

## 2018 Kansas Statutes

**74-99b09. Bioscience authority, powers and duties; review by secretary of commerce.** (a) The authority shall have all of the powers necessary to carry out the purposes and provisions of this act, including, without limitation, the following powers to:

- (1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;
  - (2) have the duties, privileges, immunities, rights, liabilities and disabilities of a body politic and corporate and independent instrumentality of the state;
  - (3) have perpetual existence and succession;
  - (4) adopt, have and use a seal and to alter the same at its pleasure;
  - (5) sue and be sued in its own name;
  - (6) work with bioscience research institutions to identify and recruit eminent scholars and rising star scholars who shall become employed by bioscience research institutions or the authority, or both, to perform bioscience research, development and commercialization at bioscience research institutions or at authority facilities, or both;
  - (7) transfer funds to bioscience research institutions in amounts to be determined by the board for the purpose of attracting and then supplementing the compensation of eminent scholars and rising star scholars;
  - (8) work with and collaborate with bioscience research institutions to determine the types of bioscience research that will be conducted by eminent scholars and rising star scholars;
  - (9) work with bioscience research institutions to determine the types of facilities that may be constructed at bioscience research institutions or at authority premises, or elsewhere, for eminent scholars and rising star scholars to perform bioscience research and development;
  - (10) employ personnel to assist or complement the research of eminent scholars and rising star scholars;
  - (11) establish policies and procedures to facilitate integrated bioscience research activities by the authority and bioscience research institutions;
  - (12) make and execute contracts, guarantees or any other instruments and agreements necessary or convenient for the exercise of its powers and functions including, without limitation, to make and execute contracts with bioscience enterprises, including start-up companies, other public and private persons and entities, health care businesses, state universities and colleges, and to incur liabilities and secure the obligations of any entity or individual;
  - (13) partner with the bioscience research institutions to provide matching funds for federal grants;
  - (14) borrow money and to pledge all or any part of the authority's assets therefor;
  - (15) purchase, lease, trade, exchange or otherwise acquire, maintain, hold, improve, mortgage, sell and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange or otherwise acquire real property or any interest therein, and to maintain, hold, improve, mortgage, sell, lease and otherwise transfer such real property to the universities, colleges, public institutions and private enterprises in the state, so long as such transactions do not conflict with the mission of the authority as specified in this act;
  - (16) own, acquire, construct, renovate, equip, improve, operate, maintain, sell or lease any land, buildings or facilities in the state that can be used in researching, developing, sponsoring or commercializing bioscience in the state including, without limitation, a state-of-the-art facility, laboratory or commercial wet lab space incubator to be used by the authority, and also to be made available for use by bioscience research institutions or Kansas companies conducting bioscience research and development for bioscience research, commercialization and technology transfer of bioscience products, processes and other intellectual property in accordance with the provisions of this act;
  - (17) incur or assume indebtedness to, and enter into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for the authority;
  - (18) develop policies and procedures generally applicable to the procurement of goods, services and construction, based upon sound business practices;
  - (19) solicit, study and assist in the preparation of business plans and proposals of new or established businesses to advance the biosciences in the state;
  - (20) own and possess patents, copyrights, trademarks and proprietary technology and to enter into contracts for the purposes of commercializing and establishing charges for the use of such patents, copyrights, trademarks and proprietary technology involving bioscience;
  - (21) contract for and to accept any gifts, grants and loans of funds, property or any other aid in any form from the federal government, the state, any state agency or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;
  - (22) acquire space, equipment, services, supplies and insurance necessary to carry out the purposes of this act;
  - (23) deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority;
  - (24) procure such insurance, participate in such insurance plans or provide such self-insurance or both as it deems necessary or convenient to carry out the purposes and provisions of this act; the purchase of insurance, participation in an insurance plan or creation of a self-insurance fund by the authority shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the authority or its officers, directors, employees or agents are otherwise entitled;
  - (25) appoint, supervise and set the salary and compensation of the president, who shall be appointed by and serve at the pleasure of the board;
  - (26) fix, revise, charge and collect rates, rentals, fees and other charges for the services or facilities furnished by or on behalf of the authority, and to establish policies and procedures regarding any such service rendered for the use, occupancy or operation of any such facility; such charges and policies and procedures not to be subject to supervision or regulation by any commission, board, bureau or agency of the state; and
  - (27) do any and all things necessary or convenient to carry out the authority's purposes and exercise the powers given in this act.
- (b) The authority may create, own in whole or in part, or otherwise acquire or dispose of any entity organized for a purpose related to or in support of the mission of the authority.
- (c) The authority may participate in joint ventures and collaborate with any taxpayer, governmental body or agency, insurer, university and college of the state, or any other entity to facilitate any activities or programs consistent with the purpose and intent of this act.
- (d) (1) The authority may create a nonprofit entity or entities for the purpose of soliciting, accepting and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, which entity or entities shall not engage in trust business. The nonprofit entity created in this subsection may

expend such funds through grants or loans to further the purpose of bioscience authority activities including, but not limited to, issuing grants to high schools for the purpose of creating bioscience academies and to Kansas universities and colleges for the purpose of increasing the number of students majoring in bioscience, science education and math education. The authority may set requirements for curricula, teaching credentials and any other items and procedures incidental to establishing the grant programs.

(2) Grants made pursuant to this subsection shall be based on requirements established by the nonprofit entity and may include, but not be limited to, requirements for eligibility, grant applications, organizational characteristics and standards for eligibility and accountability as are deemed advisable by the nonprofit entity.

(3) The authority may not create any political action committee or contribute to any political action committee.

(e) In carrying out any activities authorized by this act, the authority may provide appropriate assistance, including the making of loans and providing time of employees, to any taxpayer, governmental body or agency, insurer, university and college of the state, or any other entity, whether or not any such taxpayer, governmental body or agency, insurer, university and college of the state, or any other entity is owned or controlled in whole or in part, directly or indirectly, by the authority.

(f) Notwithstanding any provision of law to the contrary, the authority may invest the funds received from gifts, grants, donations and other operations of the authority in such investments as would be lawful for a private corporation having purposes similar to the authority including preseed, seed capital and venture capital funds whose purpose is to commercialize bioscience intellectual property, and in any obligations or securities as authorized by the board. Prior to making any investments, the board shall adopt written investment guidelines.

(g) Except as provided in this act, all moneys earned or received by the authority, including all funds derived from the commercialization of bioscience products by the authority, or any affiliate or subsidiary thereof, or from the Kansas bioscience development and investment fund, shall belong exclusively to the authority.

(h) In accordance with subsection (i) below, the authority shall direct and manage the commercialization of bioscience intellectual property created by eminent scholars and rising star scholars who are employed by bioscience research institutions or the authority or both. Prior to the authority providing any financial support or funding to the bioscience research institutions, the authority and the bioscience research institutions must enter into an agreement that will govern each party's respective duties and responsibilities with respect to technology transfer and commercialization of any such bioscience intellectual property. Such agreements between the authority and the bioscience research institutions shall address the sharing of revenue from any such bioscience intellectual property, the technology transfer of such bioscience intellectual property, patent application filing and maintenance fees, assumption of risks and the terms of ownership of such bioscience intellectual property. The authority and the bioscience research institutions shall have authority to freely negotiate. If conflicts arise, all terms and provisions of such agreement shall prevail and govern over any policy of a bioscience research institution or the Kansas board of regents.

(i) The authority will take steps to reasonably ensure that it does not duplicate existing commercialization efforts already located in the state. After the five-year period from the effective date of this act, the authority may sell, license, contribute or provide bioscience intellectual property to any third party, or provide services, facilities or assistance to any third party, for a fee, for an ownership interest in the third party, or other consideration, so as to commercialize bioscience technology. The authority may take all such actions necessary to commercialize any technology in which the authority has an interest.

(j) The authority shall prepare an annual report to the legislature and the governor on all distributions from the bioscience development and investment fund, and income, investment and income tax credits and exemptions attributed to bioscience authority activity. The authority with assistance from the department of revenue shall prepare an annual report summarizing the growth of bioscience research and industry in Kansas.

(k) The authority shall be subject to review by the secretary of commerce. In the review, the secretary of commerce shall evaluate and report on the effectiveness of the activities of the bioscience authority in the manner provided in K.S.A. 74-8010, and amendments thereto.

**History:** L. 2004, ch. 112, § 9; L. 2011, ch. 104, § 39; L. 2012, ch. 65, § 25; July 1.