

HOUSE BILL No. 2698

By Committee on Taxation

2-14

1 AN ACT concerning taxation; authorizing counties to impose an earnings
2 tax; amending K.S.A. 2019 Supp. 19-101a and repealing the existing
3 section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) Any county is hereby empowered and authorized
7 in accordance with the provisions of this act to levy an earnings tax upon:
8 (1) All individuals employed or working within such county; and (2) all
9 resident individuals of such county who are employed or working outside
10 such county.

11 (b) The rate of any earnings tax pursuant to subsection (a) shall not
12 exceed 1% per annum.

13 (c) The revenue derived from the earnings tax authorized by this act
14 shall be pledged for general county purposes.

15 (d) If any provision of this act or the application thereof to any person
16 or circumstance is held invalid, the invalidity does not affect other
17 provisions or applications of this act, which can be given effect without the
18 invalid provision or application, and to this end the provisions of this act
19 are severable.

20 New Sec. 2. As used in this act:

21 (a) "Earnings tax" means a tax on the: (1) Salaries, wages,
22 commissions and other compensation earned by residents of the county;
23 and (2) salaries, wages, commissions and other compensation earned by
24 nonresidents of the county for work done or services performed or
25 rendered in the county.

26 (b) "Salaries, wages, commissions and other compensation" does not
27 include contributions to any deferred compensation plans, including, but
28 not limited to, any salary reduction plans, cafeteria plans or any other
29 similar plans deferring the receipt of compensation by a resident or
30 nonresident if such contribution is not subject to Kansas state income tax
31 at the time such contribution is made.

32 New Sec. 3. (a) No county shall levy an earnings tax until the
33 governing body of such county shall first submit such proposition to and
34 receive the approval of a majority of the electors of the county voting
35 thereon at an election specified by the county. Any county proposing to
36 adopt an earnings tax shall adopt a resolution giving notice of its intention

1 to submit such proposition for approval by the electors in the manner
2 required by K.S.A. 25-105, and amendments thereto. The notice shall state
3 the time of the election, the rate of the tax and the purpose for which the
4 proceeds will be expended in accordance with section 1(c), and
5 amendments thereto. Every election held under this act shall be conducted
6 by the county election officer.

7 (b) If a majority of the electors voting thereon at such election shall
8 approve the levying of such tax, the governing body of that county shall
9 provide by resolution the levy of the tax. Any repeal of such tax, or any
10 reduction or increase in the rate thereof, within the limits of this act, shall
11 be accomplished in the manner provided for in this act for the adoption
12 and approval of such tax, except that the governing body of a county shall
13 be required to submit such question upon submission of a petition signed
14 by the electors of such county equal in number to not less than 10% of the
15 electors of such county. If a majority of the electors voting thereon at such
16 election fail to approve the proposition, it may be resubmitted under the
17 conditions and in the manner provided in this act for submission of the
18 original proposition.

19 (c) Any resolution that has been adopted to give notice of the
20 intention of the governing body of the county to submit the proposition of
21 levying an earnings tax to the electors of the county shall contain
22 provisions pledging the use of the revenue to be received from such tax if
23 such resolution is approved by the voters in accordance with the provisions
24 of section 1(c), and amendments thereto. Such description shall be
25 consistent with that contained in the notice of election required by
26 subsection (a).

27 (d) In any county imposing an earnings tax pursuant to this act, once
28 every five years after the initial levy of the earnings tax by the county, the
29 question whether to continue to impose an earnings tax shall be submitted
30 to the electors in the same manner provided in this act for the original
31 proposition.

32 New Sec. 4. Any person exempt from the payment of state income
33 tax pursuant to K.S.A. 79-32,113, and amendments thereto, shall be
34 exempt from the payment of an earnings tax levied pursuant to this act.

35 New Sec. 5. The amount of earnings tax paid to another county with
36 an earnings tax by a resident individual shall be allowed as a credit against
37 the earnings tax of the county of such individual's residence.

38 New Sec. 6. (a) By resolution, the county may provide for deductions
39 and exemptions from salaries, wages and commissions and may provide
40 exemptions on account of spouses and dependents.

41 (b) The earnings subject to earnings tax of any nonresident individual
42 when work is performed or rendered both within and without the county
43 may be ascertained by a formula set forth by resolution of the county.

1 (c) The state of Kansas and its political subdivisions shall deduct
2 from the earnings of their employees the amount of any county earnings
3 tax levied upon the income of the particular employee and remit the same
4 to the county levying such tax. The state of Kansas and its political
5 subdivisions shall be entitled to deduct and retain of the total amount so
6 collected to compensate such employer for collecting the tax a percentage
7 as follows: 3% if such county earnings tax is less than 1% of gross
8 earnings; or 1.5% if such county earnings tax is 1% of gross earnings.

9 (d) Any county levying an earnings tax is hereby authorized to
10 impose, by resolution, upon employers within the county the duty of
11 collecting and remitting to the county any tax that may be levied upon the
12 earnings of employees pursuant to this act and to prescribe penalties for
13 failure to perform such duty. If any such county should impose such duty
14 on employers, each such employer shall be entitled to deduct and retain
15 1.5% of the total amount collected to compensate such employer for
16 collecting such tax. The governing body of any such county, by resolution,
17 may reduce, eliminate or reimpose, if eliminated, the fee allowed to
18 employers by this subsection.

19 (e) (1) All employers within the state, upon request as provided in
20 this subsection, shall submit to any county levying an earnings tax a
21 complete listing of all their employees who reside within the territorial
22 limits or boundaries of the requesting county and their current addresses
23 according to the records of the employer. Any request shall be made in
24 writing and shall be mailed to the principal office of the employer. If the
25 employer is a corporation, the written request shall be made to the
26 registered agent of the corporation at its registered office. All written
27 requests provided for in this subsection shall be by registered or certified
28 mail. Such request may not be made more than once each year. This
29 subsection shall not apply to employers who deduct from the earnings of
30 their employees the amount of any county earnings tax levied upon the
31 income of the particular employee and remit the same to the county
32 levying such tax.

33 (2) No list of employees furnished to the county shall be used for any
34 purpose other than in connection with the collection of an earnings tax.
35 Such lists shall be treated as confidential records and, except in accordance
36 with a proper judicial order, shall not be disclosed by the county. Such lists
37 shall not be open to public inspection pursuant to the Kansas open records
38 act.

39 (3) The provisions of this subsection providing for the confidentiality
40 of records shall expire on July 1, 2025, unless the legislature reviews and
41 continues such provisions in accordance with K.S.A. 45-229, and
42 amendments thereto.

43 Sec. 7. K.S.A. 2019 Supp. 19-101a is hereby amended to read as

1 follows: 19-101a. (a) The board of county commissioners may transact all
2 county business and perform all powers of local legislation and
3 administration it deems appropriate, subject only to the following
4 limitations, restrictions or prohibitions:

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

7 (2) Counties may not affect the courts located therein.

8 (3) Counties shall be subject to acts of the legislature prescribing
9 limits of indebtedness.

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

15 (5) Counties may not legislate on social welfare administered under
16 state law enacted pursuant to or in conformity with public law No. 271 –
17 74th congress, or amendments thereof.

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

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

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

27 (9) No county may levy ad valorem taxes under the authority of this
28 section upon real property located within any redevelopment project area
29 established under the authority of K.S.A. 12-1772, and amendments
30 thereto, unless the resolution authorizing the same specifically authorized
31 a portion of the proceeds of such levy to be used to pay the principal of
32 and interest upon bonds issued by a city under the authority of K.S.A. 12-
33 1774, and amendments thereto.

34 (10) Counties shall have no power under this section to exempt from
35 any statute authorizing or requiring the levy of taxes and providing
36 substitute and additional provisions on the same subject, unless the
37 resolution authorizing the same specifically provides for a portion of the
38 proceeds of such levy to be used to pay a portion of the principal and
39 interest on bonds issued by cities under the authority of K.S.A. 12-1774,
40 and amendments thereto.

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

43 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101

1 through 12-1,109, *and amendments thereto, and sections 1 through 6*, and
2 amendments thereto, counties may not levy and collect taxes on incomes
3 from whatever source derived.

4 (13) Counties may not exempt from or effect changes in K.S.A. 19-
5 430, and amendments thereto.

6 (14) Counties may not exempt from or effect changes in K.S.A. 19-
7 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

8 (15) Counties may not exempt from or effect changes in K.S.A. 19-
9 15,139, 19-15,140 and 19-15,141, and amendments thereto.

10 (16) Counties may not exempt from or effect changes in the
11 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
12 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
13 1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

27 (20) Counties may not exempt from or effect changes in K.S.A. 79-
28 41a04, and amendments thereto.

29 (21) Counties may not exempt from or effect changes in K.S.A. 79-
30 1611, and amendments thereto.

31 (22) Counties may not exempt from or effect changes in K.S.A. 79-
32 1494, and amendments thereto.

33 (23) Counties may not exempt from or effect changes in K.S.A. 19-
34 202(b), and amendments thereto.

35 (24) Counties may not exempt from or effect changes in K.S.A. 19-
36 204(b), and amendments thereto.

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

40 (26) Counties may not exempt from or effect changes in K.S.A. 79-
41 2017 or 79-2101, and amendments thereto.

42 (27) Counties may not exempt from or effect changes in K.S.A. 2-
43 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-

- 1 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
2 thereto.
- 3 (28) Counties may not exempt from or effect changes in K.S.A. 80-
4 121, and amendments thereto.
- 5 (29) Counties may not exempt from or effect changes in K.S.A. 19-
6 228, and amendments thereto.
- 7 (30) Counties may not exempt from or effect changes in the Kansas
8 911 act.
- 9 (31) Counties may not exempt from or effect changes in K.S.A. 2019
10 Supp. 26-601, and amendments thereto.
- 11 (32) (A) Counties may not exempt from or effect changes in the
12 Kansas liquor control act except as provided by paragraph (B).
- 13 (B) Counties may adopt resolutions which are not in conflict with the
14 Kansas liquor control act.
- 15 (33) (A) Counties may not exempt from or effect changes in the
16 Kansas cereal malt beverage act except as provided by paragraph (B).
- 17 (B) Counties may adopt resolutions which are not in conflict with the
18 Kansas cereal malt beverage act.
- 19 (34) Counties may not exempt from or effect changes in the Kansas
20 lottery act.
- 21 (35) Counties may not exempt from or effect changes in the Kansas
22 expanded lottery act.
- 23 (36) Counties may neither exempt from nor effect changes to the
24 eminent domain procedure act.
- 25 (37) Any county granted authority pursuant to the provisions of
26 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
27 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
28 through 19-5005, and amendments thereto.
- 29 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
30 through 19-5005, and amendments thereto, counties may not exercise any
31 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
32 amendments thereto, including the imposition or levy of any retailers' sales
33 tax.
- 34 (b) Counties shall apply the powers of local legislation granted in
35 subsection (a) by resolution of the board of county commissioners. If no
36 statutory authority exists for such local legislation other than that set forth
37 in subsection (a) and the local legislation proposed under the authority of
38 such subsection is not contrary to any act of the legislature, such local
39 legislation shall become effective upon passage of a resolution of the
40 board and publication in the official county newspaper. If the legislation
41 proposed by the board under authority of subsection (a) is contrary to an
42 act of the legislature which is applicable to the particular county but not
43 uniformly applicable to all counties, such legislation shall become

1 effective by passage of a charter resolution in the manner provided in
2 K.S.A. 19-101b, and amendments thereto.

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

5 Sec. 8. K.S.A. 2019 Supp. 19-101a is hereby repealed.

6 Sec. 9. This act shall take effect and be in force from and after its
7 publication in the statute book.