Session of 2025

SENATE BILL No. 103

By Committee on Assessment and Taxation

1-29

AN ACT concerning taxation; relating to income tax; authorizing cities and counties to propose an earnings tax for ballot question and to levy such tax upon nonresidents of the city or county if approved by the electors of a city or county; requiring resubmission of the question, if approved, to the electors every 10 years thereafter; allowing certain credits and exemptions against such tax; providing for the deduction by public and private employers of such tax from employee earnings; providing for revenue to be pledged for certain purposes; amending K.S.A. 12-140 and K.S.A. 2024 Supp. 19-101a and repealing the existing sections.

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

New Section 1. (a) Any city or county, respectively, is hereby empowered and authorized in accordance with the provisions of this act to levy an earnings tax upon all individuals that are not residents of the city or county that are employed or working within such city or county.

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

(c) (1) The revenue derived from the earnings tax authorized by this act levied by a city shall be pledged for infrastructure purposes. At least 50% of the revenue derived from a city earnings tax authorized by this act shall be credited in the budget of the city to reduce the amount of revenue otherwise necessary to be derived from the ad valorem property tax.

(2) The revenue derived from the earnings tax authorized by this act levied by a county shall be pledged for general county purposes. At least 50% of the revenue derived from a county earnings tax authorized by this act shall be credited in the budget of the county to reduce the amount of revenue otherwise necessary to be derived from the ad valorem property tax.

(d) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

New Sec. 2. As used in this act:

(a) "Act" means the provisions of sections 1 through 6, and

amendments thereto.

(b) "Earnings tax" means a tax on the salaries, wages, commissions and other compensation earned by nonresidents of the city or county levying such tax, as applicable, for work done or services performed or rendered in the city or county.

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

New Sec. 3. (a) No city or county shall levy an earnings tax until the governing body of such city or county shall first submit such proposition to and receive the approval of a majority of the electors of the city or county voting thereon at election specified by the city or county. Any city or county proposing to adopt an earnings tax shall adopt an ordinance or resolution, as applicable, giving notice of the city's or county's intention to subject such proposition for approval by the electors in the manner required by K.S.A. 25-105, and amendments thereto. The notice shall state the time of the election, the rate of the tax and the purpose for which the proceeds will be expended in accordance with section 1(c), and amendments thereto. Every election held under this act shall be conducted by the county election officer of the county in which the city is comprised, in whole or in part, or the county election officer of the county, as applicable.

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

(c) Any ordinance or resolution, as applicable, that has been adopted to give notice of the intention of the governing body of the city or county to submit the proposition of levying an earnings tax to the electors of the city or county, respectively, shall contain provisions pledging the use of the revenue to be received from such tax if such resolution is approved by

the voters in accordance with the provisions of section 1(c), and amendments thereto. Such description shall be consistent with that contained in the notice of election required by subsection (a).

(d) In any city or county imposing an earnings tax pursuant to this act, once every 10 years after the initial levy of the earnings tax by the city or county, the question whether to continue to impose an earnings tax shall be submitted to the respective electors in the same manner provided in this act for the original proposition.

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

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

New Sec. 6. (a) By ordinance or resolution, the city or county, respectively, may provide for deductions and exemptions from salaries, wages and commissions and may provide exemptions reducing the tax on account of spouses and dependents.

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

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

(d) Any city or county levying an earnings tax is hereby authorized to impose, by ordinance or resolution, respectively, upon employers within the city or county the duty of collecting and remitting to the city or county, as applicable, any tax that may be levied upon the earnings of employees pursuant to this act and to prescribe penalties for failure to perform such duty. If any such city or county should impose such duty on employers, each such employer shall be entitled to deduct and retain 1.5% of the total amount collected to compensate such employer for collecting such tax. The governing body of any such city, by ordinance, or any such county, by

resolution, may reduce, eliminate or reimpose, if eliminated, the fee allowed to employers by this subsection.

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

(2) No list of employees furnished to the city or county shall be used for any purpose other than in connection with the collection of an earnings tax. Such lists shall be treated as confidential records and, except in accordance with a proper judicial order, shall not be disclosed by the city or county. Such lists shall not be open to public inspection pursuant to the Kansas open records act. The provisions of this subsection providing for the confidentiality of records shall expire on July 1, 2030, unless the legislature reviews and continues such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

Sec. 7. K.S.A. 12-140 is hereby amended to read as follows: 12-140. Except as otherwise specifically authorized by K.S.A. 12-1,101 ~~to~~ *through* 12-1,109, *and amendments thereto, and sections 1 through 6, and amendments thereto,* no city shall have power to levy and collect taxes on incomes from whatever source derived.

Sec. 8. K.S.A. 2024 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

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

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

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

(4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be

superseded or impaired without the consent of the governing body of each city within a county which may be affected.

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

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

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

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

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

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

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

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

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

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

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

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

1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

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

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

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

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

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

(25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. K.S.A. 12-140 and K.S.A. 2024 Supp. 19-101a are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.