

## HOUSE BILL No. 2894

By Committee on Local Government

2-13

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AN ACT concerning cities and counties; relating to zoning; amending K.S.A. 12-756 and K.S.A. 2001 Supp. 19-101a and repealing the existing sections.

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

Section 1. K.S.A. 12-756 is hereby amended to read as follows: 12-756. (a) Before any city or county establishes any zone or district or regulates or restricts the use of buildings or land therein *and subject to the provisions of section 2, and amendments thereto*, the governing body shall require the planning commission to recommend the nature and number of zones or districts which it deems necessary and the boundaries of the same and appropriate regulations or restrictions to be enforced therein. Except as provided in the zoning regulations, all such regulations shall be uniform for each class or kind of building or land uses throughout each district, but the regulations in one district may differ from those in other districts and special uses may be designated within each district with conditions attached.

(b) Upon the development of proposed zoning regulations, the planning commission shall hold a public hearing thereon. Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 20 days prior to the date of the hearing. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time and at the conclusion of the same, the planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed zoning regulations and shall submit the same, together with the written summary of the hearing thereon, to the governing body. The governing body either may: (1) Approve such recommendations by the adoption of the same by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a  $\frac{2}{3}$  majority vote of the membership of the governing body; or (3) may return the same to the planning com-

1 mission for further consideration, together with a statement specifying  
2 the basis for the governing body's failure to approve or disapprove. If the  
3 governing body returns the planning commission's recommendations, the  
4 planning commission, after considering the same, may resubmit its orig-  
5 inal recommendations giving the reasons therefor or submit new and  
6 amended recommendations. Upon the receipt of such recommendations,  
7 the governing body, by a simple majority thereof, may adopt or may revise  
8 or amend and adopt such recommendations by the respective ordinance  
9 or resolution, or the governing body need take no further action thereon.  
10 If the planning commission fails to deliver its recommendations to the  
11 governing body following the planning commission's next regular meeting  
12 after receipt of the governing body's report, the governing body shall  
13 consider such course of inaction on the part of the planning commission  
14 as a resubmission of the original recommendations and proceed accord-  
15 ingly. The proposed zoning regulations and any amendments thereto shall  
16 become effective upon publication of the respective adopting ordinance  
17 or resolution.

18 ~~(c) The provisions of this section shall become effective on and after~~  
19 ~~January 1, 1992.~~

20 New Sec. 2. (a) The provisions of this section shall not apply in coun-  
21 ties in which countywide zoning and the restriction of the use of property  
22 within the unincorporated areas of such counties are in effect on or before  
23 June 30, 2002.

24 (b) If the governing body determines it is advisable to zone within  
25 the unincorporated areas of the county, the governing body shall submit  
26 the proposition to create zoning districts and regulate and restrict the use  
27 of property within such unincorporated area to the qualified electors of  
28 such unincorporated areas of the county at an election called and held on  
29 the question. No such regulations shall be applied or enforced within  
30 such unincorporated area without first having been approved by a ma-  
31 jority of the electors voting at such election. The election shall be called  
32 and held in the manner prescribed by the general bond law.

33 The board of county commissioners shall not adopt zoning regulations  
34 pursuant to this section which apply to any property located within three  
35 miles of the boundaries of a city.

36 (c) Words and phrases used in this section shall have the same mean-  
37 ing ascribed thereto by K.S.A. 12-742, and amendments thereto.

38 Sec. 3. K.S.A. 2001 Supp. 19-101a is hereby amended to read as  
39 follows: 19-101a. (a) The board of county commissioners may transact all  
40 county business and perform all powers of local legislation and adminis-  
41 tration it deems appropriate, subject only to the following limitations,  
42 restrictions or prohibitions:

43 (1) Counties shall be subject to all acts of the legislature which apply

1 uniformly to all counties.

2 (2) Counties may not consolidate or alter county boundaries.

3 (3) Counties may not affect the courts located therein.

4 (4) Counties shall be subject to acts of the legislature prescribing  
5 limits of indebtedness.

6 (5) In the exercise of powers of local legislation and administration  
7 authorized under provisions of this section, the home rule power con-  
8 ferred on cities to determine their local affairs and government shall not  
9 be superseded or impaired without the consent of the governing body of  
10 each city within a county which may be affected.

11 (6) Counties may not legislate on social welfare administered under  
12 state law enacted pursuant to or in conformity with public law No. 271—  
13 74th congress, or amendments thereof.

14 (7) Counties shall be subject to all acts of the legislature concerning  
15 elections, election commissioners and officers and their duties as such  
16 officers and the election of county officers.

17 (8) Counties shall be subject to the limitations and prohibitions im-  
18 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
19 prescribing limitations upon the levy of retailers' sales taxes by counties.

20 (9) Counties may not exempt from or effect changes in statutes made  
21 nonuniform in application solely by reason of authorizing exceptions for  
22 counties having adopted a charter for county government.

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

30 (11) Counties shall have no power under this section to exempt from  
31 any statute authorizing or requiring the levy of taxes and providing sub-  
32 stitute and additional provisions on the same subject, unless the resolution  
33 authorizing the same specifically provides for a portion of the proceeds  
34 of such levy to be used to pay a portion of the principal and interest on  
35 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
36 ments thereto.

37 (12) Counties may not exempt from or effect changes in the provi-  
38 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

39 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101  
40 through 12-1,109, and amendments thereto, counties may not levy and  
41 collect taxes on incomes from whatever source derived.

42 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
43 430, and amendments thereto.

1 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
2 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

3 (16) (A) Counties may not exempt from or effect changes in K.S.A.  
4 13-13a26, and amendments thereto.

5 (B) This provision shall expire on June 30, 2003.

6 (17) (A) Counties may not exempt from or effect changes in K.S.A.  
7 2001 Supp. 71-301a, and amendments thereto.

8 (B) This provision shall expire on June 30, 2003.

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

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

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

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

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

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

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

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

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

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

37 (28) 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 (29) Counties may not exempt from or effect changes in K.S.A. 79-  
41 2017 or 79-2101, and amendments thereto.

42 (30) 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 or 65-171d or

1 K.S.A. 2001 Supp. 17-5909 or 65-1,178 through 65-1,199, and amend-  
2 ments thereto.

3 (31) Counties may not exempt from or effect changes in K.S.A. 2001  
4 Supp. 80-121, and amendments thereto.

5 (32) Counties may not exempt from or effect changes in K.S.A. 2001  
6 Supp. 19-228, and amendments thereto.

7 (33) *Counties may not exempt from or effect changes in section 2, and*  
8 *amendments thereto.*

9 (b) Counties shall apply the powers of local legislation granted in  
10 subsection (a) by resolution of the board of county commissioners. If no  
11 statutory authority exists for such local legislation other than that set forth  
12 in subsection (a) and the local legislation proposed under the authority  
13 of such subsection is not contrary to any act of the legislature, such local  
14 legislation shall become effective upon passage of a resolution of the  
15 board and publication in the official county newspaper. If the legislation  
16 proposed by the board under authority of subsection (a) is contrary to an  
17 act of the legislature which is applicable to the particular county but not  
18 uniformly applicable to all counties, such legislation shall become effec-  
19 tive by passage of a charter resolution in the manner provided in K.S.A.  
20 19-101b, and amendments thereto.

21 (c) Any resolution adopted by a county which conflicts with the re-  
22 strictions in subsection (a) is null and void.

23 Sec. 4. K.S.A. 12-756 and K.S.A. 2001 Supp. 19-101a are hereby  
24 repealed.

25 Sec. 5. This act shall take effect and be in force from and after its  
26 publication in the statute book.

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