

HOUSE BILL No. 2754

By Committee on Judiciary

Requested by Representative Humphries

2-7

1 AN ACT concerning counties; relating to public health; authorizing
2 counties to exempt from the requirement to perform school safety
3 inspections; amending K.S.A. 19-101a and K.S.A. 2023 Supp. 65-202
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 19-101a is hereby amended to read as follows: 19-
8 101a. (a) The board of county commissioners may transact all county
9 business and perform all powers of local legislation and administration it
10 deems appropriate, subject only to the following limitations, restrictions or
11 prohibitions:

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

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

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

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20 superseded or impaired without the consent of the governing body of each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

22 (5) 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 (6) 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 (7) Counties shall be subject to the limitations and prohibitions
29 imposed under K.S.A. 12-187 through 12-195, and amendments thereto,
30 prescribing limitations upon the levy of retailers' sales taxes by counties.

31 (8) 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 (9) No county may levy ad valorem taxes under the authority of this
35 section upon real property located within any redevelopment project area

1 established under the authority of K.S.A. 12-1772, and amendments
2 thereto, unless the resolution authorizing the same specifically authorized
3 a portion of the proceeds of such levy to be used to pay the principal of
4 and interest upon bonds issued by a city under the authority of K.S.A. 12-
5 1774, and amendments thereto.

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

13 (11) Counties may not exempt from or effect changes in the
14 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

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

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

20 (14) Counties may not exempt from or effect changes in K.S.A. 19-
21 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

22 (15) Counties may not exempt from or effect changes in K.S.A. 19-
23 15,139, 19-15,140 and 19-15,141, and amendments thereto.

24 (16) Counties may not exempt from or effect changes in the
25 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
26 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
27 1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

41 (20) Counties may not exempt from or effect changes in K.S.A. 79-
42 41a04, and amendments thereto.

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

- 1 1611, and amendments thereto.
- 2 (22) Counties may not exempt from or effect changes in K.S.A. 79-
- 3 1494, and amendments thereto.
- 4 (23) Counties may not exempt from or effect changes in K.S.A. 19-
- 5 202(b), and amendments thereto.
- 6 (24) Counties may not exempt from or effect changes in K.S.A. 19-
- 7 204(b), and amendments thereto.
- 8 (25) Counties may not levy or impose an excise, severance or any
- 9 other tax in the nature of an excise tax upon the physical severance and
- 10 production of any mineral or other material from the earth or water.
- 11 (26) Counties may not exempt from or effect changes in K.S.A. 79-
- 12 2017 or 79-2101, and amendments thereto.
- 13 (27) Counties may not exempt from or effect changes in K.S.A. 2-
- 14 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
- 15 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
- 16 thereto.
- 17 (28) Counties may not exempt from or effect changes in K.S.A. 80-
- 18 121, and amendments thereto.
- 19 (29) Counties may not exempt from or effect changes in K.S.A. 19-
- 20 228, and amendments thereto.
- 21 (30) Counties may not exempt from or effect changes in the Kansas
- 22 911 act.
- 23 (31) Counties may not exempt from or effect changes in K.S.A. 26-
- 24 601, and amendments thereto.
- 25 (32) (A) Counties may not exempt from or effect changes in the
- 26 Kansas liquor control act except as provided by paragraph (B).
- 27 (B) Counties may adopt resolutions which are not in conflict with the
- 28 Kansas liquor control act.
- 29 (33) (A) Counties may not exempt from or effect changes in the
- 30 Kansas cereal malt beverage act except as provided by paragraph (B).
- 31 (B) Counties may adopt resolutions which are not in conflict with the
- 32 Kansas cereal malt beverage act.
- 33 (34) Counties may not exempt from or effect changes in the Kansas
- 34 lottery act.
- 35 (35) Counties may not exempt from or effect changes in the Kansas
- 36 expanded lottery act.
- 37 (36) Counties may neither exempt from nor effect changes to the
- 38 eminent domain procedure act.
- 39 (37) Any county granted authority pursuant to the provisions of
- 40 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
- 41 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
- 42 through 19-5005, and amendments thereto.
- 43 (38) Except as otherwise specifically authorized by K.S.A. 19-5001

1 through 19-5005, and amendments thereto, counties may not exercise any
2 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
3 amendments thereto, including the imposition or levy of any retailers' sales
4 tax.

5 (39) Counties may not exempt from or effect changes in K.S.A. 65-
6 201 and 65-202(a), (b), (d), (e) and (f), and amendments thereto.

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

19 (c) Any resolution adopted by a county which conflicts with the
20 restrictions in subsection (a) is null and void.

21 Sec. 2. K.S.A. 2023 Supp. 65-202 is hereby amended to read as
22 follows: 65-202. (a) The local health officer in each county throughout the
23 state, immediately after such officer's appointment, shall take the same
24 oath of office prescribed by law for the county officers, shall give bond of
25 \$500 conditioned for the faithful performance of the officer's duties, shall
26 keep an accurate record of all the transactions of such office, shall turn
27 over to the successor in office or to the county or joint board of health
28 selecting such officer, on the expiration of such officer's term of office, all
29 records, documents and other articles belonging to the office and shall
30 faithfully account to *the* board of county commissioners and to the county
31 and state for all moneys coming into the office. Such officer shall notify
32 the secretary of health and environment of such officer's appointment and
33 qualification, and provide the secretary with such officer's contact
34 information.

35 (b) Such officer shall receive and distribute without delay in the
36 county all forms from the secretary of health and environment to the
37 rightful persons, all returns from persons licensed to practice medicine and
38 surgery, assessors and local boards to said secretary, shall keep an accurate
39 record of all of the transactions of such office and shall turn over all
40 records and documents kept by such officer, the successor in office, or to
41 the county or joint board electing such officer, on the expiration of the
42 term of office.

43 (c) The local health officer shall upon the opening of the fall term of

1 school, make a sanitary inspection of each school building and grounds,
2 and shall make such additional inspections as are necessary to protect the
3 public health of the students of the school.

4 ~~(e)~~(d) (1) Such officer shall make an investigation of each case of
5 smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior
6 poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and
7 such other acute infectious, contagious or communicable diseases as may
8 be required, and shall use all known measures to prevent the spread of any
9 such infectious, contagious or communicable disease, and shall perform
10 such other duties as this act, the county or joint board, board of health or
11 the secretary of health and environment may require.

12 (2) Any order issued by the local health officer, including orders
13 issued as a result of an executive order of the governor, on behalf of a
14 county regarding the remediation of any infectious disease may be
15 reviewed, amended or revoked by the board of county commissioners of
16 any county affected by such order in the manner provided by K.S.A. 65-
17 201(b), and amendments thereto.

18 (e) Such officer shall receive compensation as set by the board and
19 with the approval of the board of health may employ a skilled professional
20 nurse and other additional personnel whenever deemed necessary for the
21 protection of the public health.

22 (f) Any failure or neglect of the local health officer to perform any of
23 the duties prescribed in this act, the officer may be removed from office by
24 the county board of health. In addition to removal from office, for any
25 failure or neglect to perform any of the duties prescribed by this act, the
26 local health officer shall be deemed guilty of a misdemeanor and, upon
27 conviction, be fined not less \$10 nor more than \$100 for each and every
28 offense.

29 Sec. 3. K.S.A. 19-101a and K.S.A. 2023 Supp. 65-202 are hereby
30 repealed.

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