

**SENATE BILL No. 79**

By Committee on Assessment and Taxation

1-23

1 AN ACT concerning taxation; authorizing counties to impose an earnings  
2 tax; amending K.S.A. 2022 Supp. 19-101a and repealing the existing  
3 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 general county purposes.

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

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

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

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

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

29 (1) Residents of the county; and

30 (2) nonresidents of the county for work done or services performed or  
31 rendered in the county.

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

1 at the time such contribution is made.

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

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

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

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

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

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

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

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

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

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

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

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

1 act.

2 (3) The provisions of this subsection providing for the confidentiality  
3 of records shall expire on July 1, 2028, unless the legislature reviews and  
4 continues such provisions in accordance with K.S.A. 45-229, and  
5 amendments thereto, prior to July 1, 2028.

6 Sec. 7. K.S.A. 2022 Supp. 19-101a is hereby amended to read as  
7 follows: 19-101a.(a) The board of county commissioners may transact all  
8 county business and perform all powers of local legislation and  
9 administration it deems appropriate, subject only to the following  
10 limitations, restrictions or prohibitions:

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

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

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

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

21 (5) Counties may not legislate on social welfare administered under  
22 state law enacted pursuant to or in conformity with public law No. 271 –  
23 74<sup>th</sup> congress, or amendments thereof.

24 (6) Counties shall be subject to all acts of the legislature concerning  
25 elections, election commissioners and officers and their duties as such  
26 officers and the election of county officers.

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

30 (8) Counties may not exempt from or effect changes in statutes made  
31 nonuniform in application solely by reason of authorizing exceptions for  
32 counties having adopted a charter for county government.

33 (9) No county may levy ad valorem taxes under the authority of this  
34 section upon real property located within any redevelopment project area  
35 established under the authority of K.S.A. 12-1772, and amendments  
36 thereto, unless the resolution authorizing the same specifically authorized  
37 a portion of the proceeds of such levy to be used to pay the principal of  
38 and interest upon bonds issued by a city under the authority of K.S.A. 12-  
39 1774, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (25) Counties may not levy or impose an excise, severance or any

1 other tax in the nature of an excise tax upon the physical severance and  
2 production of any mineral or other material from the earth or water.

3 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
4 2017 or 79-2101, and amendments thereto.

5 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
6 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
7 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments  
8 thereto.

9 (28) Counties may not exempt from or effect changes in K.S.A. 80-  
10 121, and amendments thereto.

11 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
12 228, and amendments thereto.

13 (30) Counties may not exempt from or effect changes in the Kansas  
14 911 act.

15 (31) Counties may not exempt from or effect changes in K.S.A. 26-  
16 601, and amendments thereto.

17 (32) (A) Counties may not exempt from or effect changes in the  
18 Kansas liquor control act except as provided by paragraph (B).

19 (B) Counties may adopt resolutions which are not in conflict with the  
20 Kansas liquor control act.

21 (33) (A) Counties may not exempt from or effect changes in the  
22 Kansas cereal malt beverage act except as provided by paragraph (B).

23 (B) Counties may adopt resolutions which are not in conflict with the  
24 Kansas cereal malt beverage act.

25 (34) Counties may not exempt from or effect changes in the Kansas  
26 lottery act.

27 (35) Counties may not exempt from or effect changes in the Kansas  
28 expanded lottery act.

29 (36) Counties may neither exempt from nor effect changes to the  
30 eminent domain procedure act.

31 (37) Any county granted authority pursuant to the provisions of  
32 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be  
33 subject to the limitations and prohibitions imposed under K.S.A. 19-5001  
34 through 19-5005, and amendments thereto.

35 (38) Except as otherwise specifically authorized by K.S.A. 19-5001  
36 through 19-5005, and amendments thereto, counties may not exercise any  
37 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and  
38 amendments thereto, including the imposition or levy of any retailers' sales  
39 tax.

40 (39) Counties may not exempt from or effect changes in K.S.A. 65-  
41 201 and 65-202, and amendments thereto.

42 (b) Counties shall apply the powers of local legislation granted in  
43 subsection (a) by resolution of the board of county commissioners. If no

1 statutory authority exists for such local legislation other than that set forth  
2 in subsection (a) and the local legislation proposed under the authority of  
3 such subsection is not contrary to any act of the legislature, such local  
4 legislation shall become effective upon passage of a resolution of the  
5 board and publication in the official county newspaper. If the legislation  
6 proposed by the board under authority of subsection (a) is contrary to an  
7 act of the legislature which is applicable to the particular county but not  
8 uniformly applicable to all counties, such legislation shall become  
9 effective by passage of a charter resolution in the manner provided in  
10 K.S.A. 19-101b, and amendments thereto.

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

13 Sec. 8. K.S.A. 2022 Supp. 19-101a is hereby repealed.

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