

SENATE BILL No. 203

By Senator Haley

2-11

AN ACT authorizing certain cities to impose an earnings tax; prescribing procedures therefor and duties and authorities for the state department of revenue; amending K.S.A. 12-140 and repealing the existing section.

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

New Section 1. (a) Any class A city is hereby empowered and authorized in accordance with the provisions of this act to levy a tax upon the earnings of: (1) All individuals employed within that city for employers who have been granted property tax exemption or abatements or whose place of business is located on real estate which has been granted such exemptions or abatements for industrial revenue bonds, economic development abatements or exemptions or as a racetrack redevelopment zone or area.

(b) The rate of any earnings tax shall be 1% of earnings.

New Sec. 2. (a) No class A city shall levy an earnings tax until the governing body of such city shall first submit such proposition to and receive the approval of a majority of the electors of the city voting thereon at the general election of November 2, 2004. Any class A city proposing to adopt an earnings tax shall adopt an ordinance giving notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 25-105, and amendments thereto. The notice shall state the time of the election, the rate of the tax and the purposes for which the proceeds will be expended. Every election held under this act shall be conducted by the county election officer.

(b) If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of that class A city shall provide by ordinance for the levy of the tax. Any repeal of such tax, or any reduction or increase in the rate thereof, within the limits of this act, shall be accomplished in the manner provided for in this act for the adoption and approval of such tax, except that, the governing body of a class A city shall be required to submit such question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city. If a majority of the electors voting thereon at such election fail to approve the proposition, it may be resub-

1 mitted under the conditions and in the manner provided in this act for
2 submission of the original proposition.

3 New Sec. 3. As used in this act, “earnings” means the following:

4 (a) As applied to individuals, “earnings” means any and all amounts
5 paid to individuals in the form of wages, salaries, commissions, fees or
6 other forms of compensation compensating such individual for labor or
7 services rendered. As applied to individuals, a person shall be considered
8 employed within such city if such person’s primary place of business is
9 located within such city.

10 (b) As applied to businesses and corporations, “earnings” means fed-
11 eral taxable income, as defined by the federal internal revenue code, as
12 defined by K.S.A. 79-32,109, and amendments thereto, derived from the
13 operations of such businesses or corporations located within such city.
14 The allocation of income provisions of K.S.A. 79-32,141, and amendments
15 thereto, and the allocation and apportionment provisions of the uniform
16 division of income for tax purposes act, insofar as the same may be made
17 applicable, shall apply to a city earnings tax levied in accordance with this
18 act.

19 New Sec. 4. Any person or organization exempt from the payment
20 of the state income tax pursuant to K.S.A. 79-32,113, and amendments
21 thereto, shall be exempt from the payment of an earnings tax levied pur-
22 suant to this act.

23 New Sec. 5. The amount of earnings tax paid to another city with an
24 earnings tax by a resident individual shall be allowed as a credit against
25 the earnings tax of the class A city of their residence.

26 New Sec. 6. (a) Any class A city levying an earnings tax as provided
27 in this act shall utilize the services of the state department of revenue to
28 administer, enforce and collect such tax. Any ordinance authorizing the
29 levy of a city earnings tax shall incorporate by reference the provisions of
30 article 32 of chapter 79 of the Kansas Statutes Annotated, and amend-
31 ments thereto, providing the procedure for the collection and adminis-
32 tration of income taxes, insofar as the provisions of such law may be made
33 applicable to a city earnings tax. The department of revenue is hereby
34 authorized to adopt such rules and regulations as may be necessary to
35 provide for the withholding by employers of any local earnings tax and
36 may require any employer in the state of Kansas to furnish any infor-
37 mation necessary for the administration, enforcement and collection of
38 such tax.

39 (b) Upon the receipt of a certified copy of an ordinance authorizing
40 the levy of a city earnings tax, the secretary of revenue shall cause all
41 necessary forms to be prepared and such taxes to be collected at the same
42 time and in the manner provided for the collection of the state income
43 tax and privilege tax. The secretary of revenue is hereby authorized to

1 administer and collect the earnings tax of such city and to adopt such
2 rules and regulations as may be necessary for the efficient and effective
3 administration and enforcement thereof. The secretary shall credit all
4 moneys received therefrom to a city earnings tax fund, which fund is
5 hereby established in the state treasury. The secretary of revenue shall
6 transfer from the city earnings tax fund to the city earnings tax refund
7 fund, which fund is hereby created, an amount deemed sufficient by the
8 secretary to pay any refunds due from any tax levied under the provisions
9 of this section. All local earnings tax revenue collected from such city
10 pursuant to this act shall be remitted at least quarterly by the state trea-
11 surer, on instruction from the secretary of revenue, to the treasurer of
12 such city.

13 New Sec. 7. The following classes of cities are hereby established for
14 the purpose of imposing limitations and prohibitions upon the levying of
15 an earnings tax by cities as authorized and provided by article 12, section
16 5, of the constitution of the state of Kansas;

17 Class A cities. Any consolidated city-county established pursuant to
18 K.S.A. 12-340, and amendments thereto; and

19 Class B cities. All other cities.

20 Sec. 8. K.S.A. 12-140 is hereby amended to read as follows: 12-140.
21 Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-
22 1,109, *and amendments thereto, and sections 1 through 6, and amend-*
23 *ments thereto*, no city shall have power to levy and collect taxes on in-
24 comes from whatever source derived.

25 Sec. 9. K.S.A. 12-140 is hereby repealed.

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

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