n) The board may provide supplemental benefits to the president and
2 other authority employees designated by the board in addition to the
3 benefits provided under this act.

4 (o) The authority shall continue until terminated by law, except that
5 no such law shall take effect so long as the authority has debts or
6 obligations outstanding, unless adequate provision has been made for the
7 payment or retirement of such debts or obligations. Upon any such
8 dissolution of the authority, all property, funds and assets thereof shall be
9 vested in the state, bioscience research institutions or both as designated
10 by the board, or any other public institute or private enterprise engaged in
11 the business of bioscience, or any combination thereof, as designated by
12 the board and approved by act of the legislature.

13 Sec. 2. K.S.A. 2011 Supp. 74-99b08 is hereby amended to read as
14 follows: 74-99b08. (a) *No member of the board or any director, employee,*
15 *other agent or advisor of the authority shall have a direct interest in any*
16 *contract or transaction with the authority. Any member of the board or*
17 *director who has a direct interest in any contract or transaction with the*
18 *authority shall either resign such director's or member's position on the*
19 *authority or divest such interest. Any member of the board and any*
20 *employee, other agent or advisor of the authority, who has a direct or an*
21 *indirect interest in any contract or transaction with the authority, shall*
22 *disclose this interest to the authority in writing. This interest shall be set*
23 *forth in the minutes of the authority, and no member of the board, director,*
24 *officer, employee, other agent or advisor having such interest shall*
25 *participate on behalf of the authority in the authorization of any such*
26 *contract or transaction; except that, the provisions of this section shall not*
27 *be construed to prohibit any employee of bioscience research institutions,*
28 *or any public institute or private enterprise engaged in the business of*
29 *bioscience who is a member of the board, who has no direct or personal*
30 *interest, from voting on the authorization of any such contract or*
31 *transaction between the authority and such employee's employer.*

32 (b) All members of the board and all officers of the authority shall
33 file a written statement pursuant to K.S.A. 46-247 *et seq.*, and amendments
34 thereto, regarding any substantial interests, within the meaning of K.S.A.
35 46-229, and amendments thereto, that each director may hold. Any
36 employee, other agent or advisor of the authority who has a substantial
37 interest in any contract or transaction with the authority within the
38 meaning of K.S.A. 46-229, and amendments thereto, shall file a written
39 statement of substantial interest pursuant to K.S.A. 46-247 *et seq.*, and
40 amendments thereto.

41 Sec. 3. K.S.A. 2011 Supp. 74-99b17 is hereby amended to read as
42 follows: 74-99b17. (a) *Except as provided in subsection (b), the authority*
43 *may, at the election of the board, affiliate with the Kansas public*

1 employees retirement system with respect to any or all employees
2 employed by the authority on or after the effective date of this act, in
3 accordance with the provisions of K.S.A. 74-4910, and amendments
4 thereto. The authority may, at the election of the board, adopt, in
5 accordance with requirements of the federal internal revenue code, a
6 retirement plan or plans sponsored by the authority with respect to
7 employees employed by the authority on or after the effective date of this
8 act. The authority may, at the discretion of the board, provide death and
9 disability benefits as provided in K.S.A. 74-4927a and 74-4927g, and
10 amendments thereto.

11 *(b) The authority's option to affiliate with the Kansas public*
12 *employees retirement system pursuant to subsection (a) shall expire on*
13 *July 1, 2012. This provision shall not affect any employee of the authority*
14 *who was affiliated with the Kansas public employees retirement system on*
15 *or before June 30, 2012.*

16 Sec. 4. K.S.A. 2011 Supp. 74-99b04, 74-99b08 and 74-99b17 are
17 hereby repealed.

18 Sec. 5. This act shall take effect and be in force from and after its
19 publication in the statute book.

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