

HOUSE BILL No. 2703

By Committee on Appropriations

2-15

1 AN ACT concerning the authority of state agencies to enter into
2 indebtedness on behalf of the state; relating to the issuance of bonds by
3 the Kansas development finance authority; monthly reports by the
4 authority; amending K.S.A. 74-8913 and K.S.A. 2015 Supp. 74-8905
5 and repealing the existing sections.
6

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

8 New Section 1. (a) On and after the effective date of this act, no state
9 agency shall enter into the following actions unless such action has first
10 been specifically authorized for such purposes by an appropriation or other
11 act of the legislature or has been approved by the state finance council
12 subject to the provisions of subsection (b), acting on this matter which is
13 hereby characterized as a matter of legislative delegation and subject to the
14 guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto: (1)
15 Borrow money upon the credit of the state; (2) contract any indebtedness
16 on the credit of the state; (3) issue bonds; (4) acquire real estate; (5)
17 contract with a third party to construct or improve any institution or
18 facility on state-owned property in any way; (6) make expenditures for
19 construction or improvements for any institutions or facilities of such state
20 agency in any way; (7) pledge as collateral of any type any state-owned
21 institution, facility or property; (8) enter into an agreement or assignment
22 in which the rent payments are pledged as collateral; or (9) enter into a
23 municipal lease obligation.

24 (b) No action shall be approved by the state finance council or the
25 legislature unless the state agency has: (1) Reviewed and evaluated the
26 process on the selection of the parties involved in such action with the
27 state building advisory commission; and (2) advised and consulted with
28 the joint committee on state building construction regarding such action.
29 The state finance council shall not have the authority to approve any action
30 described in subsection (a) that is equal to or exceeds \$25,000,000. Any
31 such action that is equal to or exceeds \$25,000,000 shall be approved by
32 an appropriation or other act of the legislature.

33 (c) As used in this section, "state agency" means any state office or
34 officer, department, board, commission, institution, bureau or any other
35 state authority which may lawfully request a state appropriation.

36 (d) The provisions of this section shall not apply to the department of

1 transportation's authority pursuant to K.S.A. 68-2320 or 68-2328, and
2 amendments thereto.

3 Sec. 2. K.S.A. 2015 Supp. 74-8905 is hereby amended to read as
4 follows: 74-8905. (a) The authority may issue bonds, either for a specific
5 activity or on a pooled basis for a series of related or unrelated activities or
6 projects duly authorized by a political subdivision or group of political
7 subdivisions of the state in amounts determined by the authority for the
8 purpose of financing projects of statewide as well as local importance,
9 capital improvement facilities, educational facilities, health care facilities
10 and housing developments. Nothing in this act shall be construed to
11 authorize the authority to issue bonds or use the proceeds thereof to:

12 (1) Purchase, condemn or otherwise acquire a utility plant or
13 distribution system owned or operated by a regulated public utility;

14 (2) finance any capital improvement facilities or educational facilities
15 which are being financed by the issuance of general obligation or utility
16 revenue bonds of a political subdivision, except that the acquisition by the
17 authority of general obligation or utility revenue bonds issued by political
18 subdivisions with the proceeds of pooled bonds shall not violate the
19 provisions of the foregoing; or

20 (3) purchase, acquire, construct, reconstruct, improve, equip, furnish,
21 repair, enlarge or remodel property for any swine production facility on
22 agricultural land which is owned, acquired, obtained or leased by a
23 corporation, limited liability company, limited partnership, corporate
24 partnership or trust.

25 Nothing in this subsection (a) shall prohibit the issuance of bonds by
26 the authority when any statute specifically authorizes the issuance of
27 bonds by the authority or approves any activity or project of a state agency
28 for purposes of authorizing any such issuance of bonds in accordance with
29 this section and provides an exemption from the provisions of this
30 subsection (a).

31 (b) The authority may issue bonds for activities and projects of state
32 agencies as requested by the secretary of administration. Research
33 facilities of state educational institutions shall be subject to the provisions
34 of this subsection (b). No bonds may be issued pursuant to this act for any
35 activity or project of a state agency unless the activity or project *has first*
36 ~~either has been specifically approved by an appropriation or other act of~~
37 ~~the legislature or has been specifically approved by the state finance~~
38 ~~council acting on this matter which is hereby characterized as a matter of~~
39 ~~legislative delegation and subject to the guidelines prescribed in subsection~~
40 ~~(c) of K.S.A. 75-3711(c), and amendments thereto. The authority shall~~
41 ~~not issue bonds requested by the secretary of administration pursuant to~~
42 ~~the powers in K.S.A. 75-3651, and amendments thereto. When requested to~~
43 do so by the secretary of administration, the authority may issue bonds for

1 the purpose of refunding, whether at maturity or in advance of maturity,
2 any outstanding bonded indebtedness of any state agency. The revenues of
3 any state agency which are pledged as security for any bonds of such state
4 agency which are refunded by refunding bonds of the authority may be
5 pledged to the authority as security for the refunding bonds.

6 (c) The authority may issue bonds for the purpose of financing
7 industrial enterprises, transportation facilities, agricultural business
8 enterprises, educational facilities, health care facilities, housing
9 developments, research facilities or any combination of such facilities, or
10 any interest in facilities, including without limitation leasehold interests in
11 and mortgages on such facilities, whether located within or outside of
12 Kansas. The authority may additionally issue bonds for the purpose of
13 financing a hall of fame, museum or tourist destination of national
14 significance, as determined by the secretary of commerce. Such authority
15 to issue bonds for a hall of fame, museum or tourist destination of national
16 significance shall expire on December 31, 2007. No less than 30 days prior
17 to the issuance of any bonds authorized under this act with respect to any
18 project or activity within Kansas which is to be undertaken for the direct
19 benefit of any person or entity which is not a state agency or a political
20 subdivision, written notice of the intention of the authority to provide
21 financing and issue bonds therefor shall be given by the president of the
22 authority to the governing body of the city in which the project or activity
23 is to be located. If the project or activity is not proposed to be located
24 within a city, such notice shall be given to the governing body of the
25 county. No bonds for the financing of the project or activity shall be issued
26 by the authority for a one-year period if, within 15 days after the giving of
27 such notice, the governing body of the political subdivision in which the
28 project or activity within Kansas is proposed to be located shall have
29 adopted an ordinance or resolution stating express disapproval of the
30 project or activity and shall have notified the president of the authority of
31 such disapproval. The authority shall not issue bonds for the purpose of
32 financing a project or activity outside Kansas unless the authority has
33 determined that the issuance of such bonds provides a benefit to Kansas or
34 its people and that the owner or operator thereof or an affiliate has a
35 presence or impact in Kansas.

36 (d) The authority may issue bonds for the purpose of establishing and
37 funding one or more series of venture capital funds in such principal
38 amounts, at such interest rates, in such maturities, with such security, and
39 upon such other terms and in such manner as is approved by resolution of
40 the authority. The proceeds of such bonds not placed in a venture capital
41 fund or used to pay or reimburse organizational, offering and
42 administrative expenses and fees necessary to the issuance and sale of such
43 bonds shall be invested and reinvested in such securities and other

1 instruments as shall be provided in the resolution under which such bonds
2 are issued. Moneys in a venture capital fund shall be used to make venture
3 capital investments in new, expanding or developing businesses, including,
4 but not limited to, equity and debt securities, warrants, options and other
5 rights to acquire such securities, subject to the provisions of the resolution
6 of the authority. The authority shall establish an investment policy with
7 respect to the investment of the funds in a venture capital fund not
8 inconsistent with the purposes of this act. The authority shall enter into an
9 agreement with a management company experienced in venture capital
10 investments to manage and administer each venture capital fund upon
11 terms not inconsistent with the purposes of this act and such investment
12 policy. The authority may establish an advisory board to provide advice
13 and consulting assistance to the authority and the management company
14 with respect to the management and administration of each venture capital
15 fund and the establishment of its investment policy. All fees and expenses
16 incurred in the management and administration of a venture capital fund
17 not paid or reimbursed out of the proceeds of the bonds issued by the
18 authority shall be paid or reimbursed out of such venture capital fund.

19 (e) The authority may issue bonds in one or more series for the
20 purpose of financing a redevelopment plan project that is approved by the
21 authority in accordance with K.S.A. 74-8921 and 74-8922, and
22 amendments thereto, or by Johnson or Labette county in accordance with
23 the provisions of this act.

24 (f) After receiving and approving the feasibility study required
25 pursuant to K.S.A. 74-8936, and amendments thereto, the authority may
26 issue bonds in one or more series for the purpose of financing a multi-sport
27 athletic project in accordance with K.S.A. 74-8936 through 74-8938, and
28 amendments thereto. If the project is to be constructed in phases, a similar
29 feasibility study shall be performed prior to issuing bonds for the purpose
30 of financing each subsequent phase.

31 (g) The authority may issue bonds for the purpose of financing resort
32 facilities, as defined in ~~subsection (a) of~~ K.S.A. 32-867(a), and
33 amendments thereto, in an amount or amounts not to exceed \$30,000,000
34 for any one resort. The bonds and the interest thereon shall be payable
35 solely from revenues of the resort and shall not be deemed to be an
36 obligation or indebtedness of the state within the meaning of section 6 of
37 article 11 of the constitution of the state of Kansas. The authority may
38 contract with a subsidiary corporation formed pursuant to ~~subsection (v) of~~
39 K.S.A. 74-8904(v), and amendments thereto, or others to lease or operate
40 such resort. The provisions of K.S.A. 32-867, 32-868, 32-870 through 32-
41 873 and 32-874a through 32-874d, and amendments thereto, shall apply to
42 resorts and bonds issued pursuant to this subsection.

43 (h) The authority may use the proceeds of any bond issues herein

1 authorized, together with any other available funds, for venture capital
2 investments or for purchasing, leasing, constructing, restoring, renovating,
3 altering or repairing facilities as herein authorized, for making loans,
4 purchasing mortgages or security interests in loan participations and
5 paying all incidental expenses therewith, paying expenses of authorizing
6 and issuing the bonds, paying interest on the bonds until revenues thereof
7 are available in sufficient amounts, purchasing bond insurance or other
8 credit enhancements on the bonds, and funding such reserves as the
9 authority deems necessary and desirable. All moneys received by the
10 authority, other than moneys received by virtue of an appropriation, are
11 hereby specifically declared to be cash funds, restricted in their use and to
12 be used solely as provided herein. No moneys of the authority other than
13 moneys received by appropriation shall be deposited with the state
14 treasurer.

15 (i) Any time the authority is required to publish a notification
16 pursuant to the tax equity and fiscal responsibility act of 1982, the
17 authority shall further publish such notification in the Kansas register and
18 on the Kansas development finance authority website.

19 (j) Any time the authority issues private activity bonds, as defined in
20 K.S.A. 74-5059, and amendments thereto, pursuant to this section, the
21 authority shall publish notification of such issuance at least 14 days prior
22 to any bond hearing in the official county newspaper of the county in
23 which the project or activity financed by such bonds are located and in the
24 Kansas register.

25 Sec. 3. K.S.A. 74-8913 is hereby amended to read as follows: 74-
26 8913. *(a) On or before the 5th day of each month, the authority shall make
27 a monthly report of its activities for the preceding month to the members
28 of the state finance council and to the members of the joint committee on
29 state building construction. Such report shall contain information
30 pertaining to each financial transaction that the authority has entered into
31 or is in negotiations to enter into pursuant to the powers granted in K.S.A.
32 74-8904 or 74-8905, and amendments thereto, during the preceding
33 month.*

34 *(b) On or before the last day of November in each year, the authority
35 shall make an annual report of its activities for the preceding fiscal year to
36 the governor and to the legislature. Such report shall contain an audit of
37 the preceding fiscal year, prepared by a firm of nationally recognized
38 certified public accountants. On or before the last day of November of
39 each year, the authority shall provide a written report to the governor and
40 the legislature with respect to all bonds of the authority issued during the
41 previous fiscal year, specifying the terms of sale and the costs, fees and
42 expenses of each such bond issue.*

43 Sec. 4. K.S.A. 74-8913 and K.S.A. 2015 Supp. 74-8905 are hereby

1 repealed.

2 Sec. 5. This act shall take effect and be in force from and after its
3 publication in the Kansas register.