

EHB 2666

THE STATE SENATE
Wednesday, March 17, 2004

ENGROSSED

House Bill No. 2666

ENGROSSED HOUSE BILL NO. 2666 - By: ADAIR of the House and SHURDEN of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Sections 21-103, as amended by Section 1, Chapter 236, O.S.L. 2003 and 21-104 (11 O.S. Supp. 2003, Section 21-103), which relate to annexation; requiring certain roadways or right-of-ways to be part of annexed territory under certain circumstances; providing for additional notice; and providing an 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.

1 B. Unless otherwise provided by law, a roadway or road right-of
2 -way that is adjacent or contiguous to the territory to be annexed
3 shall be considered a part and parcel to the territory to be
4 annexed.

5 C. Before any territory is annexed to a municipality, without
6 the written consent of the owners of at least a majority of the
7 acres to be annexed to the municipality in accordance with
8 subsection A of this section, the governing body of the municipality
9 shall direct that notice of the proposed annexation of the territory
10 be published in a legally qualified newspaper of general circulation
11 in the territory and shall hold a public hearing on the proposed
12 annexation. Prior to the publication of notice, the municipality
13 shall prepare a plan to extend municipal services including, but not
14 limited to, water, sewer, fire protection, law enforcement and the
15 cost of such services appropriate to the proposed annexed territory.
16 The plan shall provide that the municipality complete the
17 implementation of the plan in accordance with any existing capital
18 improvement plan applicable to the portion of the municipality
19 adjacent to the territory proposed to be annexed. If no such
20 capital improvement plan has been adopted, the municipality shall
21 complete the service plan within one hundred-twenty (120) months
22 from the date of annexation unless a different time is determined by
23 consensus between property owners and the municipality at the

1 hearing. The time for completion of the service plan shall be set
2 forth in the ordinance annexing the territory. If municipality
3 services are not substantially complete within the prescribed time,
4 then the territory shall be detached by the governing body as
5 provided in Section 21-110 of this title. For purposes of this
6 subsection, services may be provided by any method or means
7 available to the municipality to extend municipal services to any
8 other area of the city. Such notice, hearing and plan shall be
9 subject to the following provisions:

10 1. The notice shall describe the boundaries of the territory
11 proposed to be annexed by reference to a map, geographical
12 locations, legal or physical description or other reasonable
13 designation and shall state that the proposed service plan is
14 available for inspection at a specified location. The notice shall
15 state the date, time, and place when the governing body shall
16 conduct a public hearing on the question of annexing the territory.
17 The notice shall be published in a legal newspaper of general
18 circulation in the territory sought to be annexed within fourteen
19 (14) days following the date the governing body directed the notice
20 to be published. A copy of the notice of annexation shall be mailed
21 by first-class mail to all owners of property to be annexed as shown
22 by the current year's ownership rolls in the office of the county
23 treasurer and to the Department of Transportation for purposes of

1 clarifying any road maintenance responsibilities; provided that the
2 notice of annexation shall be mailed by certified mail to every
3 person who owns parcel of land of five (5) acres or more used for
4 agricultural purposes~~;~~;

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

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

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

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

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

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

3 3. "Spaceport" means any area as defined pursuant to Section
4 5202 of Title 74 of the Oklahoma Statutes.

5 ~~D.~~ E. Except for ordinances enacted pursuant to Section 43-
6 101.1 of this title, parcels of land five (5) acres or more used for
7 agricultural purposes annexed into the municipal limits on or after
8 the effective date of this act shall be exempt from ordinances
9 restricting land use and building construction to the extent such
10 land use or construction is related to agricultural purposes. Where
11 there is no residence within fifty (50) feet of the boundaries of
12 such a parcel of land, the property shall not be subject to
13 ordinances regulating conduct that would not be an offense under
14 state law; provided, that any such property that discharges into the
15 municipal water, wastewater, or sewer system shall be subject to any
16 ordinances or regulations related to compliance with environmental
17 standards for that system.

18 ~~E.~~ F. Parcels of land situated within an area that is or may be
19 subject to any form of land use or other regulatory control as a
20 result of proximity to an airport, spaceport or military
21 installation shall not be exempt from municipal ordinances or other
22 laws regulating property for the purpose of operations necessary for
23 the use of an airport, spaceport or military installation and such

1 parcels of land shall be subject to all ordinances enacted pursuant
2 to Section 43-101.1 of this title.

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

5 Section 21-104. A. The town board of trustees by ordinance may
6 annex lots which are adjacent or contiguous to the town if the lots
7 have been platted and recorded in the office of the county clerk.
8 When the town board of trustees desires to annex any territory
9 adjacent to the town which has not been platted and recorded, the
10 town board of trustees shall direct that notice of the proposed
11 annexation of the territory be published in a legal newspaper of
12 general circulation in the territory and shall hold a public hearing
13 on the proposed annexation. Unless otherwise provided by law, a
14 roadway or road right-of-way that is adjacent or contiguous to the
15 territory to be annexed shall be considered a part and parcel to the
16 territory to be annexed. Prior to the publication of notice, the
17 town board of trustees shall prepare a plan to extend appropriate
18 town services to the territory. The plan shall provide that the
19 town board of trustees shall complete the implementation of the plan
20 within a reasonable time to be determined at the hearing and shall
21 set forth such time period in the ordinance annexing the territory.
22 For purposes of this subsection, services may be provided by any
23 method or means available to the town that have been used to extend

1 such services to any other area of the town. Such notice, hearing,
2 and plan shall be subject to the following provisions:

3 1. The notice shall describe the boundaries of the territory
4 proposed to be annexed by reference to a map, geographical location,
5 legal or physical description, or other reasonable designation and
6 shall state that the proposed service plan is available for
7 inspection at a specified location. The notice shall state the
8 date, time, and place the town board of trustees shall conduct a
9 public hearing on the question of annexing the territory. The
10 notice shall be published in a legal newspaper of general
11 circulation in the territory sought to be annexed within fourteen
12 (14) days following the date the town board of trustees directed the
13 notice to be published. A copy of the notice of annexation shall be
14 mailed by first-class mail to all owners of property to be annexed
15 as shown by the current year's ownership rolls in the office of the
16 county treasurer and to the Department of Transportation for
17 purposes of changing any road maintenance responsibilities;

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

21 3. At the public hearing, the proposed service plan shall be
22 available for inspection and be explained to the property owners of
23 the territory to be annexed. The plan may be amended through

1 negotiation at the hearing. The final service plan shall be
2 incorporated into and made part of the ordinance annexing the
3 territory.

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

8 SECTION 3. This act shall become effective November 1, 2004.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-15-04
10 - DO PASS.