

SENATE BILL No. 255

By Committee on Assessment and Taxation

2-11

9 AN ACT authorizing cities and counties to impose an earnings tax; dis-
10 tributing revenue to school districts therein; prescribing procedures
11 therefor and duties and authorities for the department of revenue;
12 amending K.S.A. 12-140 and K.S.A. 2004 Supp. 19-101a and repealing
13 the existing sections; also repealing K.S.A. 2004 Supp. 19-101k.
14

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

16 New Section 1. (a) (1) Any city is hereby empowered and authorized
17 in accordance with the provisions of this act to levy a tax upon the earnings
18 of: (A) All individuals employed within that city; and (B) all residents of
19 that city who are employed outside that city.

20 (2) Any county is hereby empowered and authorized in accordance
21 with the provisions of this act to levy a tax upon the earnings of: (A) All
22 individuals employed within that county; and (B) all residents of that
23 county who are employed outside that county.

24 (b) The rate of any earnings tax pursuant to subsection (a)(1) or (a)(2)
25 shall be up to 1% of earnings.

26 (c) Except as otherwise provided, revenue derived from the earnings
27 tax authorized by this act shall be pledged solely for the purpose of dis-
28 tribution to the school districts pursuant to section 7, and amendments
29 thereto.

30 (d) If any provision of this act or the application thereof to any person
31 or circumstance is held invalid, the invalidity does not affect other pro-
32 visions or applications of this act which can be given effect without the
33 invalid provision or application, and to this end the provisions of this act
34 are severable. In particular, if the purpose specified in subsection (c) and
35 section 7, and amendments thereto, is held invalid, the invalidity does not
36 affect the authority of any city or county to levy a tax upon earnings as
37 provided in this act and use revenue therefrom as otherwise authorized
38 by law.

39 New Sec. 2. (a) (1) No city shall levy an earnings tax until the gov-
40 erning body of such city shall first submit such proposition to and receive
41 the approval of a majority of the electors of the city voting thereon at an
42 election specified by the city. Any city proposing to adopt an earnings tax
43 shall adopt an ordinance giving notice of its intention to submit such

1 proposition for approval by the electors in the manner required by K.S.A.
2 25-105, and amendments thereto. The notice shall state the time of the
3 election, the rate of the tax and the purposes for which the proceeds will
4 be expended in accordance with subsection (c) of section 1, and amend-
5 ments thereto. Every election held under this act shall be conducted by
6 the county election officer.

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

19 (3) Any ordinance which has been adopted to give notice of the in-
20 tention of the governing body of the city to submit the proposition of
21 levying an earnings tax to the electors of the city shall contain provisions
22 pledging the use of the revenue to be received from such tax if the same
23 is approved by the voters in accordance with the provisions of subsection
24 (c) of section 1, and amendments thereto. Such description shall be con-
25 sistent with that contained in the notice of election required by subsection
26 (a)(1).

27 (b) (1) No county shall levy an earnings tax until the governing body
28 of such county shall first submit such proposition to and receive the ap-
29 proval of a majority of the electors of the county voting thereon at an
30 election specified by the county. Any county proposing to adopt an earn-
31 ings tax shall adopt an resolution giving notice of its intention to submit
32 such proposition for approval by the electors in the manner required by
33 K.S.A. 25-105, and amendments thereto. The notice shall state the time
34 of the election, the rate of the tax and the purposes for which the proceeds
35 will be expended in accordance with subsection (c) of section 1, and
36 amendments thereto. Every election held under this act shall be con-
37 ducted by the county election officer.

38 (2) If a majority of the electors voting thereon at such election shall
39 approve the levying of such tax, the governing body of that county shall
40 provide by resolution for the levy of the tax. Any repeal of such tax, or
41 any reduction or increase in the rate thereof, within the limits of this act,
42 shall be accomplished in the manner provided for in this act for the adop-
43 tion and approval of such tax, except that, the governing body of a county

1 shall be required to submit such question upon submission of a petition
2 signed by electors of such county equal in number to not less than 10%
3 of the electors of such county. If a majority of the electors voting thereon
4 at such election fail to approve the proposition, it may be resubmitted
5 under the conditions and in the manner provided in this act for submis-
6 sion of the original proposition.

7 (3) Any resolution which has been adopted to give notice of the in-
8 tention of the governing body of the county to submit the proposition of
9 levying an earnings tax to the electors of the county shall contain provi-
10 sions pledging the use of the revenue to be received from such tax if the
11 same is approved by the voters in accordance with the provisions of sub-
12 section (c) of section 1, and amendments thereto. Such description shall
13 be consistent with that contained in the notice of election required by
14 subsection (b)(1).

15 New Sec. 3. As used in this act, "earnings" means any and all
16 amounts paid to individuals in the form of wages, salaries, commissions,
17 fees or other forms of compensation compensating such individual for
18 labor or services rendered. A person shall be considered employed within
19 such city or county if such person's primary place of business is located
20 within such city or county.

21 New Sec. 4. Any person exempt from the payment of the state in-
22 come tax pursuant to K.S.A. 79-32,113, and amendments thereto, shall
23 be exempt from the payment of an earnings tax levied pursuant to this
24 act.

25 New Sec. 5. The amount of earnings tax paid to another city with an
26 earnings tax by a resident individual shall be allowed as a credit against
27 the earnings tax of the city of their residence. The amount of earnings tax
28 paid to another county with an earnings tax by a resident individual shall
29 be allowed as a credit against the earnings tax of the county of their
30 residence.

31 New Sec. 6. (a) Any city or county levying an earnings tax as provided
32 in this act shall utilize the services of the department of revenue to ad-
33 minister, enforce and collect such tax. Any ordinance or resolution au-
34 thORIZING the levy of a city earnings tax or county earnings tax shall in-
35 corporate by reference the provisions of article 32 of chapter 79 of the
36 Kansas Statutes Annotated, and amendments thereto, providing the pro-
37 cedure for the collection and administration of income taxes, insofar as
38 the provisions of such law may be made applicable to a city earnings tax
39 or county earnings tax. The department of revenue is hereby authorized
40 to adopt such rules and regulations as may be necessary to provide for
41 the withholding by employers of any local earnings tax and may require
42 any employer in the state of Kansas to furnish any information necessary
43 for the administration, enforcement and collection of such tax.

1 (b) Upon the receipt of a certified copy of an ordinance or resolution
2 authorizing the levy of a city earnings tax or county earnings tax, the
3 secretary of revenue shall cause all necessary forms to be prepared and
4 such taxes to be collected at the same time and in the manner provided
5 for the collection of the state income tax and privilege tax. The secretary
6 of revenue is hereby authorized to administer and collect the earnings tax
7 of such city or county and to adopt such rules and regulations as may be
8 necessary for the efficient and effective administration and enforcement
9 thereof. The secretary shall credit all moneys received from a city earnings
10 tax to a city earnings tax fund, which fund is hereby established in the
11 state treasury. The secretary of revenue shall transfer from the city earn-
12 ings tax fund to the city earnings tax refund fund, which fund is hereby
13 created, an amount deemed sufficient by the secretary to pay any refunds
14 due from any tax levied under the provisions of this section. The secretary
15 shall credit all moneys received from a county earnings tax to a county
16 earnings tax fund, which fund is hereby established in the state treasury.
17 The secretary of revenue shall transfer from the county earnings tax fund
18 to the county earnings tax refund fund, which fund is hereby created, an
19 amount deemed sufficient by the secretary to pay any refunds due from
20 any tax levied under the provisions of this section. All local earnings tax
21 revenue collected from such city or county pursuant to this act shall be
22 remitted at least quarterly by the state treasurer, on instruction from the
23 secretary of revenue, to the state board of education for distribution in
24 accordance with section 7, and amendments thereto.

25 New Sec. 7. The earnings tax authorized by this act shall be distrib-
26 uted by the state board of education as follows:

27 (a) Fifty percent shall be distributed to school districts in the city or
28 county that imposed the tax on a full-time equivalent per pupil basis.

29 (b) Fifty percent shall be distributed on a full-time equivalent per
30 pupil basis to those school districts that, in the prior school year, per-
31 formed below the median among all Kansas school districts on state as-
32 sessments in reading and mathematics.

33 Sec. 8. K.S.A. 12-140 is hereby amended to read as follows: 12-140.
34 Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-
35 1,109, *and amendments thereto, and sections 1 through 6, and amend-*
36 *ments thereto*, no city shall have power to levy and collect taxes on in-
37 comes from whatever source derived.

38 Sec. 9. K.S.A. 2004 Supp. 19-101a is hereby amended to read as
39 follows: 19-101a. (a) The board of county commissioners may transact all
40 county business and perform all powers of local legislation and adminis-
41 tration it deems appropriate, subject only to the following limitations,
42 restrictions or prohibitions:

43 (1) Counties shall be subject to all acts of the legislature which apply

1 uniformly to all counties.

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

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

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

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

11 (6) Counties may not legislate on social welfare administered under
12 state law enacted pursuant to or in conformity with public law No. 271—
13 74th congress, or amendments thereof.

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

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

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

23 (10) No county may levy ad valorem taxes under the authority of this
24 section upon real property located within any redevelopment project area
25 established under the authority of K.S.A. 12-1772, and amendments
26 thereto, unless the resolution authorizing the same specifically authorized
27 a portion of the proceeds of such levy to be used to pay the principal of
28 and interest upon bonds issued by a city under the authority of K.S.A.
29 12-1774, and amendments thereto.

30 (11) Counties shall have no power under this section to exempt from
31 any statute authorizing or requiring the levy of taxes and providing sub-
32 stitute and additional provisions on the same subject, unless the resolution
33 authorizing the same specifically provides for a portion of the proceeds
34 of such levy to be used to pay a portion of the principal and interest on
35 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
36 ments thereto.

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

39 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
40 through 12-1,109, *and section 1 through 6*, and amendments thereto,
41 counties may not levy and collect taxes on incomes from whatever source
42 derived.

43 (14) Counties may not exempt from or effect changes in K.S.A. 19-

- 1 430, and amendments thereto.
- 2 (15) Counties may not exempt from or effect changes in K.S.A. 19-
3 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 4 (16) (A) Counties may not exempt from or effect changes in K.S.A.
5 13-13a26, and amendments thereto.
- 6 (B) This provision shall expire on June 30, ~~2005~~ 2006.
- 7 (17) (A) Counties may not exempt from or effect changes in K.S.A.
8 71-301a, and amendments thereto.
- 9 (B) This provision shall expire on June 30, ~~2005~~ 2006.
- 10 (18) Counties may not exempt from or effect changes in K.S.A. 19-
11 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 12 (19) Counties may not exempt from or effect changes in the provi-
13 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
14 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
15 through 12-1270 and 12-1276, and amendments thereto.
- 16 (20) Counties may not exempt from or effect changes in the provi-
17 sions of K.S.A. 19-211, and amendments thereto.
- 18 (21) Counties may not exempt from or effect changes in the provi-
19 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 20 (22) Counties may not regulate the production or drilling of any oil
21 or gas well in any manner which would result in the duplication of reg-
22 ulation by the state corporation commission and the Kansas department
23 of health and environment pursuant to chapter 55 and chapter 65 of the
24 Kansas Statutes Annotated and any rules and regulations adopted pur-
25 suant thereto. Counties may not require any license or permit for the
26 drilling or production of oil and gas wells. Counties may not impose any
27 fee or charge for the drilling or production of any oil or gas well.
- 28 (23) Counties may not exempt from or effect changes in K.S.A. 79-
29 41a04, and amendments thereto.
- 30 (24) Counties may not exempt from or effect changes in K.S.A. 79-
31 1611, and amendments thereto.
- 32 (25) Counties may not exempt from or effect changes in K.S.A. 79-
33 1494, and amendments thereto.
- 34 (26) Counties may not exempt from or effect changes in subsection
35 (b) of K.S.A. 19-202, and amendments thereto.
- 36 (27) Counties may not exempt from or effect changes in subsection
37 (b) of K.S.A. 19-204, and amendments thereto.
- 38 (28) Counties may not levy or impose an excise, severance or any
39 other tax in the nature of an excise tax upon the physical severance and
40 production of any mineral or other material from the earth or water.
- 41 (29) Counties may not exempt from or effect changes in K.S.A. 79-
42 2017 or 79-2101, and amendments thereto.
- 43 (30) Counties may not exempt from or effect changes in K.S.A. 2-

1 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, *or*
2 65-1,178 through 65-1,199 ~~or K.S.A. 1998 Supp. 17-5909~~, and amend-
3 ments thereto.

4 (31) Counties may not exempt from or effect changes in K.S.A. 2004
5 Supp. 80-121, and amendments thereto.

6 (32) Counties may not exempt from or effect changes in K.S.A. 19-
7 228, and amendments thereto.

8 (33) Counties may not exempt from or effect changes in the wireless
9 enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308,
10 and amendments thereto.

11 (34) Counties may not exempt from or effect changes in K.S.A. 2004
12 Supp. 26-601, and amendments thereto.

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

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

27 Sec. 10. K.S.A. 12-140 and K.S.A. 2004 Supp. 19-101a and 19-101k
28 are hereby repealed.

29 Sec. 11. This act shall take effect and be in force from and after its
30 publication in the statute book.