

THE HOUSE OF REPRESENTATIVES
Tuesday, April 14, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 517

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 517 - By:
BINGMAN of the Senate and MCCULLOUGH of the House.

An Act relating to cities and towns and revenue and taxation; amending 11 O.S. 2001, Sections 21-103, as last amended by Section 2, Chapter 1, O.S.L. 2005 and 21-104, as last amended by Section 4, Chapter 1, O.S.L. 2005 (11 O.S. Supp. 2008, Sections 21-103 and 21-104), which relate to annexation of territory; 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.

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

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

4 Section 21-103. A. Before the governing body of a city may annex any territory
5 adjacent or contiguous to the city, it must obtain the written consent of the owners of at
6 least a majority of the acres to be annexed to the municipality and provide for notice and
7 a public hearing on the proposed annexation of the territory in the manner provided in
8 subsection B of this section; except that no such consent is needed where:

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

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

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

8 b. the municipal governing body makes findings that the annexation
9 furthers municipal purposes relating to airports, spaceports and
10 military installations and such findings are included in the public
11 hearing provided for in subsection D of this section, or

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

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

17 1. The governing body of the municipality shall direct that notice of the proposed
18 annexation of the territory be published in a legally qualified newspaper of general
19 circulation in the territory and shall describe the boundaries of the territory proposed to
20 be annexed by reference to a map, geographical locations, legal or physical description or
21 other reasonable designation. The notice shall state the date, time, and place the
22 governing body shall conduct a public hearing on the question of annexing the territory.

1 The notice shall be published in a legal newspaper of general circulation in the territory
2 sought to be annexed within fourteen (14) days following the date the governing body
3 directed the notice to be published;

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

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

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

16 D. Before any territory is annexed to a municipality, without the written consent of
17 the owners of at least a majority of the acres to be annexed to the municipality in
18 accordance with subsection A of this section, the governing body of the municipality shall
19 direct that notice of the proposed annexation of the territory be published in a legally
20 qualified newspaper of general circulation in the territory and shall hold a public hearing
21 on the proposed annexation. Prior to the publication of notice, the municipality shall
22 prepare a plan to extend municipal services including, but not limited to, water, sewer,

1 fire protection, law enforcement and the cost of such services appropriate to the proposed
2 annexed territory. The plan shall provide that the municipality complete the
3 implementation of the plan in accordance with any existing capital improvement plan
4 applicable to the portion of the municipality adjacent to the territory proposed to be
5 annexed. If no such capital improvement plan has been adopted, the municipality shall
6 complete the service plan within one hundred twenty (120) months from the date of
7 annexation unless a different time is determined by consensus between property owners
8 and the municipality at the hearing. The time for completion of the service plan shall be
9 set forth in the ordinance annexing the territory. If municipality services are not
10 substantially complete within the prescribed time, then the territory shall be detached by
11 the governing body as provided in Section 21-110 of this title. For purposes of this
12 subsection, services may be provided by any method or means available to the
13 municipality to extend municipal services to any other area of the city. Such notice,
14 hearing and plan shall be subject to the following provisions:

15 1. The notice shall describe the boundaries of the territory proposed to be annexed
16 by reference to a map, geographical locations, legal or physical description or other
17 reasonable designation and shall state that the proposed service plan is available for
18 inspection at a specified location. The notice shall state the date, time, and place when
19 the governing body shall conduct a public hearing on the question of annexing the
20 territory. The notice shall be published in a legal newspaper of general circulation in the
21 territory sought to be annexed within fourteen (14) days following the date the governing
22 body directed the notice to be published. A copy of the notice of annexation shall be

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

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

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

17 E. As used in this section:

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

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

5 3. “Spaceport” means any area as defined pursuant to Section 5202 of Title 74 of
6 the Oklahoma Statutes.

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

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

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

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

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

14 1. The governing body of the municipality shall direct that notice of the proposed
15 annexation of the territory be published in a legally qualified newspaper of general
16 circulation in the territory and shall describe the boundaries of the territory proposed to
17 be annexed by reference to a map, geographical locations, legal or physical description or
18 other reasonable designation. The notice shall state the date, time, and place the
19 governing body shall conduct a public hearing on the question of annexing the territory.
20 The notice shall be published in a legal newspaper of general circulation in the territory
21 sought to be annexed within fourteen (14) days following the date the governing body
22 directed the notice to be published;

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

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

10 B. When the town board of trustees desires to annex any territory adjacent to the
11 town which has not been platted and recorded, the town board of trustees shall direct
12 that notice of the proposed annexation of the territory be published in a legal newspaper
13 of general circulation in the territory and shall hold a public hearing on the proposed
14 annexation. Unless otherwise provided by law, a roadway or road right-of-way that is
15 adjacent or contiguous to the territory to be annexed shall be considered a part and
16 parcel to the territory to be annexed. Prior to the publication of notice, the town board of
17 trustees shall prepare a plan to extend appropriate town services, including, but not
18 limited to, water, sewer, fire protection, law enforcement and the cost of such services to
19 the proposed annexed territory. The plan shall provide that the town board of trustees
20 shall complete the implementation of the plan in accordance with any existing capital
21 improvement plan applicable to the portion of the town adjacent to the territory proposed
22 to be annexed. If no such capital improvement plan has been adopted, the town shall

1 complete the service plan within one hundred twenty (120) months from the date of
2 annexation unless a different time is determined by consensus between property owners
3 and the town at the hearing. The time for completion of the service plan shall be set
4 forth in the ordinance annexing the territory. If the town services are not substantially
5 complete within the prescribed time, then the territory shall be detached by the
6 governing body as provided in Section 21-110 of this title. For purposes of this
7 subsection, services may be provided by any method or means available to the town that
8 have been used to extend such services to any other area of the town. Such notice,
9 hearing, and plan shall be subject to the following provisions:

10 1. The notice shall describe the boundaries of the territory proposed to be annexed
11 by reference to a map, geographical location, legal or physical description, or other
12 reasonable designation and shall state that the proposed service plan is available for
13 inspection at a specified location. The notice shall state the date, time, and place the
14 town board of trustees shall conduct a public hearing on the question of annexing the
15 territory. The notice shall be published in a legal newspaper of general circulation in the
16 territory sought to be annexed within fourteen (14) days following the date the town
17 board of trustees directed the notice to be published. A copy of the notice of annexation
18 shall be mailed by first-class mail to all owners of property to be annexed as shown by
19 the current year's ownership rolls in the office of the county treasurer and to the
20 Department of Transportation for purposes of changing any road maintenance
21 responsibility; provided that the notice of annexation shall be mailed by certified mail to
22 every person who owns parcels of land of five (5) acres or more used for agricultural

1 purposes and to the board of county commissioners of the respective county where the
2 proposed annexation is located. If the territory to be annexed encroaches upon any
3 adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to
4 the board of county commissioners of the adjacent county and of the county where the
5 proposed annexation is located;

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

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

13 C. A town board of trustees shall not annex any territory which has an assessed
14 valuation greater than the assessed valuation of the town without the written consent of
15 the owner or owners of at least 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 a county, a
18 municipality or a public trust having at least one county or municipality as its
19 beneficiary which is used primarily for the purpose of providing air transportation of
20 persons or goods or both by aircraft powered through the use of propellers, turboprops,
21 jets or similar propulsion systems;

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

5 3. “Spaceport” means any area as defined pursuant to Section 5202 of Title 74 of
6 the Oklahoma Statutes.

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

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

1 G. If territory is annexed pursuant to this section, the annexing governing body
2 shall provide notice by first class mail together with a map and plat of the annexed
3 territory to the Sales and Use Tax Division of the Oklahoma Tax Commission prior to the
4 effective date of such annexation or as soon as practicable thereafter. The Tax
5 Commission shall notify the known sales tax vendors within the boundaries of the
6 annexed territory as provided in Section 3 of this act.

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
17 dated 04-13-09 - DO PASS, As Amended.