

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 905

By: Lawler of the Senate

and

McCarter of the House

COMMITTEE SUBSTITUTE

[cities and towns - annexation procedures -

effective date]

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as amended by Section 1, Chapter 236, O.S.L. 2003 (11 O.S. Supp. 2003, Section 21-103), is amended to read as follows:

Section 21-103. A. Before the governing body of a city may annex any territory adjacent or contiguous to the city, it must obtain the written consent of the owners of at least a majority of the acres to be annexed to the municipality; except that no such consent is needed where:

1. The territory to be annexed is subdivided into tracts or parcels of less than five (5) acres and contains more than one residence; or

2. Three sides of the territory to be annexed are adjacent or contiguous to the property already within the municipal limits.

B. A governing body of a city shall not annex any territory that is less than one thousand (1,000) feet in width at its narrowest point unless the owners of a majority of the acres to be annexed consent in writing to the annexation.

C. Before any territory is annexed to a municipality, without the written consent of the owners of at least a majority of the

~~acres to be annexed to the municipality~~ in accordance with subsection A or B of this section, the governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the municipality shall prepare a plan to extend municipal services including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services appropriate to the proposed annexed territory. The plan shall provide that the municipality complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the municipality adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the municipality shall complete the service plan within one hundred-twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the municipality at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If municipality services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the municipality to extend municipal services to any other area of the city. Such notice, hearing and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place when the governing body shall

conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer; provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes, and to the board of county commissioners of the respective county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice~~;~~ and

3. The proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed at the public hearing. The plan may be amended through negotiation at the hearing. The final service plan shall be incorporated into and made part of the ordinance annexing the territory.

~~C.~~ D. As used in subsection ~~E~~ F of this section:

1. "Airport" means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;

2. "Military installation" means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government

or by any entity of local government after transfer of title to such installation; and

3. "Spaceport" means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

~~D.~~ E. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after ~~the effective date of this act~~ July 1, 2003, shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided, that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any ordinances or regulations related to compliance with environmental standards for that system.

~~E.~~ F. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 21-104, is amended to read as follows:

Section 21-104. A. The town board of trustees by ordinance may annex lots which are adjacent or contiguous to the town if the lots have been platted and recorded in the office of the county clerk. When the town board of trustees desires to annex any territory adjacent to the town which has not been platted and recorded, the

town board of trustees shall direct that notice of the proposed annexation of the territory be published in a legal newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the town board of trustees shall prepare a plan to extend appropriate town services to the territory. The plan shall provide that the town board of trustees shall complete the implementation of the plan within a reasonable time to be determined at the hearing and shall set forth such time period in the ordinance annexing the territory. For purposes of this subsection, services may be provided by any method or means available to the town that have been used to extend such services to any other area of the town. Such notice, hearing, and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical location, legal or physical description, or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place the town board of trustees shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the town board of trustees directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the board of county commissioners of the respective county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor later than thirty (30) days following the publication and mailing of the notice; and

3. At the public hearing, the proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed. The plan may be amended through negotiation at the hearing. The final service plan shall be incorporated into and made part of the ordinance annexing the territory.

B. A town board of trustees shall not annex any territory which has an assessed valuation greater than the assessed valuation of the town without the written consent of the owner or owners of at least a majority of the acres to be annexed to the town.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 39-102, is amended to read as follows:

Section 39-102. As used in the Improvement District Act, the singular includes the plural and:

1. Acquired means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means;

2. City means any city or town incorporated pursuant to the laws of Oklahoma;

3. Engineer means a city engineer, city official, employee or other person competent to advise and assist the governing body in planning and making an improvement;

4. Cost means any cost necessarily incurred in making the improvement, including but not limited to cost of:

- a. preparation of preliminary reports,
- b. preparation of plans and specifications,
- c. preparation and publication of notices of hearings, resolutions, ordinances and other proceedings,
- d. fees and expenses for engineers, attorneys, laborers and other personal services, and
- e. rights-of-way, materials, removal of obstructions or previous facilities to be replaced or improved, and

other lawful expenses incurred in making any improvement;

5. District means an area designated by the governing body to be benefited by an improvement and subjected to payment of special assessments for all or a portion of the cost of the improvement;

6. Governing body means the city council, city commission or board of trustees of an incorporated city or town;

7. Improve means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, purchase, alter or otherwise perform any work which provides a new facility, or enhances, extends or restores the value or usefulness of an existing facility;

8. Improvement means any type of improvement made by authority of this Improvement District Act and includes reimprovement of any prior improvement made pursuant to any other act;

9. Mail means by first-class mail;

10. Trustee means a city acting pursuant to this act;

11. Street means any highway, street, alley, boulevard, avenue, right-of-way, public ground, or other public facility, or any part thereof; and

12. Publish or publication means printing in a newspaper which maintains an office in the city or town and is of general circulation within the city or town, or, if there is no newspaper which maintains an office in the city or town, a newspaper of general circulation within the city or town and in two (2) separate issues thereof, at least seven (7) days apart.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 39-103, is amended to read as follows:

Section 39-103. The governing body of any city may create one or more districts for the purpose of making or causing to be made any improvement or combination of improvements that confer special benefit upon property within the district. Such improvement or

combination of improvements may include the following, without limitation because of enumeration:

1. Acquisition of property or interest in property when necessary for any of the purposes authorized by the Improvement District Act;

2. Opening, widening and extending or altering of streets to improve paving, and surfacing, constructing and reconstructing gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage facilities, and service connections from sewers, water, gas, electricity and other utility mains, conduits or pipes;

3. Constructing or improving main and lateral storm water drains and sanitary sewer systems and facilities, or for paying appropriate fees for additional impacts on existing facilities;

4. Installation or improvement of street lights and street lighting systems;

5. Construction or improvement of water mains and waterworks systems, or for paying appropriate fees for additional impacts on existing facilities;

6. Improvement of parks, playgrounds and recreational facilities;

7. Improvement of any street, parking or other facility by landscaping, or planting of trees, shrubs and other plants;

8. Constructing or improving dikes, levees and other flood control works, gates, lift stations, bridges and streets appurtenant thereto;

9. Constructing or improving vehicle and pedestrian bridges, overpasses and tunnels;

10. Constructing or improving retaining walls and area walls on public ways or land abutting thereon;

11. Constructing or improving property for off-street parking facilities, including construction and equipment of buildings thereon; or

12. Constructing or improving pedestrian malls.

SECTION 5. This act shall become effective November 1, 2004.

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