

EHB 1389

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 1389

As Amended

ENGROSSED HOUSE BILL NO. 1389 - By: Osborn, Derby and Duncan of the House and Anderson of the Senate.

[annexation - governing body - property owner - effective date]

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp. 2008, 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 and provide for notice and a public hearing on the proposed annexation of the territory in the manner provided in subsection B of this section; 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

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

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

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

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

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

18 1. The governing body of the municipality shall direct that
19 notice of the proposed annexation of the territory be published in a
20 legally qualified newspaper of general circulation in the territory
21 and shall describe the boundaries of the territory proposed to be
22 annexed by reference to a map, geographical locations, legal or
23 physical description or other reasonable designation. The notice

1 shall state the date, time, and place the governing body shall
2 conduct a public hearing on the question of annexing the territory.
3 The notice shall be published in a legal newspaper of general
4 circulation in the territory sought to be annexed within fourteen
5 (14) days following the date the governing body directed the notice
6 to be published;

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

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

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

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

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

1 available to the municipality to extend municipal services to any
2 other area of the city. Such notice, hearing and plan shall be
3 subject to the following provisions:

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

1 copy of the notice of annexation shall be mailed by first-class mail
2 to the board of county commissioners of the adjacent county and of
3 the county where the proposed annexation is located;

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

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

13 E. The prevailing property owner in an annexation dispute shall
14 be entitled to court costs and reasonable attorney fees, including,
15 but not limited to, when a municipality withdraws, revokes or
16 otherwise reverses the ordinance at issue in response to litigation
17 before issuance of a final judgment.

18 F. As used in this section:

19 1. "Airport" means any facility owned by any legal entity or by
20 a county, a municipality or a public trust having at least one
21 county or municipality as its beneficiary which is used primarily
22 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.~~ G. Except for ordinances enacted pursuant to Section 43-
11 101.1 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.

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

9 SECTION 2. This act shall become effective November 1, 2009.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-31-09 - DO
11 PASS, As Amended and Coauthored.