

Senate Substitute for HOUSE BILL No. 2062

By Committee on Public Health and Welfare

3-30

1 AN ACT concerning counties; relating to county homes for the aged and
2 county hospitals; restricting boards of county commissioners, trustees
3 and employees from infringing upon residents' and patients' rights to
4 receive and refuse visitors in county homes for the aged and county
5 hospitals; permitting residents and patients to waive restrictions
6 imposed to control transmission or prevention of an infectious disease;
7 restricting counties from exempting from prohibitions on imposing
8 restrictions on visitors in homes for the aged and county hospitals;
9 amending K.S.A. 12-4909 and 19-2110 and K.S.A. 2020 Supp. 19-101a
10 and 19-4610 and repealing the existing sections.
11

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

13 Section 1. K.S.A. 12-4909 is hereby amended to read as follows: 12-
14 4909. (a) Every home for the aged established under this act and not
15 leased by the governing body as provided under K.S.A. 12-4911, and
16 amendments thereto, shall be operated under the supervision of the
17 governing body and shall be for the benefit of all the inhabitants of such
18 city, except that for an existing adult care home acquired by a city by gift
19 or purchase to be used as a home for the aged, the governing body may
20 appoint a board of trustees to supervise the operation of the home for the
21 aged. The governing body of the city is hereby authorized to promulgate
22 and adopt rules and regulations pertaining to the operation of the home for
23 the aged. The governing body or, if a board of trustees has been appointed,
24 the board of trustees shall appoint a responsible and qualified person who
25 shall at all times be in charge of the home and who shall be known as the
26 administrator, and such other employees as is deemed necessary for the
27 proper and adequate care of the residents in the home.

28 (b) *Notwithstanding any other provision of law, no state officer, state*
29 *agency, board of county commissioners, or any employee of a state officer,*
30 *state agency or board of county commissioners, or governing body or*
31 *board of trustees of any such home shall impose restrictions on a*
32 *resident's right to receive or refuse visitors in such resident's room or a*
33 *private room available to the resident or any other reasonable*
34 *accommodation to receive such visitors for the purpose of controlling or*
35 *preventing the transmission of an infectious disease. Every resident of a*
36 *home for the aged, or such resident's legal representative, shall have the*

1 *right to waive, in writing, any restrictions imposed to control or prevent*
2 *the transmission of an infectious disease by the county, a city within such*
3 *county, an employee of such county or any federal or state agency at any*
4 *time, including during a state of local disaster emergency declared*
5 *pursuant to K.S.A. 48-932, and amendments thereto, or state of disaster*
6 *emergency declared pursuant to K.S.A. 48-924, and amendments thereto.*

7 Sec. 2. K.S.A. 2020 Supp. 19-101a is hereby amended to read as
8 follows: 19-101a.(a) The board of county commissioners may transact all
9 county business and perform all powers of local legislation and
10 administration it deems appropriate, subject only to the following
11 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, counties may not levy and
9 collect taxes on incomes 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. 2020
16 Supp. 26-601, 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 (40) *Counties may not exempt from or effect changes in K.S.A. 12-
43 4909 or 19-2110, and amendments thereto.*

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

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

15 Sec. 3. K.S.A. 19-2110 is hereby amended to read as follows: 19-
16 2110. (a) Every home for the aged established under this act and not leased
17 by the board of county commissioners as provided for under K.S.A. 19-
18 2112 or any amendments thereto, may be operated under the supervision
19 of the ~~county~~ board of *county* commissioners or if the board of county
20 commissioners determines that it is in the best interests of the county such
21 board may appoint a board of trustees to operate the home or may
22 designate the board of trustees of the county hospital of the county as the
23 board of trustees for the operation of such home.

24 (b) Such home for the aged shall be for the benefit of all the
25 inhabitants of such county; ~~but~~.

26 (c) Every such inhabitant or person who is not a recipient of
27 assistance shall pay to the ~~county~~ board of *county* commissioners or board
28 of trustees for the home a reasonable compensation, to be established by
29 the ~~county~~ board of *county* commissioners, or board of trustees for the
30 home for their care, and the ~~county~~ board of *county* commissioners or
31 board of trustees of such home may extend the privileges and use of such
32 home to persons residing outside of the county upon such terms and
33 conditions as the board may, from time to time, by its rules and regulations
34 prescribe.

35 (d) The ~~county~~ board of *county* commissioners or board of trustees of
36 such home is hereby authorized to promulgate and adopt rules and
37 regulations pertaining to the operation, management and control of homes
38 for the aged.

39 (e) The ~~county~~ board of *county* commissioners or board of trustees of
40 such home shall appoint a responsible and qualified person who shall at all
41 times be in charge of the home, who shall be known as the administrator,
42 and such other employees as is deemed necessary for the proper and
43 adequate care of the residents in the home.

1 (f) *Notwithstanding any other provision of law, no state officer, state*
2 *agency, board of county commissioners, or any employee of a state officer,*
3 *state agency or board of county commissioners, or governing body or*
4 *board of trustees of any such home shall impose restrictions on a*
5 *resident's right to receive or refuse visitors in such resident's room or a*
6 *private room available to the resident or any other reasonable*
7 *accommodation to receive such visitors for the purpose of controlling or*
8 *preventing the transmission of an infectious disease. Every resident of a*
9 *home for the aged, or such resident's legal representative, shall have the*
10 *right to waive, in writing, any restrictions imposed to control or prevent*
11 *the transmission of an infectious disease by the county, a city within such*
12 *county, an employee of such county or any federal or state agency at any*
13 *time, including during a state of local disaster emergency declared*
14 *pursuant to K.S.A. 48-932, and amendments thereto, or state of disaster*
15 *emergency declared pursuant to K.S.A. 48-924, and amendments thereto.*

16 Sec. 4. K.S.A. 2020 Supp. 19-4610 is hereby amended to read as
17 follows: 19-4610. (a) The board shall make and adopt such bylaws and
18 rules and regulations for the management and control of the hospital as it
19 deems necessary so long as the same are not inconsistent with this act, the
20 statutes of the state of Kansas, the resolutions of the county and, if the
21 hospital is located in a city, the ordinances of the city in which the hospital
22 is located.

23 (b) *Notwithstanding any other provision of law, no state officer, state*
24 *agency, board of county commissioners, or employee of a state officer,*
25 *state agency or board of county commissioners, or any governing board of*
26 *any such hospital shall impose restrictions on a patient's right to receive*
27 *or refuse visitors in such patient's room or a private room available to the*
28 *patient or any other reasonable accommodation to receive such visitors*
29 *for the purpose of controlling or preventing the transmission of an*
30 *infectious disease. Every patient of a hospital operated by the county, or*
31 *such patient's legal representative, shall have the right to waive, in*
32 *writing, any restrictions imposed to control or prevent the transmission of*
33 *an infectious disease by the county, a city within such county, an employee*
34 *of such county or any federal or state agency at any time, including during*
35 *a state of local disaster emergency declared pursuant to K.S.A. 48-932,*
36 *and amendments thereto, or state of disaster emergency declared pursuant*
37 *to K.S.A. 48-924, and amendments thereto.*

38 (c) The board shall have the exclusive control of the expenditures of
39 all hospital moneys, except hospital moneys acquired through the issuance
40 of revenue bonds, and all expenditures shall be subject to the approval of a
41 majority of all the members of the board.

42 (d) The board is authorized to invest in any mutual insurance
43 company organized by an association of health care providers to which the

1 hospital belongs, enter into contracts with such company, pay any
2 assessments pursuant to such contracts and arrange for the issuance of a
3 letter of credit by any bank chartered by this state or which is a member
4 bank of the federal reserve system.

5 (e) The board is charged with the supervision, care and custody of all
6 hospital property.

7 (f) The board is authorized to enter into employment contracts to
8 engage the services of an administrator or chief executive officer to
9 manage the affairs of the hospital, to establish compensation for such
10 services and to establish the terms of the engagement.

11 (g) The board may also require personal or surety bonds of all
12 hospital employees entrusted with the handling of hospital moneys, such
13 bonds to be in an amount to be determined and approved by the board.

14 (b)(h) The board may establish and fund pension and deferred
15 compensation plans and any other employee benefit plans for hospital
16 employees and may procure contracts insuring hospital employees, their
17 dependents, or any class or classes thereof, under a policy or policies
18 covering one or more risks including, but not limited to, a policy or
19 policies of life, disability income, health, accident, accidental death and
20 dismemberment, and hospital, surgical and medical expense insurance or
21 may provide for a plan of self-insurance for such purposes. The
22 employee's contribution, if any, to the plan and to the premiums for
23 insurance or for the expenses incurred by the board under a plan of self-
24 insurance may be deducted by the employer from the employee's salary
25 when authorized in writing by the employee.

26 Sec. 5. K.S.A. 12-4909 and 19-2110 and K.S.A. 2020 Supp. 19-101a
27 and 19-4610 are hereby repealed.

28 Sec. 6. This act shall take effect and be in force from and after its
29 publication in the statute book.