

SENATE BILL No. 13

By Senators Tyson, Alley, Baumgardner, Erickson, Fagg, Hilderbrand, Kerschen,
Longbine, Peck, Steffen, Thompson and Warren

1-8

Proposed Amendments
2021 Senate Bill No. 13
Property tax exemption for health clubs

1 AN ACT concerning property taxation; relating to tax levy rates,
2 establishing notice and public hearing requirements prior to approval
3 by a governing body to exceed its revenue neutral rate and
4 discontinuing the city and county tax lid; prohibiting valuation increase
5 of real property solely as the result of normal repair, replacement or
6 maintenance; establishment of a payment plan for the payment of
7 delinquent or nondelinquent taxes; amending K.S.A. 79-1460, 79-1801,
8 79-2024 and 79-2925c and repealing the existing sections.
9

property tax exemption for health clubs;

79-201,

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

11 New Section 1. (a) On or before June 15 each year, the county clerk
12 shall calculate the revenue neutral rate for each taxing subdivision and
13 include such revenue neutral rate on the notice of the estimated assessed
14 valuation provided to each taxing subdivision for budget purposes. The
15 director of accounts and reports shall modify the prescribed budget
16 information form to show the revenue neutral rate.

17 (b) No tax rate in excess of the revenue neutral rate shall be levied by
18 the governing body of any taxing subdivision unless a resolution or
19 ordinance has been approved by the governing body according to the
20 following procedure:

21 (1) The governing body shall publish notice of its proposed intent to
22 exceed the revenue neutral rate on the website of the governing body, if the
23 governing body maintains a website, at least 10 days in advance of the
24 public hearing. The notice shall include, but not be limited to, its proposed
25 tax rate, its revenue neutral rate and the date, time and location of the
26 public hearing.

27 (2) On or before July 15, the governing body shall notify the county
28 clerk of its proposed intent to exceed the revenue neutral rate and provide
29 the date, time and location of the public hearing and its proposed tax rate.
30 The county clerk shall notify each taxpayer with property in the taxing
31 subdivision, by mail directed to the taxpayer's last known address, of the
32 proposed intent to exceed the revenue neutral rate at least 10 days in
33 advance of the public hearing. Alternatively, the county clerk may transmit
34 the notice to the taxpayer by electronic means at least 10 days in advance
35 of the public hearing, if such taxpayer and county clerk have consented in

1 construction or remodeling of buildings.

2 (4) The property tax revenues levied by the city or county have
3 declined:

4 (A) In one or more of the next preceding three calendar years and the
5 increase in the amount of funding for the budget or appropriation from
6 revenue produced from property taxes does not exceed the average amount
7 of funding from such revenue of the next preceding three calendar years,
8 adjusted to reflect changes in the consumer price index for all urban
9 consumers as published by the United States department of labor for the
10 preceding calendar year; or

11 (B) the increase in the amount of ad valorem tax to be levied is less
12 than the change in the consumer price index plus the loss of assessed
13 property valuation that has occurred as the result of legislative action,
14 judicial action or a ruling by the board of tax appeals.

15 (5) Whenever a city or county is required by law to levy taxes for the
16 financing of the budget of any political or governmental subdivision of this
17 state that is not authorized by law to levy taxes on its own behalf, and the
18 governing body of such city or county is not authorized or empowered to
19 modify or reduce the amount of taxes levied therefore, the tax levies of the
20 political or governmental subdivision shall not be included in or
21 considered in computing the aggregate limitation upon the property tax
22 levies of the city or county.

23 (6) Any tax levy increase as a result of another taxing entity being
24 dissolved and all powers, responsibilities, duties and liabilities of the
25 taxing entity have been transferred to a city located in the county in which
26 the taxing entity is located, or to the county in which the taxing entity is
27 located, to carry on the function and responsibilities of the dissolved
28 taxing entity, so long as the levy increase does not exceed the levy of the
29 dissolved taxing entity.

Section 6. Insert K.S.A. 79-201 attached

30 Sec. 6. ~~K.S.A. 79-1801, 79-2024 and 79-2925c~~ are hereby repealed.

79-201,

31 Sec. 7. On and after July 1, 2021, K.S.A. 79-1460 is hereby repealed.

32 Sec. 8. This act shall take effect and be in force from and after its
33 publication in the Kansas register.

Renumber subsections
accordingly

79-201. Property exempt from taxation; religious, educational, literary, scientific, benevolent, alumni association, veterans' organization or charitable purposes; parsonages; community service organizations providing humanitarian services; electric generating property using renewable technology; landfill gas and production property. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) (1) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any political or taxing subdivision of the state, including a school district interlocal cooperative, or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (2) any school building, together with the grounds upon which the building is located, shall be considered to be used exclusively by a school district interlocal cooperative for the purposes of this section when being acquired pursuant to a lease-purchase agreement; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

Second. All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes. Except with regard to real property which is owned by a religious organization, is to be used exclusively for religious purposes and is not used for a nonexempt purpose prior to its exclusive use for religious purposes which property shall be deemed to be actually and regularly used exclusively for religious purposes for the purposes of this paragraph, this exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. In the event any such property which has been exempted pursuant to the preceding sentence is not used for religious purposes prior to its conveyance which results in its use for nonreligious purposes, there shall be a recoupment of property taxes in an amount equal to the tax which would have been levied upon such property except for such exemption for all taxable years for which such exemption was in effect. Such recoupment tax shall become due and payable in such year as provided by K.S.A. 79-2004, and amendments thereto. A lien for such taxes shall attach to the real property subject to the same on November 1 in the year such taxes become due and all such taxes remaining due and unpaid after the date prescribed for the payment thereof shall be collected in the manner provided by law for the collection of delinquent taxes. Moneys collected from the recoupment tax hereunder shall be credited by the county treasurer to the several taxing subdivisions within which such real property is located in the proportion that the total tangible property tax levies made in the preceding year for each such taxing subdivision bear to the total of all such levies made in that year by all such taxing subdivisions. Such moneys shall be credited to the general fund of the taxing subdivision or if such taxing subdivision is making no property tax levy for the support of a general fund such moneys may be credited to any other tangible property tax fund of general application of such subdivision. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because an agency or organization: (a) Is reimbursed for the provision of services accomplishing the purposes enumerated in this paragraph based upon the ability to pay by the recipient of such services; or (b) is reimbursed for the actual expense of using such property for purposes enumerated in this paragraph; or (c) uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purposes of this paragraph; or (d) charges a reasonable fee for admission to cultural or educational activities or permits the use of its property for such activities by a related agency or organization, if any such activity is in furtherance of the purposes of this paragraph; or (e) is applying for an exemption pursuant to this paragraph for a motor vehicle that is being leased for a period of at least one year.

Third. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fourth. The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

Fifth. All buildings of private nonprofit universities or colleges which are owned and operated by such universities and colleges as student union buildings, presidents' homes and student dormitories.

Sixth. All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

Seventh. All parsonages owned by a church society and actually and regularly occupied and used predominantly as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

Eighth. All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the federal internal revenue code of 1986, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

Ninth. All real property and tangible personal property actually and regularly used by a community service organization for the predominant purpose of providing humanitarian services, which is owned and operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation if: (a) The directors of such corporation serve without pay for such services; (b) the corporation is operated in a manner which does not result in the accrual of distributable profits, realization of private gain resulting from the payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered or the realization of any other form of private gain; (c) no officer, director or member of such corporation has any pecuniary interest in the property for which exemption is claimed; (d) the corporation is organized for the purpose of providing humanitarian services; (e) the actual use of property for which an exemption is claimed must be substantially and predominantly related to the purpose of providing humanitarian services, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption if such use is incidental to the purpose of providing humanitarian services by the corporation; (f) the corporation is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986; and (g) contributions to the corporation are deductible under the Kansas income tax act. As used in this clause, "humanitarian services" means the conduct of activities which substantially and predominantly meet a demonstrated community need and which improve the physical, mental, social, cultural or spiritual welfare of others or the relief, comfort or assistance of persons in distress or any combination thereof including, but not limited to, health and recreation services, child care, individual and family counseling, employment and training programs for handicapped persons and meals or feeding programs. Notwithstanding any other provision of this clause, motor vehicles shall not be exempt hereunder unless such vehicles are exclusively used for the purposes described therein, except that the use of any such vehicle for the purpose of participating in a coordinated transit district in accordance with the provisions of K.S.A. 75-5032 through 75-5037, and amendments thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto, shall be deemed as exclusive use.

Tenth. For all taxable years commencing after December 31, 1986, any building, and the land upon which such building is located to the extent necessary for the accommodation of such building, owned by a church or nonprofit religious society or order which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and actually and regularly occupied and used exclusively for residential and religious purposes by a community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

Eleventh. For all taxable years commencing after December 31, 1998, all property actually and regularly used predominantly to produce and generate electricity utilizing renewable energy resources or technologies when the applicant for such property, on or before December 31, 2016, has filed an application for exemption pursuant to this subsection or has received a conditional use permit to produce and generate electricity on the property from the county in which the property is located. Any exemption granted under the provisions of this subsection for such property when the applicant, after December 31, 2016, has filed such application or filed such application and received a conditional use permit, shall be in effect for the 10 taxable years immediately following the taxable year in which construction or installation of such property is completed. For purposes of this section, "renewable energy resources or technologies" shall include wind, solar, photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies.

Twelfth. For all taxable years commencing after December 31, 2001, all personal property actually and regularly used predominantly to collect, refine or treat landfill gas or to transport landfill gas from a landfill to a transmission pipeline, and the landfill gas produced therefrom.

~~The provisions of this section, except as otherwise more specifically provided, shall apply to all taxable years commencing after December 31, 2009.~~

Thirteenth. For all taxable years commencing after December 31, 2021, all real property owned and operated by a health club in the state of Kansas. For purposes of this section, "health club" means any corporation, partnership, unincorporated association or other business enterprise whose primary purpose is to offer facilities that contain cardio, weight training or strength and conditioning equipment, or both, for the preservation, maintenance, encouragement or development of physical fitness in return for the payment of a fee which entitles the buyer to the use of such facilities. A health club may have on such club's premises health spas, studios, tennis, racquet or basketball facilities or swimming pools that offer programs that enhance the primary purpose of the health club as specified in this subsection; but may not be facilities that are primarily weight control facilities, health spas, dance studios, martial arts or selfdefense studios, tennis, racquet or basketball facilities, swimming pools, golf clubs or similar activities which do not have the primary purpose as specified in this subsection. For purposes of this subsection, real property shall be considered "owned and operated by a health club" if the owner of the real property to be exempted from taxation and the business enterprise that operates the health club and collects the payment of the fee entitling the buyer to use the facility are the same business entity, a parent or subsidiary of the same business entity or have any direct or indirect common ownership.