

HOUSE BILL No. 2684

By Committee on Taxation

Requested by Representative Oropeza

2-5

1 AN ACT concerning taxation; relating to income tax; authorizing cities to
2 propose an earnings tax for ballot question; providing revenue to be
3 pledged for infrastructure purposes; amending K.S.A. 12-140 and
4 repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Any city is hereby empowered and authorized in
8 accordance with the provisions of this act to levy an earnings tax upon:

9 (1) All individuals employed or working within such city; and
10 (2) all resident individuals of such city who are employed or working
11 outside such city.

12 (b) The rate of any earnings tax pursuant to subsection (a) shall not
13 exceed 1% per annum.

14 (c) The revenue derived from the earnings tax authorized by this act
15 shall be pledged for infrastructure purposes.

16 (d) If any provision of this act or the application thereof to any person
17 or circumstance is held invalid, the invalidity does not affect other
18 provisions or applications of this act, which can be given effect without the
19 invalid provision or application, and to this end the provisions of this act
20 are severable.

21 New Sec. 2. As used in this act:

22 (a) "Act" means the provisions of sections 1 through 6, and
23 amendments thereto.

24 (b) "Earnings tax" means a tax on the salaries, wages, commissions
25 and other compensation earned by:

26 (1) Residents of the city; and
27 (2) nonresidents of the city for work done or services performed or
28 rendered in the city.

29 (c) "Salaries, wages, commissions and other compensation" does not
30 include contributions to any deferred compensation plans, including, but
31 not limited to, any salary reduction plans, cafeteria plans or any other
32 similar plans deferring the receipt of compensation by a resident or
33 nonresident if such contribution is not subject to Kansas state income tax
34 at the time such contribution is made.

35 New Sec. 3. (a) No city shall levy an earnings tax until the governing

1 body of such city shall first submit such proposition to and receive the
2 approval of a majority of the electors of the city voting thereon at election
3 specified by the city. Any city proposing to adopt an earnings tax shall
4 adopt an ordinance giving notice of its intention to subject such proposition
5 for approval by the electors in the manner required by K.S.A. 25-105, and
6 amendments thereto. The notice shall state the time of the election, the rate
7 of the tax and the purpose for which the proceeds will be expended in
8 accordance with section 1(c), and amendments thereto. Every election held
9 under this act shall be conducted by the county election officer of which
10 the city is comprised of in whole or in part.

11 (b) If a majority of the electors voting thereon at such election shall
12 approve the levying of such tax, the governing body of that city shall
13 provide by ordinance the levy of the tax. Any repeal of such tax, or any
14 reduction or increase in the rate thereof, within the limits of this act, shall
15 be accomplished in the manner provided for in this act for the adoption
16 and approval of such tax, except that the governing body of a city shall be
17 required to submit such question upon submission of a petition signed by
18 the electors of such city equal in number to not less than 10% of the
19 electors of such city. If a majority of the electors voting thereon at such
20 election fail to approve the proposition, it may be resubmitted under the
21 conditions and in the manner provided in this act for submission of the
22 original proposition.

23 (c) Any ordinance that has been adopted to give notice of the
24 intention of the governing body of the city to submit the proposition of
25 levying an earnings tax to the electors of the city shall contain provisions
26 pledging the use of the revenue to be received from such tax if such
27 resolution is approved by the voters in accordance with the provisions of
28 section 1(c), and amendments thereto. Such description shall be consistent
29 with that contained in the notice of election required by subsection (a).

30 (d) In any city imposing an earnings tax pursuant to this act, once
31 every five years after the initial levy of the earnings tax by the city, the
32 question whether to continue to impose an earnings tax shall be submitted
33 to the electors in the same manner provided in this act for the original
34 proposition.

35 New Sec. 4. Any person exempt from the payment of state income
36 tax pursuant to K.S.A. 79-32,113, and amendments thereto, shall be
37 exempt from the payment of an earnings tax levied pursuant to this act.

38 New Sec. 5. The amount of earnings tax paid to another city with an
39 earnings tax by a resident individual shall be allowed as a credit against
40 the earnings tax of the city of such individual's residence.

41 New Sec. 6. (a) By ordinance, the city may provide for deductions
42 and exemptions from salaries, wages and commissions and may provide
43 exemptions on account of spouses and dependents.

1 (b) The earnings subject to earnings tax of any nonresident individual
2 when work is performed or rendered both within and without the city may
3 be ascertained by a formula set forth by ordinance of the city.

4 (c) The state of Kansas and its political subdivisions shall deduct
5 from the earnings of their employees the amount of any city earnings tax
6 levied upon the income of the particular employee and remit such amount
7 to the city levying such tax. The state of Kansas and its political
8 subdivisions shall be entitled to deduct and retain of the total amount so
9 collected to compensate such employer for collecting the tax a percentage
10 as follows: 3% if such city earnings tax is less than 1% of gross earnings;
11 or 1.5% if such city earnings tax is 1% of gross earnings.

12 (d) Any city levying an earnings tax is hereby authorized to impose,
13 by ordinance, upon employers within the city the duty of collecting and
14 remitting to the city any tax that may be levied upon the earnings of
15 employees pursuant to this act and to prescribe penalties for failure to
16 perform such duty. If any such city should impose such duty on employers,
17 each such employer shall be entitled to deduct and retain 1.5% of the total
18 amount collected to compensate such employer for collecting such tax.
19 The governing body of any such city, by ordinance, may reduce, eliminate
20 or reimpose, if eliminated, the fee allowed to employers by this subsection.

21 (e) (1) All employers within the state, upon request as provided in
22 this subsection, shall submit to any city levying an earnings tax a complete
23 listing of all their employees who reside within the territorial limits or
24 boundaries of the requesting city and their current addresses according to
25 the records of the employer. Any request shall be made in writing and shall
26 be mailed to the principal office of the employer. If the employer is a
27 corporation, the written request shall be made to the registered agent of the
28 corporation at its registered office. All written requests provided for in this
29 subsection shall be by registered or certified mail. Such request may not be
30 made more than once each year. This subsection shall not apply to
31 employers who deduct from the earnings of their employees the amount of
32 any city earnings tax levied upon the income of the particular employee
33 and remit the same to the city levying such tax.

34 (2) No list of employees furnished to the city shall be used for any
35 purpose other than in connection with the collection of an earnings tax.
36 Such lists shall be treated as confidential records and, except in accordance
37 with a proper judicial order, shall not be disclosed by the city. Such lists
38 shall not be open to public inspection pursuant to the Kansas open records
39 act. The provisions of this subsection providing for the confidentiality of
40 records shall expire on July 1, 2029, unless the legislature reviews and
41 continues such provisions in accordance with K.S.A. 45-229, and
42 amendments thereto, prior to July 1, 2029.

43 Sec. 7. K.S.A. 12-140 is hereby amended to read as follows: 12-140.

1 Except as otherwise specifically authorized by K.S.A. 12-1,101-~~to~~ *through*
2 *12-1,109, and sections 1 through 6, and amendments thereto*, no city shall
3 have power to levy and collect taxes on incomes from whatever source
4 derived.

5 Sec. 8. K.S.A. 12-140 is hereby repealed.

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