

AN ACT concerning governmental response to certain emergencies; modifying the powers, duties and functions of the board of education of each school district, the governing body of each community college and the governing body of each technical college related to the COVID-19 health emergency and judicial review thereof; legislative coordinating council review of executive orders issued during a state of disaster emergency; judicial review of certain executive orders issued during a state of disaster emergency and certain actions taken by a local unit of government during a state of local disaster emergency; judicial review of certain orders by local health officers; amending K.S.A. 2019 Supp. 48-925, as amended by section 6 of 2021 Senate Bill No. 40, K.S.A. 2020 Supp. 48-932, as amended by section 8 of 2021 Senate Bill No. 40, and 65-201, as amended by section 12 of 2021 Senate Bill No. 40, and Sections 1 and 2 of 2021 Senate Bill No. 40 and repealing the existing sections.

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

Section 1. Section 1 of 2021 Senate Bill No. 40 is hereby amended to read as follows:

Section 1. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the board of education responsible for the maintenance, development and operation of a school district shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of any school or attendance center of such school district, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any school or attendance center of such school district;

(B) authorizes or requires any form of attendance other than full-time, in-person attendance at a school in the school district, including, but not limited to, hybrid or remote learning; or

(C) mandates any action by any students or employees of a school district while on school district property.

(2) An action taken, order issued or policy adopted by the board of education of a school district pursuant to paragraph (1) shall only affect the operation of schools under the jurisdiction of the board and shall not affect the operation of nonpublic schools.

(3) During any such disaster emergency, the state board of education, the governor, the department of health and environment, a local health officer, a city health officer or any other state or local unit of government may provide guidance, consultation or other assistance to the board of education of a school district but shall not take any action related to such disaster emergency that affects the operation of any school or attendance center of such school district pursuant to paragraph (1).

(b) Any meeting of a board of education of a school district discussing an action, order or policy described in this section, including any hearing by the board under subsection (c), shall be conducted by a majority of the full membership of the board and open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the board and employees.

(c) (1) An employee, a student or the parent or guardian of a student aggrieved by an action taken, order issued or policy adopted by the board of education of a school district pursuant to subsection (a)(1), or an action of any employee of a school district violating any such action, order or policy, may request a hearing by such board of education to contest such action, order or policy ~~within 30 days after the action was taken, order was issued or policy was adopted by the board of education~~ by filing a written request with the clerk of the board of education. Any such request shall not stay or enjoin such action, order or policy. The board may disclose the name of a person who filed such request to the public but all other identifying information shall be kept confidential by the board.

(2) Upon receipt of a written request under paragraph (1), the board of education shall conduct a hearing within 72 hours of ~~receiving receipt of~~ such request by the clerk of the board of education for the purposes of reviewing, amending or revoking such action, order or policy. The board shall issue a decision within seven days after the hearing is ~~conducted~~ commenced.

(3) (A) In computing the 72-hour period specified in this subsection: (i) Begin counting immediately on the occurrence of the event that triggers the period; and (ii) count every hour, including hours during intermediate Saturdays, Sundays and legal holidays.

(B) In computing the seven-day period specified in this subsection: (i) Exclude the day of the event that triggers the period; (ii) count every day, including intermediate Saturdays, Sundays and legal holidays; and (iii) include the last day of the period, even if the last day is a Saturday, Sunday or legal holiday.

(4) The board of education may adopt emergency rules of procedure consistent with this section to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee, a student or the parent or guardian of a student aggrieved by a decision of the board of education under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the board. Such pleading shall comply with K.S.A. 60-211, and amendments thereto, and need not be verified or accompanied by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after ~~receipt of a petition~~ is filed in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the board of education is narrowly tailored to respond to the state of disaster

emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order ~~on granting or denying~~ such petition within seven days after the hearing is ~~conducted~~ commenced. If the court does not issue an order ~~on granting or denying~~ such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this ~~section~~ subsection shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the board of education that applies beyond the county in which the petition was filed.

(3) The court shall not require the petitioner to:

(A) Demonstrate how the burden upon the petitioner is substantially different from the burden upon persons or entities similarly situated who are not included in the petition;

(B) specify how the order which is the subject of the action could be more narrowly tailored to respond to the state of disaster emergency or suggest less restrictive means to achieve such purpose; or

(C) certify whether the petitioner had an opportunity to appear and be heard prior to the adoption or issuance of the order under review or whether the petitioner did appear and express their aggrieved burden.

(4) The court may award a prevailing petitioner, including each petitioner if there are multiple petitioners, the cost of the civil action, including reasonable attorney fees.

(5) Any board that knowingly violates this section shall be liable for the payment of a civil penalty in an action brought pursuant to this subsection, in a sum set by the court of not to exceed \$500 for each violation. Any civil penalty assessed and collected under this subsection shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state



general fund.

(6) All district court administrative orders related to procedures for actions filed or hearings requested under this subsection adopted prior to the effective date of this act shall be null and void.

(7) The supreme court may adopt emergency rules of procedure consistent with this subsection to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(e) This section shall apply to any action taken, order issued or policy adopted by the board of education of a school district as described in subsection (a)(1) that was in effect on or after March 25, 2021, or an action of any employee of a school district violating any such action, order or policy that was in effect on or after March 25, 2021, regardless of when such action was taken, order was issued or policy was adopted by the board.

Sec. 2. Section 2 of 2021 Senate Bill No. 40 is hereby amended to read as follows:  
Section 2. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the governing body of a community college, as established pursuant to K.S.A. 71-201, and amendments thereto, or the governing body of a technical college, as established pursuant to K.S.A. 74-32,452, and amendments thereto, shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of the community college or technical college governed by such governing body, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any community college or technical college;

(B) authorizes or requires any form of attendance at any community college or technical college; or

(C) mandates any action by any students or employees of a community college or technical college while on college property.

(2) During any such disaster emergency, the state board of regents, the governor, the department of health and environment, a local health officer, a city health officer, the Kansas association of community college trustees, the Kansas technical college association or any other state or local unit of government may provide guidance, consultation or other assistance to the governing body of a community college or technical college, but shall not take any action related to such disaster emergency that affects the operation of any such college.

(b) Any meeting of a governing body of a community college or technical college discussing an action, order or policy described in this section, including any hearing by such governing body under subsection (c), shall be conducted by a majority of the full membership of the governing body and open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the governing body and employees.

(c) (1) An employee or a student aggrieved by an action taken, order issued or policy adopted by the governing body of a community college or technical college pursuant to subsection (a)(1), or an action of any employee of such college violating any such action, order or policy, may request a hearing by such governing body to contest such action, order or policy by filing a written request with the administrative office of the governing body. Any such request shall not stay or enjoin such action, order or policy. The governing body may disclose the name of a person who filed such request to the public but all other identifying information shall be kept confidential by the governing body.

(2) Upon receipt of a written request under paragraph (1), the governing body shall

conduct a hearing within 72 hours of ~~receiving~~ receipt of such request by the administrative office of the governing body for the purposes of reviewing, amending or revoking such action, order or policy. The governing body shall issue a decision within seven days after the hearing is ~~conducted~~ commenced.

(3) (A) In computing the 72-hour period specified in this subsection: (i) Begin counting immediately on the occurrence of the event that triggers the period; and (ii) count every hour, including hours during intermediate Saturdays, Sundays and legal holidays.

(B) In computing the seven-day period specified in this subsection: (i) Exclude the day of the event that triggers the period; (ii) count every day, including intermediate Saturdays, Sundays and legal holidays; and (iii) include the last day of the period, even if the last day is a Saturday, Sunday or legal holiday.

(4) The governing body may adopt emergency rules of procedure consistent with this section to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee or a student aggrieved by a decision of the governing body under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the governing body. Such pleading shall comply with K.S.A. 60-211, and amendments thereto, and need not be verified or accompanied by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after ~~receipt of a petition~~ is filed in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the governing body is narrowly tailored to respond to the state of disaster emergency and uses the least

restrictive means to achieve such purpose. The court shall issue an order ~~on granting or denying~~ such petition within seven days after the hearing is ~~conducted~~ commenced. If the court does not issue an order ~~on granting or denying~~ such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this ~~section~~ subsection shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the governing body that applies beyond the county in which the petition was filed.

(3) The court shall not require the petitioner to:

(A) Demonstrate how the burden upon the petitioner is substantially different from the burden upon persons or entities similarly situated who are not included in the petition;

(B) specify how the order which is the subject of the action could be more narrowly tailored to respond to the state of disaster emergency or suggest less restrictive means to achieve such purpose; or

(C) certify whether the petitioner had an opportunity to appear and be heard prior to the adoption or issuance of the order under review or whether the petitioner did appear and express their aggrieved burden.

(4) The court may award a prevailing petitioner, including each petitioner if there are multiple petitioners, the cost of the civil action, including reasonable attorney fees.

(5) Any governing body that knowingly violates this section shall be liable for the payment of a civil penalty in an action brought pursuant to this subsection, in a sum set by the court of not to exceed \$500 for each violation. Any civil penalty assessed and collected under this subsection shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to

the credit of the state general fund.

(6) All district court administrative orders related to procedures for actions filed or hearings requested under this subsection adopted prior to the effective date of this act shall be null and void.

(7) The supreme court may adopt emergency rules of procedure consistent with this subsection to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(e) This section shall apply to any action taken, order issued or policy adopted by the governing body of a community college or technical college as described in subsection (a)(1) that was in effect on or after March 25, 2021, or an action of any employee of a college violating any such action, order or policy that was in effect on or after March 25, 2021, regardless of when such action was taken, order was issued or policy was adopted by the governing body.

Sec. 3. K.S.A. 2019 Supp. 48-925, as amended by section 6 of 2021 Senate Bill No. 40, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing shall restrict the authority of the governor to do so by executive orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation of this act, the governor may issue executive orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments

thereto. The chairperson of the legislative coordinating council shall call a meeting of the council to occur within ~~24~~ 72 hours of the issuance of an executive order issued pursuant to this section for the purposes of reviewing such order. Such executive orders shall be null and void after the period of a state of disaster emergency has ended. Such executive orders may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such orders may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.

(c) Except as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, during a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of subsections (d) and (e), the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of

the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall not have the power or authority to limit or otherwise restrict the sale, purchase, transfer, ownership, storage, carrying or transporting of firearms or ammunition, or any component or combination thereof, including any components or combination thereof used in the manufacture of firearms or ammunition, or seize or authorize the seizure of any firearms or ammunition, or any component or combination thereto, except as otherwise permitted by state or federal law pursuant to subsection (c)(8) or any other executive authority.

(e) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions

of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.

(f) The governor shall exercise the powers conferred by subsection (c) by issuance of executive orders under subsection (b). Each executive order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the executive order was issued. The adjutant general, subject to the direction of the governor, shall administer such executive orders.

(g) (1) ~~Any party~~ person or legal entity aggrieved by an executive order issued pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after the issuance of such executive order. Such pleading shall comply with K.S.A. 60-211, and amendments thereto, and need not be verified or accompanied by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours ~~after receipt of~~ a petition is filed in any such action. The court shall grant the request for relief unless the court finds such executive order is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order ~~on~~ granting or denying such petition within seven days after the hearing ~~is conducted~~ commenced. If the court does not issue an order ~~on~~ granting or denying such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this ~~section~~ subsection shall not include a stay or injunction concerning



the contested executive order that applies beyond the county in which the petition was filed.

(3) The court shall not require the petitioner to:

(A) Demonstrate how the burden upon the petitioner is substantially different from the burden upon persons or entities similarly situated who are not included in the petition;

(B) specify how the order which is the subject of the action could be more narrowly tailored to respond to the state of disaster emergency or suggest less restrictive means to achieve such purpose; or

(C) certify whether the petitioner had an opportunity to appear and be heard prior to the adoption or issuance of the order under review or whether the petitioner did appear and express their aggrieved burden.

(4) The court may award a prevailing petitioner, including each petitioner if there are multiple petitioners, the cost of the civil action, including reasonable attorney fees.

(5) All district court administrative orders related to procedures for actions filed or hearings requested under this subsection adopted prior to the effective date of this act shall be null and void.

(6) The supreme court may adopt emergency rules of procedure consistent with this subsection to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(h) (1) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

(A) The board has consulted with the local health officer or other local health officials regarding the governor's executive order;

(B) following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and

(C) all other relevant findings to support the board's decision.

(2) If the board of county commissioners of a county issues an order pursuant to paragraph (1), such order shall operate in the county in lieu of the governor's executive order.

Sec. 4. K.S.A. 2020 Supp. 48-932, as amended by section 8 of 2021 Senate Bill No. 40, is hereby amended to read as follows: 48-932. (a) A state of local disaster emergency may be declared by the chairperson of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed with the county clerk or city clerk. Any such declaration may be reviewed, amended or revoked by the board of county commissioners or the governing body of the city, respectively, at a meeting of such governing body.

(b) In the event of the absence of the chairperson of the board of county commissioners from the county or the incapacity of such chairperson, the board of county commissioners, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). In the event of the absence of the mayor or other principal executive officer of a city from the city or the incapacity of such mayor or officer, the governing body of the city, by majority action of the

remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). Any state of local disaster emergency and any actions taken pursuant to applicable local and interjurisdictional disaster emergency plans, under this subsection shall continue and have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

(c) The declaration of a local disaster emergency shall activate the response and recovery aspects of any and all local and interjurisdictional disaster emergency plans which are applicable to such county or city, and shall initiate the rendering of aid and assistance thereunder.

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

(e) (1) ~~Any party~~ person or legal entity aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken ~~within 30 days after such action is taken.~~ Such pleading shall comply with K.S.A. 60-211, and amendments thereto, and need not be verified or accompanied by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after ~~receipt~~ of a petition is filed in any such action. The court shall grant the request for relief unless the court finds such action is narrowly tailored to respond to the state of local disaster emergency

and uses the least restrictive means to achieve such purpose. The court shall issue an order ~~on~~ granting or denying such petition within seven days after the hearing is ~~conducted~~ commenced. If the court does not issue an order ~~on~~ granting or denying such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this ~~section~~ subsection shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The court shall not require the petitioner to:

(A) Demonstrate how the burden upon the petitioner is substantially different from the burden upon persons or entities similarly situated who are not included in the petition;

(B) specify how the order which is the subject of the action could be more narrowly tailored to respond to the state of disaster emergency or suggest less restrictive means to achieve such purpose; or

(C) certify whether the petitioner had an opportunity to appear and be heard prior to the adoption or issuance of the order under review or whether the petitioner did appear and express their aggrieved burden.

(4) The court may award a prevailing petitioner, including each petitioner if there are multiple petitioners, the cost of the civil action, including reasonable attorney fees.

(5) All district court administrative orders related to procedures for actions filed or hearings requested under this subsection adopted prior to the effective date of this act shall be null and void.

(6) The supreme court may adopt emergency rules of procedure consistent with this subsection to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(7) This subsection shall apply to any action taken by a local unit of government

pursuant to this section that was in effect on or after March 25, 2021, regardless of when such action was taken by the local unit of government.

Sec. 5. K.S.A. 2020 Supp. 65-201, as amended by section 12 of 2021 Senate Bill No. 40, is hereby amended to read as follows: 65-201. (a) The board of county commissioners of each county shall act as the county board of health for the county. Each county board shall appoint a person licensed to practice medicine and surgery, preference being given to persons who have training in public health, who shall serve as the local health officer and who shall act in an advisory capacity to the county board of health. The appointing authority of city-county, county or multicounty health units with less than 100,000 population may appoint a qualified local health program administrator as the local health officer if a person licensed to practice medicine and surgery or person licensed to practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The local health officer or local health program administrator shall hold office at the pleasure of the board.

(b) (1) Except as provided in paragraph (2), any order issued by the local health officer, including orders issued as a result of an executive order of the governor, may be reviewed, amended or revoked by the board of county commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board shall include an expiration date set by the board and may be amended or revoked at an earlier date by a majority vote of the board.

(2) If a local health officer determines it is necessary to issue an order mandating the wearing of face masks, limiting the size of gatherings of individuals, curtailing the operation of business, controlling the movement of the population of the county or limiting religious gatherings, the local health officer shall propose such an order to the board of county commissioners. At the next regularly scheduled meeting of the board or at a special meeting of

the board, the board shall review such proposed order and may take any action related to the proposed order the board determines is necessary. The order shall become effective if approved by the board or, if the board is unable to meet, if approved by the chairperson of the board or the vice chairperson of the board in the chairperson's absence or disability.

(c) The board of county commissioners in any county having a population of less than 15,000 may contract with the governing body of any hospital located in such county for the purpose of authorizing such governing body of the hospital to supply services to a county board of health.

(d) (1) ~~Any party~~ person or legal entity aggrieved by an order issued pursuant to subsection (b)(2) may file a civil action in the district court of the county in which the order was issued ~~within 30 days after such order is issued.~~ Such pleading shall comply with K.S.A. 60-211, and amendments thereto, and need not be verified or accompanied by an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after ~~receipt of a petition~~ is filed in any such action. The court shall grant the request for relief unless the court finds such order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve such purpose. The court shall issue an order ~~on granting or denying~~ such petition within seven days after the hearing ~~is conducted~~ commenced. If the court does not issue an order ~~on granting or denying~~ such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this ~~section~~ subsection shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The court shall not require the petitioner to:

(A) Demonstrate how the burden upon the petitioner is substantially different from the

burden upon persons or entities similarly situated who are not included in the petition;

(B) specify how the order which is the subject of the action could be more narrowly tailored to respond to the state of disaster emergency or suggest less restrictive means to achieve such purpose; or

(C) certify whether the petitioner had an opportunity to appear and be heard prior to the adoption or issuance of the order under review or whether the petitioner did appear and express their aggrieved burden.

(4) The court may award a prevailing petitioner, including each petitioner if there are multiple petitioners, the cost of the civil action, including reasonable attorney fees.

(5) All district court administrative orders related to procedures for actions filed or hearings requested under this subsection adopted prior to the effective date of this act shall be null and void.

(6) The supreme court may adopt emergency rules of procedure consistent with this subsection to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(7) This subsection shall apply to any order issued by the board of county commissioners that was in effect on or after March 25, 2021, regardless of when such order was issued by the board.

Sec. 6. K.S.A. 2019 Supp. 48-925, as amended by section 6 of 2021 Senate Bill No. 40, K.S.A. 2020 Supp. 48-932, as amended by section 8 of 2021 Senate Bill No. 40, and 65-201, as amended by section 12 of 2021 Senate Bill No. 40, and Sections 1 and 2 of 2021 Senate Bill No. 40 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.