

HOUSE BILL No. 2004

By Representatives Curtis, Oropeza and Winn

6-18

1 AN ACT concerning taxation; authorizing counties to propose an earnings
2 tax; amending K.S.A. 19-101a, as amended by section 1 of 2024 House
3 Bill No. 2754, and repealing the existing section.
4

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

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

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

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

13 (c) The revenue derived from the earnings tax authorized by this act
14 shall be pledged for constructing and maintaining a professional sports
15 stadium.

16 (d) At least 50% of the revenue derived from the earnings tax
17 authorized by this act shall be credited in the budget of the county to
18 reduce the amount of revenue otherwise necessary to be derived from the
19 ad valorem property tax.

20 (e) If any provision of this act or the application thereof to any person
21 or circumstance is held invalid, the invalidity does not affect other
22 provisions or applications of this act, which can be given effect without the
23 invalid provision or application, and to this end the provisions of this act
24 are severable.

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

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

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

- 30 (1) Residents of the county; and
31 (2) nonresidents of the county for work done or services performed or
32 rendered in the county.

33 (c) "Salaries, wages, commissions and other compensation" does not
34 include contributions to any deferred compensation plans, including, but
35 not limited to, any salary reduction plans, cafeteria plans or any other
36 similar plans deferring the receipt of compensation by a resident or

1 nonresident if such contribution is not subject to Kansas state income tax
2 at the time such contribution is made.

3 New Sec. 3. (a) No county shall levy an earnings tax until the
4 governing body of such county shall first submit such proposition to and
5 receive the approval of a majority of the electors of the county voting
6 thereon at election specified by the county. Any county proposing to adopt
7 an earnings tax shall adopt a resolution giving notice of its intention to
8 subject such proposition for approval by the electors in the manner
9 required by K.S.A. 25-105, and amendments thereto. The notice shall state
10 the time of the election, the rate of the tax and the purpose for which the
11 proceeds will be expended in accordance with section 1(c), and
12 amendments thereto. Every election held under this act shall be conducted
13 by the county election officer.

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

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

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

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

42 New Sec. 5. The amount of earnings tax paid to another county with
43 an earnings tax by a resident individual shall be allowed as a credit against

1 the earnings tax of the county of such individual's residence.

2 New Sec. 6. (a) By resolution, the county may provide for deductions
3 and exemptions from salaries, wages and commissions and may provide
4 exemptions on account of spouses and dependents.

5 (b) The earnings subject to earnings tax of any nonresident individual
6 when work is performed or rendered both within and without the county
7 may be ascertained by a formula set forth by resolution of the county.

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

16 (d) Any county levying an earnings tax is hereby authorized to
17 impose, by resolution, upon employers within the county the duty of
18 collecting and remitting to the county any tax that may be levied upon the
19 earnings of employees pursuant to this act and to prescribe penalties for
20 failure to perform such duty. If any such county should impose such duty
21 on employers, each such employer shall be entitled to deduct and retain
22 1.5% of the total amount collected to compensate such employer for
23 collecting such tax. The governing body of any such county, by resolution,
24 may reduce, eliminate or reimpose, if eliminated, the fee allowed to
25 employers by this subsection.

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

40 (2) No list of employees furnished to the county shall be used for any
41 purpose other than in connection with the collection of an earnings tax.
42 Such lists shall be treated as confidential records and, except in accordance
43 with a proper judicial order, shall not be disclosed by the county. Such lists

1 shall not be open to public inspection pursuant to the Kansas open records
2 act.

3 (3) The provisions of this subsection providing for the confidentiality
4 of records shall expire on July 1, 2029, unless the legislature reviews and
5 continues such provisions in accordance with K.S.A. 45-229, and
6 amendments thereto, prior to July 1, 2029.

7 Sec. 7. K.S.A. 19-101a, as amended by section 1 of 2024 House Bill
8 No. 2754, is hereby amended to read as follows: 19-101a. (a) The board of
9 county commissioners may transact all county business and perform all
10 powers of local legislation and administration it deems appropriate, subject
11 only to the following limitations, restrictions or 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
36 established under the authority of K.S.A. 12-1772, and amendments
37 thereto, unless the resolution authorizing the same specifically authorized
38 a portion of the proceeds of such levy to be used to pay the principal of
39 and interest upon bonds issued by a city under the authority of K.S.A. 12-
40 1774, and amendments thereto.

41 (10) Counties shall have no power under this section to exempt from
42 any statute authorizing or requiring the levy of taxes and providing
43 substitute and additional provisions on the same subject, unless the

1 resolution authorizing the same specifically provides for a portion of the
2 proceeds of such levy to be used to pay a portion of the principal and
3 interest on bonds issued by cities under the authority of K.S.A. 12-1774,
4 and amendments thereto.

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

7 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
8 through 12-1,109, and amendments thereto, *and sections 1 through 6, and*
9 *amendments thereto*, counties may not levy and collect taxes on incomes
10 from whatever source derived.

11 (13) Counties may not exempt from or effect changes in K.S.A. 19-
12 430, and amendments thereto.

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

15 (15) Counties may not exempt from or effect changes in K.S.A. 19-
16 15,139, 19-15,140 and 19-15,141, and amendments thereto.

17 (16) Counties may not exempt from or effect changes in the
18 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
19 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
20 1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

34 (20) Counties may not exempt from or effect changes in K.S.A. 79-
35 41a04, and amendments thereto.

36 (21) Counties may not exempt from or effect changes in K.S.A. 79-
37 1611, and amendments thereto.

38 (22) Counties may not exempt from or effect changes in K.S.A. 79-
39 1494, and amendments thereto.

40 (23) Counties may not exempt from or effect changes in K.S.A. 19-
41 202(b), and amendments thereto.

42 (24) Counties may not exempt from or effect changes in K.S.A. 19-
43 204(b), and amendments thereto.

- 1 (25) Counties may not levy or impose an excise, severance or any
2 other tax in the nature of an excise tax upon the physical severance and
3 production of any mineral or other material from the earth or water.
- 4 (26) Counties may not exempt from or effect changes in K.S.A. 79-
5 2017 or 79-2101, and amendments thereto.
- 6 (27) Counties may not exempt from or effect changes in K.S.A. 2-
7 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
8 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
9 thereto.
- 10 (28) Counties may not exempt from or effect changes in K.S.A. 80-
11 121, and amendments thereto.
- 12 (29) Counties may not exempt from or effect changes in K.S.A. 19-
13 228, and amendments thereto.
- 14 (30) Counties may not exempt from or effect changes in the Kansas
15 911 act.
- 16 (31) Counties may not exempt from or effect changes in K.S.A. 26-
17 601, and amendments thereto.
- 18 (32) (A) Counties may not exempt from or effect changes in the
19 Kansas liquor control act except as provided by paragraph (B).
- 20 (B) Counties may adopt resolutions which are not in conflict with the
21 Kansas liquor control act.
- 22 (33) (A) Counties may not exempt from or effect changes in the
23 Kansas cereal malt beverage act except as provided by paragraph (B).
- 24 (B) Counties may adopt resolutions which are not in conflict with the
25 Kansas cereal malt beverage act.
- 26 (34) Counties may not exempt from or effect changes in the Kansas
27 lottery act.
- 28 (35) Counties may not exempt from or effect changes in the Kansas
29 expanded lottery act.
- 30 (36) Counties may neither exempt from nor effect changes to the
31 eminent domain procedure act.
- 32 (37) Any county granted authority pursuant to the provisions of
33 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
34 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
35 through 19-5005, and amendments thereto.
- 36 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
37 through 19-5005, and amendments thereto, counties may not exercise any
38 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
39 amendments thereto, including the imposition or levy of any retailers' sales
40 tax.
- 41 (39) Counties may not exempt from or effect changes in K.S.A. 65-
42 201 and 65-202(a), (b), (d), (e) and (f), and amendments thereto.
- 43 (b) Counties shall apply the powers of local legislation granted in

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

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

14 Sec. 8. K.S.A. 19-101a, as amended by section 1 of 2024 House Bill
15 No. 2754, is hereby repealed.

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