

HOUSE BILL No. 2624

By Committee on Energy and Utilities

2-2

1 AN ACT concerning counties; relating to oil and gas valuation depletion;
2 distribution of trust fund moneys; administrative fee; amending K.S.A.
3 2011 Supp. 19-101a and 79-4231 and repealing the existing sections.
4

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

6 New Section 1. (a) The board of county commissioners of each
7 county shall establish a county oil and gas valuation depletion trust fund if
8 the county is to receive moneys from the oil and gas valuation depletion
9 trust fund created under the provisions of K.S.A. 2011 Supp. 79-4231, and
10 amendments thereto. The county treasurer shall be responsible for the
11 administration of such fund.

12 (b) Upon receipt of an authorization for distribution of county oil and
13 gas valuation depletion trust fund moneys pursuant to K.S.A. 2011 Supp.
14 79-4231, and amendments thereto, the county treasurer shall release 20%
15 of the moneys credited to such county's trust account to the county general
16 fund for expenditure as directed by the board.

17 (c) Moneys credited to the county oil and gas valuation depletion
18 trust fund shall be subject to the provisions of K.S.A. 79-2925 through 79-
19 2937, and amendments thereto. In making the budgets of such county, the
20 amounts credited to, and the amount on hand in, such fund and the amount
21 expended therefrom shall be shown thereon for the information of the
22 taxpayers of such county. Moneys in such fund may be invested in
23 accordance with the provisions of K.S.A. 10-131, and amendments
24 thereto, with interest thereon credited to such fund.

25 Sec. 2. K.S.A. 2011 Supp. 19-101a is hereby amended to read as
26 follows: 19-101a. (a) The board of county commissioners may transact all
27 county business and perform all powers of local legislation and
28 administration it deems appropriate, subject only to the following
29 limitations, restrictions or prohibitions:

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

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

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

35 (4) In the exercise of powers of local legislation and administration
36 authorized under provisions of this section, the home rule power conferred

1 on cities to determine their local affairs and government shall not be
2 superseded or impaired without the consent of the governing body of each
3 city within a county which may be affected.

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

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

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

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

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

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

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

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

36 (13) Counties may not exempt from or effect changes in K.S.A. 19-
37 430, and amendments thereto.

38 (14) Counties may not exempt from or effect changes in K.S.A. 19-
39 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

40 (15) Counties may not exempt from or effect changes in K.S.A. 19-
41 15,139, 19-15,140 and 19-15,141, and amendments thereto.

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

1 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
2 1260 through 12-1270 and 12-1276, and amendments thereto.

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

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

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

16 (20) Counties may not exempt from or effect changes in K.S.A. 79-
17 41a04, and amendments thereto.

18 (21) Counties may not exempt from or effect changes in K.S.A. 79-
19 1611, and amendments thereto.

20 (22) Counties may not exempt from or effect changes in K.S.A. 79-
21 1494, and amendments thereto.

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

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

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

29 (26) Counties may not exempt from or effect changes in K.S.A. 79-
30 2017 or 79-2101, and amendments thereto.

31 (27) Counties may not exempt from or effect changes in K.S.A. 2-
32 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
33 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
34 thereto.

35 (28) Counties may not exempt from or effect changes in K.S.A. 2011
36 Supp. 80-121, and amendments thereto.

37 (29) Counties may not exempt from or effect changes in K.S.A. 19-
38 228, and amendments thereto.

39 (30) Counties may not exempt from or effect changes in the wireless
40 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of
41 K.S.A. 12-5301 through 12-5308, and amendments thereto.

42 (31) Counties may not exempt from or effect changes in K.S.A. 2011
43 Supp. 26-601, and amendments thereto.

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

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

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

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

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

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

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

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

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

24 *(39) Counties may not exempt from or effect changes in section 1,*
25 *and amendments thereto.*

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

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

40 Sec. 3. K.S.A. 2011 Supp. 79-4231 is hereby amended to read as
41 follows: 79-4231. (a) There is hereby created in the state treasury the oil
42 and gas valuation depletion trust fund. The director of taxation shall
43 administer the oil and gas valuation depletion trust fund. All amounts

1 credited to the oil and gas valuation depletion trust fund pursuant to the
2 provisions of K.S.A. 79-4227, and amendments thereto, *less the*
3 *administration fee imposed under subsection (c)*, shall be credited to a
4 separate trust account which shall be established within such fund for each
5 county which in ~~fiscal year 2005~~ or any fiscal year thereafter had \$100,000
6 or more in receipts of the excise tax upon the severance and production of
7 oil and gas. Each county's trust account shall be credited in the proportion
8 that the amount of oil and gas valuation depletion trust fund receipts
9 collected from that county bears to the total amount of moneys credited to
10 the oil and gas valuation depletion trust fund pursuant to K.S.A. 79-4227,
11 and amendments thereto. Commencing July 1, ~~2008~~ 2012, and thereafter
12 on an annual basis, ~~such moneys shall remain credited in such account in~~
13 ~~trust for such county for distributions pursuant to this section~~ *the director*
14 *of taxation shall certify to the director of accounts and reports the amount*
15 *due the county from the county's oil and gas depletion trust account on*
16 *October 1 based on all amounts credited thereto, and the director of*
17 *accounts and reports shall draw a warrant upon the state treasurer in*
18 *favor of each such county for the amount credited to such county's trust*
19 *account. Upon receipt of such warrant, the treasurer of the county shall*
20 *credit the same to the oil and gas valuation depletion trust fund of the*
21 *county established in section 1, and amendments thereto. Except that the*
22 *director of taxation shall transfer all of the moneys credited to the Wilson*
23 *county trust account to the Wilson county capital improvement fund in any*
24 *such tax year until the payment of all costs of financing projects*
25 *authorized pursuant to K.S.A. 2011 Supp. 74-8961, and amendments*
26 *thereto, has been completed, and at that time the provisions of this*
27 *subsection related to distributions to the Wilson county treasurer shall be*
28 *applicable as provided in this subsection.*

29 (b) For any tax year that the oil and gas leasehold *ad valorem*
30 valuation of any county, which has a trust account established and
31 maintained in ~~the a county~~ oil and gas valuation depletion trust fund as
32 provided by ~~this section 1, and amendments thereto~~, is less than 50% of
33 the oil and gas leasehold *ad valorem* valuation of such county for the
34 second succeeding tax year which commences January 1 following the end
35 of the fiscal year in which the county had \$100,000 or more in receipts of
36 the excise tax upon the production of oil and gas ~~and the county had a trust~~
37 ~~account established in the oil and gas valuation depletion trust fund as~~
38 ~~provided by this section~~, as certified by the property valuation division, on
39 or before January 15 of the year following such tax year, the director of
40 taxation shall ~~distribute~~ *certify the oil and gas leasehold ad valorem*
41 *valuation amounts for each county and shall authorize the county*
42 *treasurer to release 20% of the moneys credited to such county's trust*
43 ~~account~~ *oil and gas valuation depletion trust fund* to the county treasurer

1 of such county, except that the director of taxation shall transfer all of the
2 moneys credited to the Wilson county trust account to the Wilson county
3 capital improvement fund in any such tax year until the payment of all
4 costs of financing projects authorized pursuant to K.S.A. 2011 Supp. 74-
5 8961, and amendments thereto, has been completed, and at that time the
6 provisions of this subsection related to distributions to the Wilson county
7 treasurer shall be applicable as provided in this subsection. In any year in
8 which a county's oil and gas leasehold valuation is 50% or more of the oil
9 and gas leasehold valuation of such county for tax year as described in this
10 subsection, such county shall not receive ~~a~~ *an authorization for*
11 distribution of trust *fund* moneys pursuant to this section for such tax year.
12 ~~On an annual basis, the director of taxation shall certify to the director of~~
13 ~~accounts and reports the counties entitled to a distribution pursuant to this~~
14 ~~section. The director of accounts and reports shall draw warrants on the~~
15 ~~state treasurer payable to the county treasurer of each county entitled to~~
16 ~~payment from such county's trust account in the oil and gas valuation~~
17 ~~depletion trust fund upon vouchers approved by the director of taxation.~~

18 *(c) The director of taxation shall impose and collect an*
19 *administration fee for the administration of the oil and gas valuation*
20 *depletion trust fund, this section and the provisions of K.S.A. 2011 Supp.*
21 *79-4227, and amendments thereto, equal to 2% of the amount credited to*
22 *the oil and gas valuation depletion trust fund. The administration fee*
23 *shall be imposed and collected prior to crediting any amount to any trust*
24 *account established and maintained for a county in the oil and gas*
25 *valuation depletion trust fund. All amounts collected for the*
26 *administration fee shall be transferred from the oil and gas valuation*
27 *depletion trust fund to the state general fund.*

28 *(d) All moneys credited to the oil and gas valuation depletion trust*
29 *fund upon the effective date of this act shall be distributed to each county*
30 *not later than 30 days following the effective date of this act for deposit in*
31 *the county's oil and gas valuation depletion trust fund established*
32 *pursuant to the provisions of section 1, and amendments thereto.*

33 Sec. 4. K.S.A. 2011 Supp. 19-101a and 79-4231 are hereby repealed.

34 Sec. 5. This act shall take effect and be in force from and after its
35 publication in the Kansas register.