

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 517

By: Bingman of the Senate

and

McCullough of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to cities and towns and revenue and
11 taxation; amending 11 O.S. 2001, Sections 21-103, as
12 last amended by Section 2, Chapter 1, O.S.L. 2005 and
13 21-104, as last amended by Section 4, Chapter 1,
14 O.S.L. 2005 (11 O.S. Supp. 2008, Sections 21-103 and
15 21-104), which relate to annexation of territory;
16 requiring certain governing body of municipality and
town to provide certain notice to the Oklahoma Tax
Commission under specified circumstances; requiring
the Oklahoma Tax Commission to provide notice to
certain vendors upon notice of potential and final
annexation; providing for codification; and providing
an effective date.

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

20 SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as
21 last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp.
22 2008, Section 21-103), is amended to read as follows:

23 Section 21-103. A. Before the governing body of a city may
24 annex any territory adjacent or contiguous to the city, it must

1 obtain the written consent of the owners of at least a majority of
2 the acres to be annexed to the municipality and provide for notice
3 and a public hearing on the proposed annexation of the territory in
4 the manner provided in subsection B of this section; except that no
5 such consent is needed where:

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

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

11 a. the adjacent property on each side constitutes an area
12 in width greater than three hundred (300) feet at its
13 narrowest point excluding a roadway or right-of-way
14 that is adjacent or contiguous to the territory,

15 b. the municipal governing body makes findings that the
16 annexation furthers municipal purposes relating to
17 airports, spaceports and military installations and
18 such findings are included in the public hearing
19 provided for in subsection D of this section, or

20 c. prior to ~~the effective date of this act~~ November 1,
21 2004, the municipality has directed that notice be
22 published in accordance with subsection B of this
23 section.

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1 B. The governing body shall provide the notice and public
2 hearing required in subsection A of this section in the following
3 manner:

4 1. The governing body of the municipality shall direct that
5 notice of the proposed annexation of the territory be published in a
6 legally qualified newspaper of general circulation in the territory
7 and shall describe the boundaries of the territory proposed to be
8 annexed by reference to a map, geographical locations, legal or
9 physical description or other reasonable designation. The notice
10 shall state the date, time, and place the governing body shall
11 conduct a public hearing on the question of annexing the territory.
12 The notice shall be published in a legal newspaper of general
13 circulation in the territory sought to be annexed within fourteen
14 (14) days following the date the governing body directed the notice
15 to be published;

16 2. A copy of the notice of annexation shall be mailed by first-
17 class mail to all owners of property to be annexed as shown by the
18 current year's ownership rolls in the office of the county treasurer
19 and to all owners of property abutting any public right-of-way that
20 forms the boundary of the territory proposed to be annexed and to
21 the Sales and Use Tax Division of the Oklahoma Tax Commission;
22 provided that the notice of annexation shall be mailed by certified
23 mail to every person who owns a parcel of land of five (5) acres or
24 more used for agricultural purposes; and

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

4 C. Unless otherwise provided by law, a roadway or road right-
5 of-way that is adjacent or contiguous to the territory to be annexed
6 shall be considered a part and parcel to the territory to be
7 annexed.

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

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

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

1 treasurer and to the Department of Transportation for purposes of
2 clarifying any road maintenance responsibilities; provided that the
3 notice of annexation shall be mailed by certified mail to every
4 person who owns parcel of land of five (5) acres or more used for
5 agricultural purposes and to the board of county commissioners of
6 the respective county where the proposed annexation is located. If
7 the territory to be annexed encroaches upon any adjacent county, a
8 copy of the notice of annexation shall be mailed by first-class mail
9 to the board of county commissioners of the adjacent county and of
10 the county where the proposed annexation is located;

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

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

20 E. As used in this section:

21 1. "Airport" means any facility owned by any legal entity or by
22 a county, a municipality or a public trust having at least one
23 county or municipality as its beneficiary which is used primarily
24 for the purpose of providing air transportation of persons or goods

1 or both by aircraft powered through the use of propellers,
2 turboprops, jets or similar propulsion systems;

3 2. "Military installation" means those facilities constituting
4 the active or formerly active bases owned by the Department of
5 Defense or other applicable entity of the United States government
6 or by any entity of local government after transfer of title to such
7 installation; and

8 3. "Spaceport" means any area as defined pursuant to Section
9 5202 of Title 74 of the Oklahoma Statutes.

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

23 G. Parcels of land situated within an area that is or may be
24 subject to any form of land use or other regulatory control as a

1 result of proximity to an airport, spaceport or military
2 installation shall not be exempt from municipal ordinances or other
3 laws regulating property for the purpose of operations necessary for
4 the use of an airport, spaceport or military installation and such
5 parcels of land shall be subject to all ordinances enacted pursuant
6 to Section 43-101.1 of this title.

7 H. If territory is annexed pursuant to this section, the
8 annexing governing body shall provide notice by first class mail
9 together with a map and plat of the annexed territory to the Sales
10 and Use Tax Division of the Oklahoma Tax Commission prior to the
11 effective date of such annexation. The Tax Commission shall notify
12 the known sales tax vendors within the boundaries of the annexed
13 territory as provided by Section 3 of this act.

14 SECTION 2. AMENDATORY 11 O.S. 2001, Section 21-104, as
15 last amended by Section 4, Chapter 1, O.S.L. 2005 (11 O.S. Supp.
16 2008, Section 21-104), is amended to read as follows:

17 Section 21-104. A. The town board of trustees by ordinance may
18 annex lots which are adjacent or contiguous to the town if the lots
19 have been platted and recorded in the office of the county clerk.
20 The governing body shall provide notice and a public hearing in the
21 following manner:

22 1. The governing body of the municipality shall direct that
23 notice of the proposed annexation of the territory be published in a
24 legally qualified newspaper of general circulation in the territory

1 and shall describe the boundaries of the territory proposed to be
2 annexed by reference to a map, geographical locations, legal or
3 physical description or other reasonable designation. The notice
4 shall state the date, time, and place the governing body shall
5 conduct a public hearing on the question of annexing the territory.
6 The notice shall be published in a legal newspaper of general
7 circulation in the territory sought to be annexed within fourteen
8 (14) days following the date the governing body directed the notice
9 to be published;

10 2. A copy of the notice of annexation shall be mailed by first-
11 class mail to all owners of property to be annexed as shown by the
12 current year's ownership rolls in the office of the county treasurer
13 and to all owners of property abutting any public right-of-way that
14 forms the boundary of the territory proposed to be annexed and to
15 the Oklahoma Tax Commission; provided that the notice of annexation
16 shall be mailed by certified mail to every person who owns a parcel
17 of land of five (5) acres or more used for agricultural purposes;
18 and

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

22 B. When the town board of trustees desires to annex any
23 territory adjacent to the town which has not been platted and
24 recorded, the town board of trustees shall direct that notice of the

1 proposed annexation of the territory be published in a legal
2 newspaper of general circulation in the territory and shall hold a
3 public hearing on the proposed annexation. Unless otherwise
4 provided by law, a roadway or road right-of-way that is adjacent or
5 contiguous to the territory to be annexed shall be considered a part
6 and parcel to the territory to be annexed. Prior to the publication
7 of notice, the town board of trustees shall prepare a plan to extend
8 appropriate town services, including, but not limited to, water,
9 sewer, fire protection, law enforcement and the cost of such
10 services to the proposed annexed territory. The plan shall provide
11 that the town board of trustees shall complete the implementation of
12 the plan in accordance with any existing capital improvement plan
13 applicable to the portion of the town adjacent to the territory
14 proposed to be annexed. If no such capital improvement plan has
15 been adopted, the town shall complete the service plan within one
16 hundred twenty (120) months from the date of annexation unless a
17 different time is determined by consensus between property owners
18 and the town at the hearing. The time for completion of the service
19 plan shall be set forth in the ordinance annexing the territory. If
20 the town services are not substantially complete within the
21 prescribed time, then the territory shall be detached by the
22 governing body as provided in Section 21-110 of this title. For
23 purposes of this subsection, services may be provided by any method
24 or means available to the town that have been used to extend such

1 services to any other area of the town. Such notice, hearing, and
2 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 responsibility; provided
18 that the notice of annexation shall be mailed by certified mail to
19 every person who owns parcels of land of five (5) acres or more used
20 for agricultural purposes and to the board of county commissioners
21 of the respective county where the proposed annexation is located.
22 If the territory to be annexed encroaches upon any adjacent county,
23 a copy of the notice of annexation shall be mailed by first-class

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1 mail to the board of county commissioners of the adjacent county and
2 of the county where the proposed annexation is located;

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

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

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

16 D. As used in subsection F of this section:

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

23 2. "Military installation" means those facilities constituting
24 the active or formerly active bases owned by the Department of

1 Defense or other applicable entity of the United States government
2 or by any entity of local government after transfer of title to such
3 installation; and

4 3. "Spaceport" means any area as defined pursuant to Section
5 5202 of Title 74 of the Oklahoma Statutes.

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

19 F. Parcels of land situated within an area that is or may be
20 subject to any form of land use or other regulatory control as a
21 result of proximity to an airport, spaceport or military
22 installation shall not be exempt from municipal ordinances or other
23 laws regulating property for the purpose of operations necessary for
24 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 G. If territory is annexed pursuant to this section, the
4 annexing governing body shall provide notice by first class mail
5 together with a map and plat of the annexed territory to the Sales
6 and Use Tax Division of the Oklahoma Tax Commission prior to the
7 effective date of such annexation or as soon as practicable
8 thereafter. The Tax Commission shall notify the known sales tax
9 vendors within the boundaries of the annexed territory as provided
10 in Section 3 of this act.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 119 of Title 68, unless there is
13 created a duplication in numbering, reads as follows:

14 Upon receipt of a notice and map and plat from a governing body
15 regarding the boundaries of annexation of a territory pursuant to
16 Section 21-103 or 21-104 of Title 11 of the Oklahoma Statutes, the
17 Oklahoma Tax Commission shall provide notice to all known sales tax
18 vendors within the boundaries of the annexed territory regarding the
19 applicable rate of sales tax.

20 SECTION 4. This act shall become effective November 1, 2009.

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22 52-1-7761 LRB 04/13/09

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