

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:00 ~~a.m.~~/p. m., on March 27, 19 78

All members were present except: Representatives Gastl and Augustine, who were excused.

The next meeting of the Committee will be held at _____ on call. _____ a. m./p. m., on _____, 19____.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Senator John Crofoot
Mr. Steve Starr, TPD
Senator Jim Parrish

The meeting was called to order by the Chairman, and Senator Crofoot appeared on behalf of SB 113, explaining the bill give the County Commissioners a right to look at the judicial budget. The present law says it will be submitted to them but some have taken the attitude they do not need to review the budget, and this makes it clear they have some control.

Rep. Martin commented the Ways and Means Committee is considering some aspects of this bill and he believed they are taking care of some of the money.

The Chairman called attention to SB 506, and reminded members the bill had been heard at a previous meeting. Rep. Ferguson stated he felt there was too much controversy surrounding it. The Chairman noted the bill incorporates parts of Senator Pomeroy's SB 309 and 310, and is hidden in the repealer. He told the committee the interim committee had been unanimous in the opinion that rape and aggravated sodomy should be classified at the same level.

Mr. Jerry Stevens of the Research Department reminded members that HB 2712 placed rape and sodomy at a "B" classification, and if that is all SB 506 does, it has already been accomplished.

It was moved by Rep. Hayes and seconded by Rep. Hurley that the bill be recommended adversely. Motion carried by a majority.

The Chairman introduced Mr. Steve Starr to discuss SB 951, and he explained the bill was drafted because of an Attorney General's opinion which would prohibit law enforcement people from notifying people by telephone or by simple mail that there is a warrant for their arrest. He explained it is not the practice for law enforcement people to do this on major matters, but for unpaid traffic tickets and other small matters it has long been the routine thing

to do. He explained such requirements would necessarily cause an increase in personnel. SB 951 would allow them to continue to use the same mode of notice.

The Chairman expressed concern that the bill might be too broad, and Mr. Starr explained Mary Torrence, Art Griggs and he had tried to draw up a proposal and it all got very complicated, but they believed this bill was a satisfactory compromise and as simple as possible.

The Chairman suggested wording to the effect that "the unlawful disclosure of a warrant, or making public in any way to anyone other than the person named in the warrant except for the purpose of assisting.....". It was moved by Rep. Hoagland and seconded by Rep. Heinemann that Section 1 be stricken. Motion carried by a majority, with Rep. Ferguson voting no.

It was moved by Rep. Ferguson and seconded by Rep. Frey that the bill be reported adversely. Rep. Stites stated this makes a mess of everything, and moved to reconsider committee action. Motion was seconded by Rep. Hurley and carried. The Chairman appointed Rep. Stites and Rep. Roth to work on the bill and see if they could come up with a satisfactory compromise before the meeting was concluded.

Rep. Lorentz stated he was not particularly desirous of sending SB 761 to the floor because it has the effect of lowering the juvenile age so certain youth would be tried as adults.

Senator Parrish arrived to discuss SB 761 and discussion was suspended. The Senator reiterated that SB 761 would indeed lower the age of juveniles and make them subjevt to amenability hearings. He stated there are some complications involved but there is very strong sentiment for lowering the age. Mr. Griggs handed out proposed amendments which had been drafted at the request of Senator Parrish. Rep. Lorentz inquired if the amendments don't conflict with SB 553, and Mr. Griggs agreed if the amendments are accepted it would conflict with SB 553 and that would need to be taken care of.

The Committee returned to SB 951, and Rep. Stites suggested staying with the present statute and adding an exception as follows: "but the same shall not apply to a law enforcement agency disclosing the warrant for the purpose of encouraging the person named in the warrant to voluntarily surrender". He stated there might necessarily be some additional clean up amendments. Rep. Stites moved conceptually the amendment suggested, along with any other technical matters. Motion was seconded by Rep. Roth, and carried. It was then moved by Rep. Stites and seconded by Rep. Roth that the bill as amended, be recommended favorably. Motion carried.

The Chairman called for a report on SB 579, and Rep. Frey explained the subcommittee made some decisions that would radically change the bill. They proposed amendments which would modify Section 11 to require an election before a levy could be assessed. Otherwise, the sentiment was to strike the other sections and let the bill speak only to the funding of centers for abused persons.

Rep. Matlack opposed the amendments suggested by the subcommittee, suggesting that it is unduly harsh.

It was moved by Rep. Lorentz and seconded by Rep. Frey that the subcommittee report be adopted. After extensive discussion, the motion carried by a majority.

The Chairman noted he had asked the subcommittee to look at the domestic statutes and proposed amendments to 60-1601. He spoke of Rule 7 insofar as divorce proceedings are concerned. He pointed out that when individuals are confined to a mental institution and a spouse seeks a divorce, they are automatically responsible for the care and keep of the patient, and many times they are in no position to do so, and in fact have no resources at all. He asked members to consider if there is any bill such an amendment could be attached to.

The Chairman called for discussion on SB 845. It was moved by Rep. Ferguson and seconded by Rep. Hayes that on line 25, everything after "tort" be stricken, along with all of line 26. Motion was seconded by Rep. Hayes. Rep. Hoagland offered a substitute motion to report the bill favorably. Motion was seconded by Rep. Baker, and after discussion the motion carried.

It was moved by Rep. Foster and seconded by Rep. Lorentz that SB 717 be recommended favorably and placed on the consent calendar. Motion carried.

Rep. Gillmore suggested SB 780 might be an appropriate bill for the amendment to the divorce statutes. The Chairman observed that matter is going to interim anyway. It was moved by Rep. Hayes that a substitute bill be drafted for SB 780, incorporating the appropriate language, and that the substitute be referred to the Committee of the Whole. Motion was seconded by Rep. Frey and carried by a majority.

The meeting was adjourned.

House JUDICIARY

Monday March 27-1978

<u>NAME</u>	<u>ADDRESS</u>	<u>ASSOCIATION</u>
SR Starn	Topeka	Topeka P.D.
J. Stubbs	"	United Telephone
Ruth Groves	"	ACUW -
Bob Hartz	Topeka	KTLA
Kathleen Seelins	"	"

STATE OF KANSAS

E. RICHARD
(DICK) BREWSTER
REPRESENTATIVE FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
5334 S. W. WANAMAKER
TOPEKA, KANSAS 66610



TOPEKA

HOUSE OF
REPRESENTATIVES

March 24, 1978

COMMITTEE ASSIGNMENTS
CHAIRMAN: HOUSE JUDICIARY
MEMBER: ENERGY AND NATURAL RESOURCES

Room 522-S

HOUSE JUDICIARY COMMITTEE

3:30 P.M.

MONDAY, March 27

Senate Bill 761 - Relating to Juveniles

(Hearing, discussion, possible action.)

DISCUSSION AND POSSIBLE ACTION ON ANY MATTERS

PREVIOUSLY HEARD.

*Senator Parrish
Ellen B Laner
Johnson Co
Mental Health
or Ron Pavelka*

If anyone has questions regarding the above matters, please contact the committee secretary, Margaret Gentry, 296-7662 or Room 402-S.

E. RICHARD BREWSTER, Chairman
House Judiciary Committee

SB 951 - Steve Star? Bob Tilton?

Sub Committee SB 579

*Frey
Augustine
Roth
Brewster
Stiles*

SB 113 - Crofoot



3-27

THE MENTAL HEALTH ASSOCIATION OF JOHNSON COUNTY

Formerly Affiliated with The Kansas and National Mental Health Associations
7208 West 80th Street • Room 208 • Overland Park, Kansas 66204

913 • 381-2707

March 22, 1978

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Hon. Herbert W. Walton, J.D.
David Wiebe, A.C.S.W.

TO: Representative Richard Brewster, Chairperson, and
Members of the House Judiciary Committee

FROM: Ellen B. Laner, President
Mental Health Association of Johnson County

The Mental Health Association of Johnson County, a volunteer, not-for-profit organization composed of over 1,200 members, urges your disapproval of SB 761.

This legislation, which would lower the age of criminal responsibility and place the onus on each child sixteen and over to prove he/she is amenable to treatment as a juvenile, would change the essence of the Juvenile Code. The Juvenile Court and Code historically have been aimed at the rehabilitation of young people rather than the more punitive approach for adult offenders. It would be difficult for young persons to understand the technicalities involved in seeking waiver to the Juvenile Court.

As you know, courts already have the authority to order youths sixteen and seventeen years old to be tried as an adult if it is found that the crimes committed are too serious for juvenile processes or if the persons charged are not amenable to Juvenile Court resources. Presently, there are many such young people sixteen to eighteen serving in adult institutions.

We, also, point out that the Governor has already appointed a citizens' task force to examine the problems of youth, which includes a mandate to make legislative recommendations. In addition, HCR 5061 would establish a committee to study issues related to care, treatment, and detention of juveniles. It would seem appropriate to wait until the findings of the committee(s) are presented before we begin to change the age definition of juveniles in Kansas.

In view of the already existing provisions to allow sixteen to eighteen year olds to be tried as adults and the forthcoming study, we urge you to vote Nay on SB 761.

EBL/mp



[As Amended on by Senate Final Action]

As Amended by Senate Committee

Session of 1978

SENATE BILL No. 761

By Senator Parrish

1-23

3-27

0022 AN ACT relating to the juvenile code [juveniles]; concerning the
0023 prosecution of certain offenses pursuant to the code of criminal
0024 procedure; amending K.S.A. 1977 Supp. [21-4618 and]
0025 38-808 and repealing the existing section [sections].

38-806,

and 38-815

0026 Be it enacted by the Legislature of the State of Kansas:

0027 ~~Section 1.~~ K.S.A. 1977 Supp. 38-808 is hereby amended to
0028 read as follows: 38-808. (a) This subsection (a) shall apply to all
0029 cases involving offenses committed by a child less than eighteen
0030 (18) years of age, which, if done by a person eighteen (18) years of
0031 age or over, would make such person liable to be arrested and
0032 prosecuted for the commission of a felony as defined by K.S.A.
0033 21-3105. In all such cases the judge may order that such child be
0034 afforded a trial by jury and, upon a verdict that such child is a
0035 delinquent child as defined in K.S.A. 1976 1977 Supp. 38-802, the
0036 court shall proceed with judgment.

Sec. 2

0037 (b) Notwithstanding any provisions of the Kansas juvenile
0038 code or any other law of this state to the contrary, whenever a
0039 petition has been filed pursuant to the Kansas juvenile code
0040 alleging that a child is, by reason of violation of any criminal
0041 statute, a delinquent or miscreant child described in K.S.A. 1976
0042 1977 Supp. 38-802, and that the child was sixteen (16) years of age
0043 or older at the time of the alleged commission of such offense
0044 and, then the provisions [paragraphs (1) and (2)] of this subsection
0045 [(b)] shall apply.

0046 ~~(1) At the commencement of the hearing on the petition the~~
0047 ~~court shall determine whether the offense alleged to have b~~

Section 1. K.S.A. 1977 Supp. 38-806 is hereby amended to read as follows: 38-806. (a) Except as provided in K.S.A. 1976 1977 Supp. 21-3611, and 38-808 (b), as amended, and section 5, proceedings concerning any child, living or found within the county, who appears to be delinquent, miscreant, wayward, a traffic offender, a truant or dependent and neglected, as defined in K.S.A. 1976 1977 Supp. 38-802, shall be governed by the provisions of the Kansas juvenile code.

(b) When jurisdiction has been acquired by the district court over the person of a dependent and neglected child, it may continue until the child has attained the age of twenty-one (21) years, and when the court has not by order retained jurisdiction, it may be reasserted at any time prior to age twenty-one (21) if such child has not been adopted or placed for the period of such child's minority with a children's aid society or with a public or private institution used as a home or place of detention or correction.

(c) Except as provided by subsection (b) of K.S.A. 1976 1977 Supp. 38-808, as amended, and section 5, when any person charged with having committed an act of delinquency before reaching the age of eighteen (18) years is brought before the court after reaching said age, the court shall proceed pursuant to the Kansas juvenile code and the person charged shall continue under the jurisdiction of said court for such act until such person is finally discharged by the court or has reached the age of twenty-one (21) years.

0048 committed by the child is a class A, B or C felony which is
0049 defined in article 34 of chapter 21 of the Kansas Statutes Anno-
0050 tated [other than K.S.A. 21-3411 and any amendments thereto]
0051 or is the crime of rape, as defined in K.S.A. 21-3502 and any
0052 amendments thereto, or the crime of aggravated sodomy, as
0053 defined by K.S.A. ~~21-3505~~ 21-3506 and any amendments thereto.
0054 If the court finds that the petition alleges the commission of any of
0055 the foregoing offenses, the offense shall not be heard pursuant to
0056 the Kansas juvenile code but shall be prosecuted pursuant to the
0057 code of criminal procedure unless otherwise ordered by the court
0058 pursuant to subsection (c). When the court makes such a finding,
0059 the child may request a hearing to determine whether or not the
0060 child is a fit and proper subject to be dealt with under the juvenile
0061 code. The child or the child's guardian ad litem may orally
0062 request such hearing in court immediately following such finding
0063 or may file a written motion therefor within twenty-four (24) hours
0064 thereafter, excluding Saturdays, Sundays and other days when the
0065 court is not regularly open for the conduct of business. When such
0066 a request is made, the court shall forthwith set a time and place
0067 for such hearing. The burden of proof shall be upon the child to
0068 prove such child is a fit and proper person to be dealt with under
0069 the juvenile code.]

0070 ~~[(2) In cases where the petition does not allege any offense~~
0071 ~~described in paragraph (1) of this subsection]~~, the petitioner, or the
0072 county or district attorney, upon motion made prior to the hearing
0073 on the petition, alleges that may request a hearing to determine
0074 whether such child is not a fit and proper subject to be dealt with
0075 under the Kansas juvenile code. The court shall immediately set
0076 a time and place for a hearing to determine if such child is a fit
0077 and proper person to be dealt with under the Kansas juvenile
0078 code. Such hearing shall be held prior to the hearing on the
0079 petition and. The burden of proof shall be upon the movant to
0080 prove that the child is not a fit and proper person to be dealt with
0081 under the juvenile code.

0082 [(3) In cases where a child is prosecuted pursuant to the code
0083 of criminal procedure as a result of the provisions of this section,
0084 provisions of K.S.A. 1977 Supp. 21-4618, as amended, shall

0085 *not be applicable to such child.]*

0086 (c) *Hearings held pursuant to this subsection (b) shall conform*
0087 *to the requirements for notice and appointment of a guardian ad*
0088 *litem as provided by K.S.A. 1976 1977 Supp. 38-815b, for deten-*
0089 *tion hearings. Upon the completion of the hearing and a finding*
0090 *that the child was sixteen (16) years of age or older at the time of*
0091 *the alleged commission of the offense, the court may shall make a*
0092 *finding, noted in the minutes of the court, that on the issue of*
0093 *whether or not the child is not a fit and proper subject to be dealt*
0094 *with under the Kansas juvenile code. In determining whether or*
0095 *not such finding should be made, the court shall consider each of*
0096 *the following factors: (1) Whether the seriousness of the alleged*
0097 *offense is so great that the protection of the community requires*
0098 *criminal prosecution of the child; (2) whether the alleged offense*
0099 *was committed in an aggressive, violent, premeditated or willful*
0100 *manner; (3) the maturity of the child as determined by consider-*
0101 *ation of the child's home, environment, emotional attitude and*
0102 *pattern of living; (4) whether the alleged offense was against*
0103 *persons or against property, greater weight being given to of-*
0104 *fenses against persons, especially if personal injury resulted; (5)*
0105 *the record and previous history of the child; (6) whether the child*
0106 *would be amenable to the care, treatment and training program*
0107 *for juveniles available through the facilities of the court; and (7)*
0108 *whether the interests of the child or of the community would be*
0109 *better served by criminal prosecution of the child. The insuffi-*
0110 *ciency of evidence pertaining to any one or more of the factors*
0111 *listed in this subsection shall not in and of itself be determinative*
0112 *of the issue. Written reports and other materials relating to the*
0113 *child's mental, physical, educational and social history may be*
0114 *considered by the court, but the court, if so requested by the*
0115 *child, the child's parent or guardian or other interested party,*
0116 *shall require the person, persons or agency preparing the report*
0117 *and other material to appear and be subject to both direct and*
0118 *cross-examinations. (e) If, pursuant to subsection (b), the court*
0119 *finds the child to be a fit and proper person to be dealt with under*
0120 *the juvenile code, the court shall order prosecution of the child to*
0121 *continue under such code; but if the court finds that a child is not*

0122 a fit and proper person to be dealt with under the Kansas juvenile
0123 code, the court shall direct the prosecuting attorney to prosecute
0124 the person under the applicable criminal statute or ordinance and
0125 thereafter dismiss the petition filed pursuant to the Kansas juve-
0126 nile code or, if a prosecution has been commenced in another
0127 court but has been suspended while proceedings pursuant to
0128 Kansas juvenile code are held, the court shall dismiss the petition
0129 filed pursuant to the Kansas juvenile code and issue its order
0130 directing that the other court proceedings resume. Any finding by
0131 a court hereunder, that a child is not a fit and proper subject to be
0132 dealt with under the Kansas juvenile code thereafter may attach to
0133 any future act by such child which is cognizable under the
0134 juvenile code as an act of delinquency or miscreancy if the order
0135 of the court so provides, and jurisdiction over such child shall be
0136 vested in any court of appropriate jurisdiction of the county of
0137 such child's residence or of the county wherein such child may be
0138 found.

~~0139 (d) When a child is prosecuted pursuant to the code of
0140 criminal procedure as a result of a determination pursuant to
0141 this section and the child is convicted of the crime, the judge, in
0142 addition to other sentencing alternatives authorized by law,
0143 may order as a condition of probation that the child reside and
0144 participate in programs at a youth center as hereinafter autho-
0145 rized. Subject to the provisions of K.S.A. 76-2110, a male de-
0146 fendant may be ordered to reside and participate in programs at
0147 the youth center at Topeka. A female defendant may be ordered
0148 to reside and participate in programs at the youth center at
0149 Beloit. The superintendent of the youth center shall report to the
0150 court when, in the opinion of said superintendent, the defendant
0151 is no longer benefitting from participating in programs at the
0152 youth center. Thereupon, the court shall inform the superin-
0153 tendent to cause the defendant to be brought before the court at
0154 a stated date and time. When the defendant is brought before
0155 the court, the court shall withdraw the condition of probation
0156 requiring the child to reside and participate in programs at a
0157 youth center. The court then may release the defendant or
0158 impose any other condition of probation that the court~~

Insert - Sec. 3. - 38-815 attached

0159 ~~empowered to make at the original sentencing proceeding.~~

Sec. 4

0160 ~~Sec. 3~~ K.S.A. 1977 Supp. 21-4618 is hereby amended to
0161 read as follows: 21-4618. Except as provided in K.S.A. 1977
0162 Supp. 38-808, as amended, ~~probation shall not be granted to any~~
0163 ~~defendant who is convicted of the commission of any crime set~~
0164 ~~out in article 34 of chapter 21 of the Kansas Statutes Annotated~~
0165 ~~in which the defendant used any firearm in the commission~~
0166 ~~thereof and such defendant shall be sentenced to not less than~~
0167 ~~the minimum sentence of imprisonment authorized by law for~~
0168 ~~that crime. This section shall apply only to crimes committed~~
0169 ~~after the effective date of this act.]~~

and section 5,

0170 Sec. 2 [3] K.S.A. 1977 Supp. [21-4618, and] 38-808 is [are]
0171 hereby repealed.

0172 Sec. 3 [4] This act shall take effect and be in force from and
0173 after its publication in the statute book.

6

7

New Sec. 5. A county or district attorney shall not prosecute a child pursuant to the Kansas juvenile code if such child was sixteen (16) years of age or over at the time of the commission of the crime and the crime alleged to have been committed by the child is a class A, B or C felony which is defined in article 34 of chapter 21 of the Kansas Statutes Annotated other than K.S.A. 21-3411 and any amendments thereto, or is the crime of rape, as defined in K.S.A. 21-3502 and any amendments thereto, or the crime of aggravated sodomy, as defined by K.S.A. 21-3506, and any amendments thereto. Except as hereinafter provided in such cases the child shall be prosecuted pursuant to the code of criminal procedure in the same manner as adults are prosecuted. The judge, in addition to other sentencing alternatives authorized by law, may order as a condition of probation that the child reside and participate in programs at a youth center as hereinafter authorized, and the court shall have continuing jurisdiction to modify any such order. Subject to the provisions of K.S.A. 76-2110, a male defendant may be ordered to reside and participate in programs at the youth center at Topeka. A female defendant may be ordered to reside and participate in programs at the youth center at Beloit. The superintendent of the youth center shall report to the court when, in the opinion of said superintendent, the defendant is no longer benefitting from participating in programs at the youth center. Thereupon, the court shall inform the superintendent to cause the defendant to be brought before the court at a stated date and time. When the defendant is brought before the court, the court shall withdraw the condition of probation requiring the child to reside and participate in programs at a youth center. The court then may release the defendant, impose any other condition of probation that the court was empowered to make at the original sentencing proceedings, or revoke probation and commit the child to the secretary of corrections.

and 38-815

, 38-806,

Sec. 3. K.S.A. 1977 Supp. 38-815 is amended to read as follows: 38-815. (a) As used in this section, the term "peace officers" includes sheriffs and their deputies, marshals, members of police force of cities, highway patrolmen and officers whose duty it is to enforce the law and preserve the public peace.

(b) Subject to the provisions of section 5, any peace officer takes into custody a child under the age of eighteen (18) years, with or without a warrant or court order, such child shall be delivered into custody of a juvenile probation officer or be taken forthwith before the district court for proceedings in accordance with the Kansas juvenile code. It shall be the duty of such peace officer to furnish such officer with all of the information in the possession of the officer pertaining to the child, the child's parent, guardian or other person interested in, or likely to be interested in, the child, and all other facts and circumstances which caused such child to be taken into custody.

(c) Subject to the provisions of section 5, if a child under the age of eighteen (18) years is taken before a judge of the district court and such child is not charged in accordance with the provisions of the juvenile code or if a child under the age of eighteen (18) years is taken before a municipal judge, it shall be the duty of such judge to dismiss the charge or complaint and to refer the same for proceedings in the district court pursuant to the juvenile code.

(d) Subject to the provisions of section 5, if during the pendency of any action, charge or complaint against a person involving a public offense or quasi-public offense, before a municipal judge or judge of the district court, it shall be ascertained that such person was under the age of eighteen (18) years at the time of committing the alleged offense, it shall be the duty of such judge to forthwith dismiss such action, charge or complaint and to refer the same for proceedings in the district court pursuant to the juvenile code, except that no traffic offender action, charge or complaint against a child who has attained the age of sixteen (16) years shall be so dismissed unless it shall be ascertained that the child was under sixteen (16) years of age at the time of committing the alleged offense. The officer of the court making such referral, having charge of such child, forthwith shall take the child to the place of detention designated by the district court, or to the district court itself, or shall release the child to the custody of a duly appointed juvenile probation officer or other person designated by the district court, to be brought before the district court at a time and place designated by the judge of the district court. Thereupon, the district court shall proceed as provided in subsection (d) of K.S.A. ~~1976~~ 1977 Supp. 38-816.

(e) Whenever a child under the age of eighteen (18) years is taken into custody by a peace officer and is thereafter taken before the district court as required by this section, such child shall not remain in any detention or custody, other than the custody of the parent, guardian or other person having legal custody of the child, for more than forty-eight (48) hours, excluding Sundays and legal holidays, from the time the initial custody was imposed by a peace officer, unless a determination is made, within such forty-eight (48) hour period, as to the necessity for any further detention or custody in a detention hearing as provided in K.S.A. ~~1976~~ 1977 Supp. 38-815b.

Sec. 11. The board of county commissioners of any county may make an annual levy of not to exceed one-fourth (1/4) mill upon all taxable tangible property within the county for the purpose of creating a fund to be used for the purpose of establishing, or funding the operation of an emergency shelter to which abused persons may seek temporary refuge and programs related thereto.

until the question of levying the same has been submitted to and approved by a majority of the registered electors of the county voting thereon at a general election. Any such board shall submit such question at the next general election following by not less than sixty (60) days the certification of a petition requesting the same, signed by at least five percent (5%) of the registered electors of the county.

No such tax levy shall be made under the authority of this act ~~until the board of county commissioners shall have adopted a resolution authorizing the same and stating the purpose for which the levy is to be made. Such resolution shall be published once each week for two (2) consecutive weeks in the official county newspaper. If, within sixty (60) days following the last publication of the resolution, a petition in opposition to the levy signed by not less than five percent (5%) of the qualified electors of the county is filed with the county election officers, no such levy shall be made unless and until the same is approved by a majority of the qualified electors of the county voting thereon at a special election called and held for such purpose. Any such election shall be called, noticed and held in accordance with the provisions of K.S.A. 1977 Supp. 10-120, and amendments~~

Notice of any such election shall be published in the manner provided by K.S.A. 1977 Supp. 25-105.

~~thereto.~~ Any tax levy made under the authority of this act shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the limitations upon the levy of taxes imposed by K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto.