

HOUSE BILL No. 2343

AN ACT concerning financing of certain post secondary educational institutions; related to out-district tuition; amending K.S.A. 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and K.S.A. 2002 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34 and 19-101a and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 13-13a25 is hereby amended to read as follows: 13-13a25. (a) As used in K.S.A. 13-13a25 through 13-13a34, and amendments thereto:

(1) "Board of levy" means the board of county commissioners of every county in which there is not located a municipal university and the township trustee, township clerk and township treasurer, acting as a board, of every township within every county in which there is located a municipal university, except that board of levy shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

(2) "Municipal university" means a municipal university established under the provisions of article 13a of chapter 13 of Kansas Statutes Annotated.

(3) "Municipal university district" means the taxing district of a municipal university.

(4) "Taxing subdivision" means every county in which there is not located a municipal university and every township within every county in which there is located a municipal university, except that taxing subdivision shall not include a township within a county in which there is located a municipal university which has levied a countywide retailer's sales tax.

(5) "State board" means the state board of regents.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 2. K.S.A. 2002 Supp. 13-13a26 is hereby amended to read as follows: 13-13a26. (a) The board of regents of a municipal university, in accordance with rules and regulations of the state board, shall determine and collect an amount of out-district tuition to be charged for each student attending the municipal university whose residence is outside of the municipal university district.

(b) The board of levy of any taxing subdivision charged with payment of out-district tuition shall levy a tax on all of the taxable property of the taxing subdivision sufficient to pay all out-district tuition charges authorized by this act.

(c) The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition the board of levy shall allow and pay the same promptly from the special fund. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the general fund of the taxing subdivision or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition.

(d) The total out-district tuition charged by a municipal university shall be: (1) For the 2000 fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such duly enrolled out-district student; (2) for the 2001 fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student; (3) for the 2002 fiscal year ~~and~~, the 2003 fiscal year *and the 2004 fiscal year*, an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and (4) for the ~~2004~~ 2005 fiscal year, an amount equal to the number of duly enrolled out-district students time \$6 for each credit hour of each such student.

(e) Out-district tuition shall only be charged for credit hours of students if such students, as determined by the state board, have not more than 64 credit hours from any institution of postsecondary education or the students have not more than 72 credit hours and are enrolled in terminal type nursing courses or freshman-sophomore preengineering courses.

(f) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the taxing subdivision.

(g) The levy of taxes and the payment of out-district tuition by counties required under the provisions of this section shall not be subject to

the exercise of home rule by counties under the provisions of article 1 of chapter 19 of Kansas Statutes Annotated. Counties shall have no power to exempt from, or effect changes in, the provisions of this section.

(h) Taxes levied by townships under the authority of this section shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1962, and amendments thereof.

(i) In May of each fiscal year, the board of regents shall notify each board of levy of the approximate amount of out-district tuition which will be charged to the taxing subdivision in the succeeding fiscal year.

(j) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 3. K.S.A. 2002 Supp. 13-13a27 is hereby amended to read as follows: 13-13a27. (a) Out-district tuition shall be based only upon enrollments of students who are residents of the state of Kansas. For the purpose of determination of out-district tuition: (1) Persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the state of Kansas for six months prior to enrollment for any term or session are nonresidents of the state of Kansas; and (2) persons enrolling in a municipal university who, if adults, have not been, or if minors, whose parents have not been, residents of the municipal university district for six months prior to enrollment for any term or session are nonresidents of the municipal university district.

(b) For the purpose of determining residence of persons, the residence of minors shall be determined as provided in K.S.A. 72-1046, and amendments thereto, and of adults as provided in subpart *twenty-third* of K.S.A. 77-201 and amendments thereto.

(c) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students and shall make conclusive determination of any residence matter for the purpose of determination of liability of taxing subdivisions for out-district tuition.

(d) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 4. K.S.A. 2002 Supp. 13-13a29 is hereby amended to read as follows: 13-13a29. (a) The determination of credit hours of duly enrolled out-district students shall be made at the end of the fifth week of the regular spring and fall semesters and at the end of the equivalent period for summer sessions. The determination of credit hours of duly enrolled out-district students for payments for short-term courses shall be made at such times as are prescribed by the state board of regents.

(b) On or before November 1 and on or before April 1 of each year, the president and treasurer of a municipal university shall certify under oath to the state board the total number of duly enrolled credit hours of out-district students of the municipal university during the current school term. The state board may require a municipal university to furnish any additional information deemed necessary by it to carry out the provisions of this act and shall prescribe such forms, to be approved by the attorney general, as may be necessary for making such reports.

(c) The state board and the post auditor may audit the records of a municipal university to verify the accuracy of the reports submitted by the municipal university. The state board may promulgate rules and regulations for the administration of this act.

(d) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 5. K.S.A. 2002 Supp. 13-13a31 is hereby amended to read as follows: 13-13a31. (a) Subject to the provisions of subsection (b), no out-district tuition shall be charged or paid for any student attending a municipal university whose residence outside the municipal university district is in a taxing subdivision in which there is located a community college.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college which is located in the taxing subdivision in which such student resides.

(c) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 6. K.S.A. 2002 Supp. 13-13a32 is hereby amended to read as follows: 13-13a32. (a) Subject to the provisions of subsection (b), no out-

district tuition shall be charged to or paid by any county in which there is located a municipal university for any student attending a community college whose residence outside the community college district is in a county in which there is located a municipal university.

(b) The provisions of subsection (a) shall not apply to any such out-district student when the course of study or program which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the municipal university which is located in the county in which such student resides.

(c) The provisions of this section shall expire on June 20, ~~2004~~ 2005.

Sec. 7. K.S.A. 2002 Supp. 13-13a33 is hereby amended to read as follows: 13-13a33. (a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent to the courses of study and programs offered in municipal universities. A current, complete list of such courses of study and programs shall be maintained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 8. K.S.A. 2002 Supp. 13-13a34 is hereby amended to read as follows: 13-13a34. (a) No out-district tuition charged by a municipal university shall be based upon any course or program which is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with the municipal university and for which payments of state or federal moneys are made to the area vocational school, area vocational-technical school, or technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 9. K.S.A. 2002 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution

authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, ~~2004~~ 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, ~~2004~~ 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2002 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an

act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 10. K.S.A. 71-301a is hereby amended to read as follows: 71-301a. (a) The board of trustees, in accordance with rules and regulations of the state board, shall determine an amount of out-district tuition to be charged for each out-district student attending the community college. The board of county commissioners of any county charged with payment of out-district tuition shall levy a tax on all of the taxable property of the county sufficient to pay all out-district tuition charges authorized by this act. The proceeds from the tax levied under authority of this section shall be deposited in a special fund for payment of out-district tuition. Upon receiving a statement of charges for out-district tuition, the board of county commissioners shall allow and pay the same from the special fund within 45 days from the receipt of such statement. If there is insufficient or no money in the special fund, out-district tuition shall be paid from the county general fund or from the proceeds of the sale of no-fund warrants issued for the purpose of the payment of out-district tuition. If the board of county commissioners fails to pay such amount at the time required under this subsection, the board of trustees shall notify the state board of such failure to pay and shall certify to the state board the amount to be paid. Upon receipt by the state board of such notification, the amount to be paid as certified to the state board shall become an amount due and owing to the state board. The state board shall notify the board of county commissioners that this amount is now due and owing to the state board. If the board of county commissioners fails to pay such amount to the state board within 14 days of the receipt of such notification, the state board shall initiate proceedings under K.S.A. 75-6201 *et seq.* for the collection of such money. Money paid to or collected by the state board under this subsection shall be deposited in the out-district tuition suspense account which is hereby created in the state treasury. The state board shall pay moneys from this account, in accordance with rules and regulations of the state board, to the community colleges entitled to receive such money.

(b) The total out-district tuition charged by a community college shall be: (1) For the 2000 fiscal year, an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such student; (2) for the 2001 fiscal year, an amount equal to the number of duly enrolled out-district students times \$18 for each credit hour of each such student; (3) for the 2002 fiscal year ~~and~~, the 2003 fiscal year *and the 2004 fiscal year*, an amount equal to the number of duly enrolled out-district students times \$12 for each credit hour of each such student; and (4) for the ~~2004~~ 2005 fiscal year, an amount equal to the number of duly enrolled out-district students times \$6 for each credit hour of each such student.

(c) In May of each fiscal year, the board of trustees shall notify the board of county commissioners of the approximate amount of out-district tuition which will be charged to the county in the succeeding fiscal year.

(d) Expenditures for out-district tuition shall be exempt from the budget law of this state to the extent of such payments not anticipated in the budget of the county.

(e) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, ~~2004~~ 2005.

Sec. 11. K.S.A. 71-304 is hereby amended to read as follows: 71-304. (a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, and subject to the provisions of K.S.A. 71-305, and amendments thereto, no out-district tuition shall be charged or paid for any student attending a community college whose residence outside the community college district is in another community college district.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 12. K.S.A. 71-305 is hereby amended to read as follows: 71-305. (a) The provisions of K.S.A. 71-304, and amendments thereto, do not apply to any out-district student when the course of study or program

which the student selects, or a course of study or program which is substantially equivalent thereto, is not offered in the community college of the district in which such student resides.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 13. K.S.A. 71-306 is hereby amended to read as follows: 71-306.

(a) The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for the purpose of determining which courses of study and programs offered in the community colleges are substantially equivalent. A current, complete list of such courses of study and programs shall be maintained on file in the office of the state board of regents, and shall be open for public inspection at any reasonable time.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 14. K.S.A. 71-308 is hereby amended to read as follows: 71-308.

(a) No out-district tuition charges shall be based upon credit hours in any subject or course the principal part of which is taught at a location outside the county of the main campus of a community college, unless the location of such subject or course is specifically authorized by the state board of regents.

(b) (1) No out-district tuition charges shall be based upon credit hours in any subject or course which is taught in a county in which the main campus of a state educational institution is located, unless the teaching of such subject or course is specifically authorized by the chief executive officer of the state educational institution or by a designee of the chief executive officer. The chief executive officer of each state educational institution may designate and authorize a person or committee to act on behalf of the chief executive officer in granting the authorizations required by this subsection. No authorization required by this subsection shall be considered to be or construed in any manner as an agreement provided for by subsection (c).

(2) For the purposes of this subsection, the term “main campus of a state educational institution” as applied to Kansas state university of agriculture and applied science means and includes the campus of the university located in Riley county and the campus of the university’s college of technology located in Saline county.

(3) The provisions of this subsection are subject to the provisions of subsection (c).

(c) No out-district tuition charges shall be based upon credit hours in any subject or course all or the principal part of which is taught at Fort Hays state university or at Wichita state university under an agreement for the teaching of such subject or course entered into by a community college and either such university. An agreement entered into under the provisions of this subsection for the teaching of a subject or course by a community college at Fort Hays state university or at Wichita state university shall constitute the authorization required by subsection (b) for the teaching of such subject or course, and no separate authorization under subsection (b) shall be required.

(d) No out-district tuition charges shall be based upon any course or program if such course or program is taught in an area vocational school, an area vocational-technical school, or a technical college under an agreement with a community college and for which payments of state or federal moneys are made to the area vocational school, the area vocational-technical school, or the technical college under the provisions of article 44 of chapter 72 of Kansas Statutes Annotated.

(e) No out-district tuition charges shall be based upon any motorcycle driver safety course conducted by a community college.

(f) The provisions of this section shall take effect and be in force on July 1, 1999, and shall expire on June 30, ~~2004~~ 2005.

Sec. 15. K.S.A. 71-401 is hereby amended to read as follows: 71-401.

(a) Persons enrolling in a community college who, if adults, have not been, or if minors, whose parents have not been residents of the county in which is located the principal campus of the community college for at least six months prior to enrollment for any term or session are nonresidents of the community college district for the purpose of determining liability of counties for payment of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 16. K.S.A. 71-402 is hereby amended to read as follows: 71-402.

(a) For the purpose of determining the county of residence of persons,

residence of minors shall be determined as provided in K.S.A. 72-1046 and amendments thereto and of adults as provided in subpart *Twenty-third* of K.S.A. 77-201 and amendments thereto.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 17. K.S.A. 71-403 is hereby amended to read as follows: 71-403.

(a) The state board of regents may adopt rules and regulations prescribing criteria or guidelines for determination of residence of students for the purpose of determining liability of counties for out-district tuition of students in community colleges. The state board may make conclusive determination of any residence matter for the purpose of determination of out-district tuition.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 18. K.S.A. 71-610 is hereby amended to read as follows: 71-610.

(a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever there are two community college districts located within one county, no out-district tuition shall be charged for any student residing in such county and attending either such community college.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 19. K.S.A. 71-1705 is hereby amended to read as follows: 71-1705.

(a) Notwithstanding any provision contained in chapter 71 of Kansas Statutes Annotated to the contrary, whenever any area vocational school or area vocational-technical school consolidates with a community college in accordance with the provisions of this act, no out-district tuition shall be charged for any student enrolled in any vocational education course or program offered by the community college if such course or program was taught in the area vocational school or area vocational-technical school immediately prior to the consolidation of such area vocational school or area vocational-technical school with such community college and as a result of such consolidation such course or program is now being offered by the community college.

(b) The provisions of this section shall expire on June 30, ~~2004~~ 2005.

Sec. 20. K.S.A. 71-301a, 71-304, 71-305, 71-306, 71-308, 71-401, 71-402, 71-403, 71-610 and 71-1705 and K.S.A. 2002 Supp. 13-13a25, 13-13a26, 13-13a27, 13-13a29, 13-13a31, 13-13a32, 13-13a33, 13-13a34 and 19-101a are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.

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

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.