

SENATE BILL No. 514

By Senator Steineger

2-11

9 AN ACT authorizing certain cities to impose an earnings tax; distributing
10 revenue to school districts therein; prescribing procedures therefor
11 and duties and authorities for the state department of revenue; amend-
12 ing K.S.A. 12-140 and repealing the existing section.
13

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

15 New Section 1. (a) Any class A city is hereby empowered and au-
16 thorized in accordance with the provisions of this act to levy a tax upon
17 the earnings of: (1) All individuals employed within that city; and (2) all
18 residents of that city who are employed outside that city.

19 (b) The rate of any earnings tax shall be up to 1% of earnings.

20 (c) Except as otherwise provided, revenue derived from the earnings
21 tax authorized by this act shall be pledged solely for the purpose of dis-
22 tribution to the school districts within such class A city on a per pupil
23 basis.

24 (d) If any provision of this act or the application thereof to any person
25 or circumstance is held invalid, the invalidity does not affect other pro-
26 visions or applications of this act which can be given effect without the
27 invalid provision or application, and to this end the provisions of this act
28 are severable. In particular, if the purpose specified in subsection (c) is
29 held invalid, the invalidity does not affect the authority of any class A city
30 to levy a tax upon earnings as provided in this act and use revenue there-
31 from as otherwise authorized by law.

32 New Sec. 2. (a) No class A city shall levy an earnings tax until the
33 governing body of such city shall first submit such proposition to and
34 receive the approval of a majority of the electors of the city voting thereon
35 at the general election of November 2, 2004. Any class A city proposing
36 to adopt an earnings tax shall adopt an ordinance giving notice of its
37 intention to submit such proposition for approval by the electors in the
38 manner required by K.S.A. 25-105, and amendments thereto. The notice
39 shall state the time of the election, the rate of the tax and the purposes
40 for which the proceeds will be expended in accordance with subsections
41 (c) and (d) of section 1, and amendments thereto. Every election held
42 under this act shall be conducted by the county election officer.

43 (b) If a majority of the electors voting thereon at such election shall

1 approve the levying of such tax, the governing body of that class A city
2 shall provide by ordinance for the levy of the tax. Any repeal of such tax,
3 or any reduction or increase in the rate thereof, within the limits of this
4 act, shall be accomplished in the manner provided for in this act for the
5 adoption and approval of such tax, except that, the governing body of a
6 class A city shall be required to submit such question upon submission
7 of a petition signed by electors of such city equal in number to not less
8 than 10% of the electors of such city. If a majority of the electors voting
9 thereon at such election fail to approve the proposition, it may be resub-
10 mitted under the conditions and in the manner provided in this act for
11 submission of the original proposition.

12 (c) Any ordinance which has been adopted to give notice of the in-
13 tention of the governing body of the class A city to submit the proposition
14 of levying an earnings tax to the electors of the city shall contain provisions
15 pledging the use of the revenue to be received from such tax if the same
16 is approved by the voters in accordance with the provisions of subsections
17 (c) and (d) of section 1, and amendments thereto. Such description shall
18 be consistent with that contained in the notice of election required by
19 subsection (a).

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

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

30 New Sec. 5. The amount of earnings tax paid to another city with an
31 earnings tax by a resident individual shall be allowed as a credit against
32 the earnings tax of the class A city of their residence.

33 New Sec. 6. (a) Any class A city levying an earnings tax as provided
34 in this act shall utilize the services of the state department of revenue to
35 administer, enforce and collect such tax. Any ordinance authorizing the
36 levy of a city earnings tax shall incorporate by reference the provisions of
37 article 32 of chapter 79 of the Kansas Statutes Annotated, and amend-
38 ments thereto, providing the procedure for the collection and adminis-
39 tration of income taxes, insofar as the provisions of such law may be made
40 applicable to a city earnings tax. The department of revenue is hereby
41 authorized to adopt such rules and regulations as may be necessary to
42 provide for the withholding by employers of any local earnings tax and
43 may require any employer in the state of Kansas to furnish any infor-

1 mation necessary for the administration, enforcement and collection of
2 such tax.

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

20 New Sec. 7. The following classes of cities are hereby established for
21 the purpose of imposing limitations and prohibitions upon the levying of
22 an earnings tax by cities as authorized and provided by article 12, section
23 5, of the constitution of the state of Kansas;

24 Class A cities. Any consolidated city-county established pursuant to
25 K.S.A. 12-340, and amendments thereto; and

26 Class B cities. All other cities.

27 Sec. 8. K.S.A. 12-140 is hereby amended to read as follows: 12-140.
28 Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-
29 1,109, *and amendments thereto, and sections 1 through 6, and amend-*
30 *ments thereto*, no city shall have power to levy and collect taxes on in-
31 comes from whatever source derived.

32 Sec. 9. K.S.A. 12-140 is hereby repealed.

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