

SENATE BILL No. 302

By Committee on Assessment and Taxation

3-22

1 AN ACT concerning taxation; authorizing counties to impose an earnings
2 tax; amending K.S.A. 2020 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
9 (2) all resident individuals of such county who are employed or
10 working outside 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) "Act" means the provisions of sections 1 through 6, and
22 amendments thereto.

23 (b) "Earnings tax" means a tax on the salaries, wages, commissions
24 and other compensation earned by:

- 25 (1) Residents of the county; and
26 (2) nonresidents of the county for work done or services performed or
27 rendered in the county.

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

34 New Sec. 3. (a) No county shall levy an earnings tax until the
35 governing body of such county shall first submit such proposition to and
36 receive the approval of a majority of the electors of the county voting

1 thereon at election specified by the county. Any county proposing to adopt
2 an earnings tax shall adopt a resolution giving notice of its intention to
3 subject such proposition for approval by the electors in the manner
4 required by K.S.A. 25-105, and amendments thereto. The notice shall state
5 the time of the election, the rate of the tax and the purpose for which the
6 proceeds will be expended in accordance with section 1(c), and
7 amendments thereto. Every election held under this act shall be conducted
8 by the county election officer.

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

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

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

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

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

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

43 (b) The earnings subject to earnings tax of any nonresident individual

1 when work is performed or rendered both within and without the county
2 may be ascertained by a formula set forth by resolution of the county.

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

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

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

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

41 (3) The provisions of this subsection providing for the confidentiality
42 of records shall expire on July 1, 2026, unless the legislature reviews and
43 continues such provisions in accordance with K.S.A. 45-229, and

1 amendments thereto, prior to July 1, 2026.

2 Sec. 7. K.S.A. 2020 Supp. 19-101a is hereby amended to read as
3 follows: 19-101a. (a) The board of county commissioners may transact all
4 county business and perform all powers of local legislation and
5 administration it deems appropriate, subject only to the following
6 limitations, restrictions or prohibitions:

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

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

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

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

17 (5) Counties may not legislate on social welfare administered under
18 state law enacted pursuant to or in conformity with public law no. 271 –
19 74th congress, or amendments thereof.

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

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

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

29 (9) No county may levy ad valorem taxes under the authority of this
30 section upon real property located within any redevelopment project area
31 established under the authority of K.S.A. 12-1772, and amendments
32 thereto, unless the resolution authorizing the same specifically authorized
33 a portion of the proceeds of such levy to be used to pay the principal of
34 and interest upon bonds issued by a city under the authority of K.S.A. 12-
35 1774, and amendments thereto.

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

43 (11) Counties may not exempt from or effect changes in the

1 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

2 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
3 through 12-1,109, and amendments thereto, *and sections 1 through 6, and*
4 *amendments thereto*, counties may not levy and collect taxes on incomes
5 from whatever source derived.

6 (13) Counties may not exempt from or effect changes in K.S.A. 19-
7 430, and amendments thereto.

8 (14) Counties may not exempt from or effect changes in K.S.A. 19-
9 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

10 (15) Counties may not exempt from or effect changes in K.S.A. 19-
11 15,139, 19-15,140 and 19-15,141, and amendments thereto.

12 (16) Counties may not exempt from or effect changes in the
13 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
14 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
15 1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

29 (20) Counties may not exempt from or effect changes in K.S.A. 79-
30 41a04, and amendments thereto.

31 (21) Counties may not exempt from or effect changes in K.S.A. 79-
32 1611, and amendments thereto.

33 (22) Counties may not exempt from or effect changes in K.S.A. 79-
34 1494, and amendments thereto.

35 (23) Counties may not exempt from or effect changes in K.S.A. 19-
36 202(b), and amendments thereto.

37 (24) Counties may not exempt from or effect changes in K.S.A. 19-
38 204(b), and amendments thereto.

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

42 (26) Counties may not exempt from or effect changes in K.S.A. 79-
43 2017 or 79-2101, and amendments thereto.

1 (27) Counties may not exempt from or effect changes in K.S.A. 2-
2 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
3 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
4 thereto.

5 (28) Counties may not exempt from or effect changes in K.S.A. 80-
6 121, and amendments thereto.

7 (29) Counties may not exempt from or effect changes in K.S.A. 19-
8 228, and amendments thereto.

9 (30) Counties may not exempt from or effect changes in the Kansas
10 911 act.

11 (31) Counties may not exempt from or effect changes in K.S.A. 2020
12 Supp. 26-601, and amendments thereto.

13 (32) (A) Counties may not exempt from or effect changes in the
14 Kansas liquor control act except as provided by paragraph (B).

15 (B) Counties may adopt resolutions which are not in conflict with the
16 Kansas liquor control act.

17 (33) (A) Counties may not exempt from or effect changes in the
18 Kansas cereal malt beverage act except as provided by paragraph (B).

19 (B) Counties may adopt resolutions which are not in conflict with the
20 Kansas cereal malt beverage act.

21 (34) Counties may not exempt from or effect changes in the Kansas
22 lottery act.

23 (35) Counties may not exempt from or effect changes in the Kansas
24 expanded lottery act.

25 (36) Counties may neither exempt from nor effect changes to the
26 eminent domain procedure act.

27 (37) Any county granted authority pursuant to the provisions of
28 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
29 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
30 through 19-5005, and amendments thereto.

31 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
32 through 19-5005, and amendments thereto, counties may not exercise any
33 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
34 amendments thereto, including the imposition or levy of any retailers' sales
35 tax.

36 (39) Counties may not exempt from or effect changes in K.S.A. 65-
37 201 and 65-202, and amendments thereto.

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

1 board and publication in the official county newspaper. If the legislation
2 proposed by the board under authority of subsection (a) is contrary to an
3 act of the legislature which is applicable to the particular county but not
4 uniformly applicable to all counties, such legislation shall become
5 effective by passage of a charter resolution in the manner provided in
6 K.S.A. 19-101b, and amendments thereto.

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

9 Sec. 8. K.S.A. 2020 Supp. 19-101a is hereby repealed.

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