

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1434

By: Nations

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 1991, Sections 36-202, 37-205, 37-206 and 39-106, which relate to various municipal assessment districts; requiring petition for certain assessment districts to state certain language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 36-202, is amended to read as follows:

Section 36-202. A. The owners of more than one-half, in area, of the land liable to assessment for any improvement may petition the municipal governing body for the improvement of any street, alley, lane or avenue, or part thereof, not less than one block in length. The petition shall be filed with the municipal clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. The petition ~~and~~ shall:

1. Describe the character of the improvement desired and the width of the improvement;

2. Indicate the materials preferred by the petitioners for the improvement; and

3. Show that the petitioners are the record owners of the land liable to assessment.

B. The governing body shall determine the sufficiency of the petition and its finding shall be conclusive and binding for all

purposes and against all persons. The governing body may conduct hearings on the sufficiency of the petition and compel the attendance of witnesses under oath. No action or suit to question the findings of the governing body on the sufficiency of the petition may be commenced later than fifteen (15) days after such finding.

C. Upon making a satisfactory determination of the sufficiency of the petition, the governing body shall direct the engineer to prepare preliminary plans and estimates, as provided in Section 36-203 of this title, and proceed with the improvement in the manner provided by Sections 36-201 through 36-226 of this title.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 37-205, is amended to read as follows:

Section 37-205. Except as otherwise provided, the construction and maintenance of public sanitary sewers, storm sewers, and public waterlines shall be paid for as follows:

1. Unless otherwise provided for in this section, all mains and submains constructed by a municipality shall be paid for by the municipality. If a petition signed by the owners of more than one-half (1/2) of the area of the land that will be drained or benefited by the construction of such mains or submains is filed with the governing body or the governing body finds that certain property will be specially benefited thereby, the governing body may create a district and order the construction of such mains and submains and provide for the payment therefor to be made by the owners of the property included within the district in accordance with the procedure for the construction of and payment for district sewers and district waterlines. The petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements;

2. Laterals shall be paid for by the owners of the property abutting on such laterals in the manner provided for by law for the estimate of cost and assessments for district sewers and district waterlines;

3. If a main or submain is constructed in any alley or other place where a lateral would otherwise have been constructed and the main or submain serves the purpose of a lateral for the property abutting thereon, the owners of the property shall be assessed in amounts equal to that which they would have been required to pay for a sufficient lateral; and

4. If any private connection is made with a main or submain instead of with a lateral, the owner of the premises so connected shall pay to the municipality an amount equal to that which he would have been required to pay for a lateral so constructed as to provide similar service. The amounts to be charged for connections with mains and submains, or for mains or submains used as laterals, shall be ascertained by the municipal engineer or the engineer in charge of such work and assessed against the property and collected in the manner provided for by law in the case of district sewers.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 37-206, is amended to read as follows:

Section 37-206. District sewers and district water distribution lines shall be established within the limits of the districts, to be prescribed by ordinance. District sewers shall connect with public sewers or other district sewers, or with the natural course of drainage, as each case may be. District water distribution lines in contiguous or noncontiguous areas may connect with public distribution lines, or other district distribution lines. The governing body shall cause sewers and/or district water distribution lines to be constructed in each district whenever the record owners of more than one-half the area of land liable to assessments for the improvement shall petition therefor. The petition shall be filed

with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. The districts may include mains and submains where the same are within the limits of the district or are necessary outlets or supply lines thereto.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 39-106, is amended to read as follows:

Section 39-106. A. For area within the boundary of a city, a petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. In addition, the petition shall be in a format which:

1. Sets forth:

- a. the general nature of the improvements to be made,
- b. the estimated or probable cost of the proposal,
- c. the area of the proposed district to be assessed,
- d. the proposed method of assessment, and
- e. the proposed apportionment of cost, if any, between the district and the city at large;; and

2. Is signed by:

- a. a majority of the resident owners of record of property liable for assessment under the proposal, or
- b. the resident owners of record of more than one-half (1/2) of the area liable for assessment under the proposal, or
- c. the owners of record of more than one-half (1/2) of the area liable to be assessed under the proposal.

B. For area outside the boundary of a city, a petition shall be filed with the city clerk which:

1. Sets forth:

- a. the general nature of the improvements to be made,
- b. the estimated or probable cost of the proposal,
- c. the area of the proposed district to be assessed,
- d. the proposed method of assessment,
- e. the proposed apportionment of cost, if any, between the district and the city at large~~;~~; and

2. Is signed by:

- a. a majority of the resident owners of record of property liable for assessment under the proposal, and
- b. the owners of record of more than one-half (1/2) of the area liable for assessment under the proposal~~;~~; and

3. States the area is contiguous to, but not within, the boundary of the city.

C. Whenever the governing body, either upon its own initiative or in response to a petition, determines that the creation of the district is necessary, it may by resolution direct the engineer to prepare preliminary plans and an estimate of cost for the proposed district. The resolution shall:

1. Describe in general terms the property to be included in the district;

2. Require the engineer to prepare~~;~~;

- a. an assessment plat showing the area to be included in the improvement district, and
- b. an addendum to the assessment plat showing the amount of maximum benefit estimated to be assessed against each tract or parcel in the district on a front-foot, zone, area or other equitable basis, which basis shall be set forth in the resolution; and

3. Require the engineer to prepare preliminary plans for one or more types of improvement showing:

- a. for each type of curb, gutter, sidewalk and street, a typical section of the contemplated improvement, the type of material to be used and the approximate thickness and width of the material,
- b. for each type of storm sewer or drain, sanitary sewer or water line, the type of material and approximate diameter or diameters of any trunk lines, mains, laterals or house connections, or
- c. for each other type of improvement or other major component of the foregoing types of improvements, a general description.

D. The engineer shall include in the total cost estimate for the district all expenses including but not limited to advertising, legal, appraising, engineering and printing expenses which the engineer deems necessary to pay the complete cost of the improvement.

E. The engineer shall submit to the city clerk the:

1. Assessment plat;
2. Preliminary plans of the type of construction; and
3. Estimate of costs for the improvement.

F. After the governing body examines the assessment plat, preliminary plans and estimates of cost for the district, the governing body may adopt a resolution which:

1. Proposes that the district be created and the improvement be constructed; and
2. Instructs the city clerk or engineer to give notice of a hearing on the proposed district.

SECTION 5. This act shall become effective November 1, 2001.

48-1-6164 ARE 6/12/15