

HOUSE BILL No. 2284

By Committee on Local Government

2-11

AN ACT authorizing the imposition of individual and corporation income tax surtaxes by cities and counties; prescribing authorities and duties for the department of revenue relating thereto; amending K.S.A. 12-140 and K.S.A. 2002 Supp. 19-101a and repealing the existing sections.

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

New Section 1. (a) The governing body of any city or county may impose a citywide or countywide individual and corporation income tax surtax upon every individual residing and corporation doing business in the city or county on December 31 of any year. No city shall impose an income tax surcharge under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. No county shall impose an income tax surcharge under the provisions of this act without the board of county commissioners of such county having first submitted such proposition to and having received the approval of a majority of the electors of the county voting thereon at an election called and held therefor. The rate of any such surtax shall be any whole number of percentage not exceeding 5% of any individual's or corporation's state income tax liability.

(b) Any ordinance or resolution imposing the surtax authorized by subsection (a) shall provide that any taxpayer's Kansas income tax liability shall be allocated and apportioned in the same manner and under the same limitations and conditions as provided in the uniform division of income for tax purposes act, insofar as the same can be made applicable, and under rules and regulations adopted for such purpose by the secretary of revenue.

New Sec. 2. The governing body of any city or county which has imposed a citywide or countywide individual and corporation income tax surtax under the provisions of this act, in any subsequent year, may increase or decrease the rate of such surtax or repeal any such surtax in the manner prescribed for imposing such surtax under the provisions of section 1, and amendments thereto. Any change in rate or repeal of such surtax shall become effective on January 1 of the year next following the year in which such change in rate or repeal is adopted.

1 New Sec. 3. Any city or county imposing an income tax surtax shall
2 utilize the services of the state department of revenue to administer,
3 enforce and collect such tax. Any ordinance or resolution authorizing the
4 imposition of an income tax surtax shall incorporate by reference the
5 provisions of article 32 of chapter 79 of the Kansas Statutes Annotated,
6 and amendments thereto, providing the procedure for the collection and
7 administration of income taxes, insofar as the provisions of such law may
8 be applicable to a city or county income tax surtax. The department of
9 revenue is hereby authorized to adopt such rules and regulations as may
10 be necessary to provide for the withholding by employers of any city or
11 county income tax surtax and may require any employer in the state of
12 Kansas to furnish any information necessary for the administration, en-
13 forcement and collection of such tax.

14 New Sec. 4. Upon receipt of a certified copy of a city's or county's
15 resolution ordinance authorizing the imposition of a city or county income
16 tax surtax, the secretary of revenue shall cause all necessary forms to be
17 prepared and such taxes to be collected at the same time and in the
18 manner provided for the collection of the state income tax. The secretary
19 of revenue is hereby authorized to administer and collect the city or
20 county income tax surtax of any such city or county and to adopt such
21 rules and regulations as may be necessary for the efficient and effective
22 administration and enforcement thereof. The secretary shall credit all
23 moneys received therefrom to a city and county income tax surtax fund,
24 which is hereby established in the state treasury. The secretary of revenue
25 shall transfer from such fund to the city and county income tax surtax
26 refund fund, which fund is hereby created, an amount deemed sufficient
27 by the director to pay any refunds due from any tax levied under the
28 provisions of this act. All revenue collected from any city or county income
29 tax surtax shall be remitted at least quarterly by the state treasurer, on
30 instruction from the secretary of revenue, to the treasurer of such city or
31 county.

32 New Sec. 5. Any city or county income tax surtax imposed under the
33 provisions of this act shall not become effective until January 1 next fol-
34 lowing the date of its adoption. Whenever any such surtax shall become
35 effective at any time prior to the time that revenue derived therefrom
36 may be budgeted for expenditure in such year, such revenue shall be
37 credited to the funds of the taxing subdivision or subdivisions and shall
38 be carried forward to the credit of such funds for the ensuing budget year
39 in the manner provided for carrying forward balances remaining in such
40 funds at the end of a budget year. All revenue received by a city or county
41 from the proceeds of a city or county income tax surtax imposed shall be
42 deposited in the city or county general fund or in any other fund or funds
43 of the city or county if such fund was specified in the ballot proposition.

1 Sec. 6. K.S.A. 12-140 is hereby amended to read as follows: 12-140.
2 Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-
3 1,109, *and amendments thereto, and sections 1 through 5, and amend-*
4 *ments thereto*, no city shall have power to levy and collect taxes on in-
5 comes from whatever source derived.

6 Sec. 7. K.S.A. 2002 Supp. 19-101a is hereby amended to read as
7 follows: 19-101a. (a) The board of county commissioners may transact all
8 county business and perform all powers of local legislation and adminis-
9 tration it deems appropriate, subject only to the following limitations,
10 restrictions or prohibitions:

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

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

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

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

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

22 (6) Counties may not legislate on social welfare administered under
23 state law enacted pursuant to or in conformity with public law No. 271—
24 74th congress, or amendments thereof.

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

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

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

34 (10) No county may levy ad valorem taxes under the authority of this
35 section upon real property located within any redevelopment project area
36 established under the authority of K.S.A. 12-1772, and amendments
37 thereto, unless the resolution authorizing the same specifically authorized
38 a portion of the proceeds of such levy to be used to pay the principal of
39 and interest upon bonds issued by a city under the authority of K.S.A.
40 12-1774, and amendments thereto.

41 (11) Counties shall have no power under this section to exempt from
42 any statute authorizing or requiring the levy of taxes and providing sub-
43 stitute and additional provisions on the same subject, unless the resolution

1 authorizing the same specifically provides for a portion of the proceeds
2 of such levy to be used to pay a portion of the principal and interest on
3 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
4 ments thereto.

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

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

11 (14) Counties may not exempt from or effect changes in K.S.A. 19-
12 430, and amendments thereto.

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

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

17 (B) This provision shall expire on June 30, 2004.

18 (17) (A) Counties may not exempt from or effect changes in K.S.A.
19 71-301a, and amendments thereto.

20 (B) This provision shall expire on June 30, 2004.

21 (18) Counties may not exempt from or effect changes in K.S.A. 19-
22 15,139, 19-15,140 and 19-15,141, and amendments thereto.

23 (19) Counties may not exempt from or effect changes in the provi-
24 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
25 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
26 through 12-1270 and 12-1276, and amendments thereto.

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

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

31 (22) Counties may not regulate the production or drilling of any oil
32 or gas well in any manner which would result in the duplication of reg-
33 ulation by the state corporation commission and the Kansas department
34 of health and environment pursuant to chapter 55 and chapter 65 of the
35 Kansas Statutes Annotated and any rules and regulations adopted pur-
36 suant thereto. Counties may not require any license or permit for the
37 drilling or production of oil and gas wells. Counties may not impose any
38 fee or charge for the drilling or production of any oil or gas well.

39 (23) Counties may not exempt from or effect changes in K.S.A. 79-
40 41a04, and amendments thereto.

41 (24) Counties may not exempt from or effect changes in K.S.A. 79-
42 1611, and amendments thereto.

43 (25) Counties may not exempt from or effect changes in K.S.A. 79-

1 1494, and amendments thereto.

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

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

6 (28) Counties may not levy or impose an excise, severance or any
7 other tax in the nature of an excise tax upon the physical severance and
8 production of any mineral or other material from the earth or water.

9 (29) Counties may not exempt from or effect changes in K.S.A. 79-
10 2017 or 79-2101, and amendments thereto.

11 (30) Counties may not exempt from or effect changes in K.S.A. 2-
12 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-
13 1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments
14 thereto.

15 (31) Counties may not exempt from or effect changes in K.S.A. 2002
16 Supp. 80-121, and amendments thereto.

17 (32) Counties may not exempt from or effect changes in K.S.A. 19-
18 228, and amendments thereto.

19 (b) Counties shall apply the powers of local legislation granted in
20 subsection (a) by resolution of the board of county commissioners. If no
21 statutory authority exists for such local legislation other than that set forth
22 in subsection (a) and the local legislation proposed under the authority
23 of such subsection is not contrary to any act of the legislature, such local
24 legislation shall become effective upon passage of a resolution of the
25 board and publication in the official county newspaper. If the legislation
26 proposed by the board under authority of subsection (a) is contrary to an
27 act of the legislature which is applicable to the particular county but not
28 uniformly applicable to all counties, such legislation shall become effec-
29 tive by passage of a charter resolution in the manner provided in K.S.A.
30 19-101b, and amendments thereto.

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

33 Sec. 8. K.S.A. 12-140 and K.S.A. 2002 Supp. 19-101a are hereby
34 repealed.

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

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