

SENATE BILL No. 233

By Committee on Assessment and Taxation

2-14

AN ACT concerning taxation; relating to local retailers' sales tax authority in Shawnee county; amending K.S.A. 12-192 and K.S.A. 2002 Supp. 12-187 and repealing the existing sections.

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

Section 1. K.S.A. 2002 Supp. 12-187 is hereby amended to read as follows: 12-187. (a) (1) No city shall impose a retailers' sales tax 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. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the 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.

(2) The governing body of any class B city located in any county which does not impose a countywide retailers' sales tax pursuant to paragraph (5) of subsection (b) may submit the question of imposing a retailers' sales tax at the rate of .25%, .5%, .75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include but not be limited to the following: Local health departments, city, county or district hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home health care services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be re-

1 quired to submit the question upon submission of a petition signed by
2 electors of such county equal in number to not less than 10% of the
3 electors of such county who voted at the last preceding general election
4 for the office of secretary of state, or upon receiving resolutions request-
5 ing such an election passed by not less than $\frac{2}{3}$ of the membership of the
6 governing body of each of one or more cities within such county which
7 contains a population of not less than 25% of the entire population of the
8 county, or upon receiving resolutions requesting such an election passed
9 by $\frac{2}{3}$ of the membership of the governing body of each of one or more
10 taxing subdivisions within such county which levy not less than 25% of
11 the property taxes levied by all taxing subdivisions within the county.

12 (2) The board of county commissioners of Anderson, Atchison, Bar-
13 ton, Butler, Cowley, Cherokee, Crawford, Ford, Jefferson, Lyon, Mont-
14 gomery, Neosho, Osage, Ottawa, Riley, Saline, Seward, Wabaunsee, Wil-
15 son and Wyandotte counties may submit the question of imposing a
16 countywide retailers' sales tax and pledging the revenue received there-
17 from for the purpose of financing the construction or remodeling of a
18 courthouse, jail, law enforcement center facility or other county admin-
19 istrative facility, to the electors at an election called and held thereon.
20 The tax imposed pursuant to this paragraph shall expire when sales tax
21 sufficient to pay all of the costs incurred in the financing of such facility
22 has been collected by retailers as determined by the secretary of revenue.
23 Nothing in this paragraph shall be construed to allow the rate of tax
24 imposed by Butler, Cowley, Lyon, Montgomery, Neosho, Riley or Wilson
25 county pursuant to this paragraph to exceed or be imposed at any rate
26 other than the rates prescribed in K.S.A. 12-189, and amendments
27 thereto.

28 (3) (A) Except as otherwise provided in this paragraph, the result of
29 the election held on November 8, 1988, on the question submitted by
30 the board of county commissioners of Jackson county for the purpose of
31 increasing its countywide retailers' sales tax by 1% is hereby declared
32 valid, and the revenue received therefrom by the county shall be ex-
33 pended solely for the purpose of financing the Banner Creek reservoir
34 project. The tax imposed pursuant to this paragraph shall take effect on
35 the effective date of this act and shall expire not later than five years after
36 such date.

37 (B) The result of the election held on November 8, 1994, on the
38 question submitted by the board of county commissioners of Ottawa
39 county for the purpose of increasing its countywide retailers' sales tax by
40 1% is hereby declared valid, and the revenue received therefrom by the
41 county shall be expended solely for the purpose of financing the erection,
42 construction and furnishing of a law enforcement center and jail facility.

43 (4) The board of county commissioners of Finney and Ford counties

1 may submit the question of imposing a countywide retailers' sales tax at
2 the rate of .25% and pledging the revenue received therefrom for the
3 purpose of financing all or any portion of the cost to be paid by Finney
4 or Ford county for construction of highway projects identified as system
5 enhancements under the provisions of paragraph (5) of subsection (b) of
6 K.S.A. 68-2314, and amendments thereto, to the electors at an election
7 called and held thereon. Such election shall be called and held in the
8 manner provided by the general bond law. The tax imposed pursuant to
9 this paragraph shall expire upon the payment of all costs authorized pur-
10 suant to this paragraph in the financing of such highway projects. Nothing
11 in this paragraph shall be construed to allow the rate of tax imposed by
12 Finney or Ford county pursuant to this paragraph to exceed the maximum
13 rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds
14 remain upon the payment of all costs authorized pursuant to this para-
15 graph in the financing of such highway projects in Finney county, the
16 state treasurer shall remit such funds to the treasurer of Finney county
17 and upon receipt of such moneys shall be deposited to the credit of the
18 county road and bridge fund. If any funds remain upon the payment of
19 all costs authorized pursuant to this paragraph in the financing of such
20 highway projects in Ford county, the state treasurer shall remit such funds
21 to the treasurer of Ford county and upon receipt of such moneys shall
22 be deposited to the credit of the county road and bridge fund.

23 (5) The board of county commissioners of any county may submit the
24 question of imposing a retailers' sales tax at the rate of .25%, .5%, .75%
25 or 1% and pledging the revenue received therefrom for the purpose of
26 financing the provision of health care services, as enumerated in the ques-
27 tion, to the electors at an election called and held thereon. Whenever any
28 county imposes a tax pursuant to this paragraph, any tax imposed pursuant
29 to paragraph (2) of subsection (a) by any city located in such county shall
30 expire upon the effective date of the imposition of the countywide tax,
31 and thereafter the state treasurer shall remit to each such city that portion
32 of the countywide tax revenue collected by retailers within such city as
33 certified by the director of taxation. The tax imposed pursuant to this
34 paragraph shall be deemed to be in addition to the rate limitations pre-
35 scribed in K.S.A. 12-189, and amendments thereto. As used in this par-
36 agraph, health care services shall include but not be limited to the follow-
37 ing: Local health departments, city or county hospitals, city or county
38 nursing homes, preventive health care services including immunizations,
39 prenatal care and the postponement of entry into nursing homes by home
40 care services, mental health services, indigent health care, physician or
41 health care worker recruitment, health education, emergency medical
42 services, rural health clinics, integration of health care services, home
43 health services and rural health networks.

1 (6) The board of county commissioners of Allen county may submit
2 the question of imposing a countywide retailers' sales tax at the rate of
3 .5% and pledging the revenue received therefrom for the purpose of
4 financing the costs of operation and construction of a solid waste disposal
5 area or the modification of an existing landfill to comply with federal
6 regulations to the electors at an election called and held thereon. The tax
7 imposed pursuant to this paragraph shall expire upon the payment of all
8 costs incurred in the financing of the project undertaken. Nothing in this
9 paragraph shall be construed to allow the rate of tax imposed by Allen
10 county pursuant to this paragraph to exceed or be imposed at any rate
11 other than the rates prescribed in K.S.A. 12-189 and amendments
12 thereto.

13 (7) The board of county commissioners of Clay, Dickinson and Miami
14 county may submit the question of imposing a countywide retailers' sales
15 tax at the rate of .50% in the case of Clay and Dickinson county and at a
16 rate of up to 1% in the case of Miami county, and pledging the revenue
17 received therefrom for the purpose of financing the costs of roadway
18 construction and improvement to the electors at an election called and
19 held thereon. The tax imposed pursuant to this paragraph shall expire
20 after five years from the date such tax is first collected.

21 (8) The board of county commissioners of Sherman county may sub-
22 mit the question of imposing a countywide retailers' sales tax at the rate
23 of .25%, .5% or .75% and pledging the revenue therefrom for the purpose
24 of financing the costs of the county roads 64 and 65 construction and
25 improvement project. The tax imposed pursuant to this paragraph shall
26 expire upon payment of all costs authorized pursuant to this paragraph
27 in the financing of such project.

28 (9) The board of county commissioners of Cowley, Russell and
29 Woodson county may submit the question of imposing a countywide re-
30 tailers' sales tax at the rate of .5% in the case of Russell and Woodson
31 county and at a rate of up to .25%, in the case of Cowley county and
32 pledging the revenue received therefrom for the purpose of financing
33 economic development initiatives or public infrastructure projects. The
34 tax imposed pursuant to this paragraph shall expire after five years from
35 the date such tax is first collected.

36 (10) The board of county commissioners of Franklin county may sub-
37 mit the question of imposing a countywide retailers' sales tax at the rate
38 of .25% and pledging the revenue received therefrom for the purpose of
39 financing recreational facilities. The tax imposed pursuant to this para-
40 graph shall expire upon payment of all costs authorized in financing such
41 facilities.

42 (11) The board of county commissioners of Douglas county may sub-
43 mit ~~to~~ the question of imposing a countywide retailers' sales tax at the

1 rate of .25% and pledging the revenue received therefrom for the pur-
2 poses of preservation, access and management of open space, and for
3 industrial and business park related economic development.

4 (12) *The board of county commissioners of Shawnee county may sub-*
5 *mit the question of imposing a countywide retailers' sales tax at the rate*
6 *of .25% and pledging the revenue received therefrom to the city of Topeka*
7 *for the purpose of financing the costs of rebuilding the Topeka boulevard*
8 *bridge and other public infrastructure improvements associated with such*
9 *project to the electors at an election called and held thereon. The tax*
10 *imposed pursuant to this paragraph shall expire upon payment of all costs*
11 *authorized in financing such project.*

12 (c) The boards of county commissioners of any two or more contigu-
13 uous counties, upon adoption of a joint resolution by such boards, may
14 submit the question of imposing a retailers' sales tax within such counties
15 to the electors of such counties at an election called and held thereon
16 and such boards of any two or more contiguous counties shall be required
17 to submit such question upon submission of a petition in each of such
18 counties, signed by a number of electors of each of such counties where
19 submitted equal in number to not less than 10% of the electors of each
20 of such counties who voted at the last preceding general election for the
21 office of secretary of state, or upon receiving resolutions requesting such
22 an election passed by not less than $\frac{2}{3}$ of the membership of the governing
23 body of each of one or more cities within each of such counties which
24 contains a population of not less than 25% of the entire population of
25 each of such counties, or upon receiving resolutions requesting such an
26 election passed by $\frac{2}{3}$ of the membership of the governing body of each
27 of one or more taxing subdivisions within each of such counties which
28 levy not less than 25% of the property taxes levied by all taxing subdivi-
29 sions within each of such counties.

30 (d) Any city retailers' sales tax in the amount of .5% being levied by
31 a city on July 1, 1990, shall continue in effect until repealed in the manner
32 provided herein for the adoption and approval of such tax or until re-
33 pealed by the adoption of an ordinance so providing. In addition to any
34 city retailers' sales tax being levied by a city on July 1, 1990, any such city
35 may adopt an additional city retailers' sales tax in the amount of .25% or
36 .5%, provided that such additional tax is adopted and approved in the
37 manner provided for the adoption and approval of a city retailers' sales
38 tax. Any countywide retailers' sales tax in the amount of .5% or 1% in
39 effect on July 1, 1990, shall continue in effect until repealed in the manner
40 provided herein for the adoption and approval of such tax.

41 (e) A class D city shall have the same power to levy and collect a city
42 retailers' sales tax that a class A city is authorized to levy and collect and
43 in addition, the governing body of any class D city may submit the ques-

1 tion of imposing an additional city retailers' sales tax in the amount of
2 .125%, .25%, .5% or .75% and pledging the revenue received therefrom
3 for economic development initiatives, strategic planning initiatives or for
4 public infrastructure projects including buildings to the electors at an
5 election called and held thereon. Any additional sales tax imposed pur-
6 suant to this paragraph shall expire no later than five years from the date
7 of imposition thereof, except that any such tax imposed by any class D
8 city after the effective date of this act shall expire no later than 10 years
9 from the date of imposition thereof.

10 (f) Any city or county proposing to adopt a retailers' sales tax shall
11 give notice of its intention to submit such proposition for approval by the
12 electors in the manner required by K.S.A. 10-120, and amendments
13 thereto. The notices shall state the time of the election and the rate and
14 effective date of the proposed tax. If a majority of the electors voting
15 thereon at such election fail to approve the proposition, such proposition
16 may be resubmitted under the conditions and in the manner provided in
17 this act for submission of the proposition. If a majority of the electors
18 voting thereon at such election shall approve the levying of such tax, the
19 governing body of any such city or county shall provide by ordinance or
20 resolution, as the case may be, for the levy of the tax. Any repeal of such
21 tax or any reduction or increase in the rate thereof, within the limits
22 prescribed by K.S.A. 12-189, and amendments thereto, shall be accom-
23 plished in the manner provided herein for the adoption and approval of
24 such tax except that the repeal of any such city retailers' sales tax may be
25 accomplished by the adoption of an ordinance so providing.

26 (g) The sufficiency of the number of signers of any petition filed
27 under this section shall be determined by the county election officer.
28 Every election held under this act shall be conducted by the county elec-
29 tion officer.

30 (h) The governing body of the city or county proposing to levy any
31 retailers' sales tax shall specify the purpose or purposes for which the
32 revenue would be used, and a statement generally describing such pur-
33 pose or purposes shall be included as a part of the ballot proposition.

34 Sec. 2. K.S.A. 12-192 is hereby amended to read as follows: 12-192.

35 (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue
36 received by the director of taxation from a countywide retailers' sales tax
37 shall be apportioned among the county and each city located in such
38 county in the following manner: (1) One-half of all revenue received by
39 the director of taxation shall be apportioned among the county and each
40 city located in such county in the proportion that the total tangible prop-
41 erty tax levies made in such county in the preceding year for all funds of
42 each such governmental unit bear to the total of all such levies made in
43 the preceding year, and (2) $\frac{1}{2}$ of all revenue received by the director of

1 taxation from such countywide retailers' sales tax shall be apportioned
2 among the county and each city located in such county, first to the county
3 that portion of the revenue equal to the proportion that the population
4 of the county residing in the unincorporated area of the county bears to
5 the total population of the county, and second to the cities in the pro-
6 portion that the population of each city bears to the total population of
7 the county, except that no persons residing within the Fort Riley military
8 reservation shall be included in the determination of the population of
9 any city located within Riley county. All revenue apportioned to a county
10 shall be paid to its county treasurer and shall be credited to the general
11 fund of the county.

12 (b) (1) As an alternative and in lieu of the apportionment formula
13 provided in subsection (a), all revenue received by the director of taxation
14 from a countywide retailers' sales tax imposed within Johnson county at
15 the rate of .75% or 1% after the effective date of this act may be apportioned
16 among the county and each city located in such county in the
17 following manner: (A) The revenue received from the first .5% rate of
18 tax shall be apportioned in the manner prescribed by subsection (a) and
19 (B) the revenue received from the rate of tax exceeding .5% shall be ap-
20 portioned as follows: (i) One-fourth shall be apportioned among the
21 county and each city located in such county in the proportion that the
22 total tangible property tax levies made in such county in the preceding
23 year for all funds of each such governmental unit bear to the total of all
24 such levies made in the preceding year and (ii) one-fourth shall be ap-
25 portioned among the county and each city located in such county, first to
26 the county that portion of the revenue equal to the proportion that the
27 population of the county residing in the unincorporated area of the county
28 bears to the total population of the county, and second to the cities in the
29 proportion that the population of each city bears to the total population
30 of the county and (iii) one-half shall be retained by the county for its sole
31 use and benefit.

32 (2) In lieu of the apportionment formula provided in subsection (a),
33 all money received by the director of taxation from a countywide sales tax
34 imposed within Montgomery county pursuant to the election held on
35 November 8, 1994, shall be remitted to and shall be retained by the
36 county and expended only for the purpose for which the revenue received
37 from the tax was pledged. All revenue apportioned and paid from the
38 imposition of such tax to the treasurer of any city prior to the effective
39 date of this act shall be remitted to the county treasurer and expended
40 only for the purpose for which the revenue received from the tax was
41 pledged.

42 (c) (1) Except as otherwise provided by paragraph (2) of this subsec-
43 tion, for purposes of subsections (a) and (b), the term "total tangible

1 property tax levies” means the aggregate dollar amount of tax revenue
2 derived from ad valorem tax levies applicable to all tangible property
3 located within each such city or county. The ad valorem property tax levy
4 of any county or city district entity or subdivision shall be included within
5 this term if the levy of any such district entity or subdivision is applicable
6 to all tangible property located within each such city or county.

7 (2) For the purposes of subsections (a) and (b), any ad valorem prop-
8 erty tax levied on property located in a city in Johnson county for the
9 purpose of providing fire protection service in such city shall be included
10 within the term “total tangible property tax levies” for such city regardless
11 of its applicability to all tangible property located within each such city.
12 If the tax is levied by a district which extends across city boundaries, for
13 purposes of this computation, the amount of such levy shall be appor-
14 tioned among each city in which such district extends in the proportion
15 that such tax levied within each city bears to the total tax levied by the
16 district.

17 (d) (1) All revenue received from a countywide retailers’ sales tax
18 imposed pursuant to paragraphs (2), (6), (7), (8) ~~or~~, (9) *or* (12) of sub-
19 section (b) of K.S.A. 12-187, and amendments thereto, shall be remitted
20 to and shall be retained by the county and expended only for the purpose
21 for which the revenue received from the tax was pledged.

22 (2) Except as otherwise provided in paragraph (5) of subsection (b)
23 of K.S.A. 12-187, and amendments thereto, all revenues received from a
24 countywide retailers’ sales tax imposed pursuant to paragraph (5) of sub-
25 section (b) of K.S.A. 12-187, and amendments thereto, shall be remitted
26 to and shall be retained by the county and expended only for the purpose
27 for which the revenue received from the tax was pledged.

28 (e) All revenue apportioned to the several cities of the county shall
29 be paid to the respective treasurers thereof and deposited in the general
30 fund of the city. Whenever the territory of any city is located in two or
31 more counties and any one or more of such counties do not levy a coun-
32 tywide retailers’ sales tax, or whenever such counties do not levy coun-
33 tywide retailers’ sales taxes at a uniform rate, the revenue received by
34 such city from the proceeds of the countywide retailers’ sales tax, as an
35 alternative to depositing the same in the general fund, may be used for
36 the purpose of reducing the tax levies of such city upon the taxable tan-
37 gible property located within the county levying such countywide retail-
38 ers’ sales tax.

39 (f) Prior to March 1 of each year, the secretary of revenue shall advise
40 each county treasurer of the revenue collected in such county from the
41 state retailers’ sales tax for the preceding calendar year.

42 (g) Prior to December 31 of each year, the clerk of every county
43 imposing a countywide retailers’ sales tax shall provide such information

1 deemed necessary by the secretary of revenue to apportion and remit
2 revenue to the counties and cities pursuant to this section.

3 (h) The provisions of subsections (a) and (b) for the apportionment
4 of countywide retailers' sales tax shall not apply to any revenues received
5 pursuant to a county or countywide retailers' sales tax levied or collected
6 under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments thereto. All such
7 revenue collected under K.S.A. ~~2001 Supp.~~ 74-8929, and amendments
8 thereto, shall be deposited into the redevelopment bond fund established
9 by K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto, for the period
10 of time set forth in K.S.A. ~~2001 Supp.~~ 74-8927, and amendments thereto.

11 Sec. 3. K.S.A. 12-192 and K.S.A. 2002 Supp. 12-187 are hereby
12 repealed.

13 Sec. 4. This act shall take effect and be in force from and after its
14 publication in the statute book.

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