

SB 517

Senate Bill No. 517
As Amended

SENATE BILL NO. 517 - By: Bingman of the Senate and McCullough of the House.

[cities and towns - revenue and taxation - requiring notice
- codification - 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

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

1 a. the adjacent property on each side constitutes an area
2 in width greater than three hundred (300) feet at its
3 narrowest point excluding a roadway or right-of-way
4 that is adjacent or contiguous to the territory,
5 b. the municipal governing body makes findings that the
6 annexation furthers municipal purposes relating to
7 airports, spaceports and military installations and
8 such findings are included in the public hearing
9 provided for in subsection D of this section, or
10 c. prior to ~~the effective date of this act~~ November 1,
11 2004, the municipality has directed that notice be
12 published in accordance with subsection B of this
13 section.

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

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

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

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

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

20 2. "Military installation" means those facilities constituting
21 the active or formerly active bases owned by the Department of
22 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 F. Except for ordinances enacted pursuant to Section 43-101.1
6 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 July 1, 2003, shall be exempt from ordinances restricting land use
9 and building construction to the extent such land use or
10 construction is related to agricultural purposes. Where there is no
11 residence within fifty (50) feet of the boundaries of such a parcel
12 of land, the property shall not be subject to ordinances regulating
13 conduct that would not be an offense under state law; provided, that
14 any such property that discharges into the municipal water,
15 wastewater, or sewer system shall be subject to any ordinances or
16 regulations related to compliance with environmental standards for
17 that system.

18 G. 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 H. If territory is annexed pursuant to this section, the
4 annexing governing body shall provide notice by first class mail to
5 all owners of property to be annexed and to the Oklahoma Tax
6 Commission prior to the effective date of such annexation.

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

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

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

1 circulation in the territory sought to be annexed within fourteen
2 (14) days following the date the governing body directed the notice
3 to be published;

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

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

16 B. When the town board of trustees desires to annex any
17 territory adjacent to the town which has not been platted and
18 recorded, the town board of trustees shall direct that notice of the
19 proposed annexation of the territory be published in a legal
20 newspaper of general circulation in the territory and shall hold a
21 public hearing on the proposed annexation. Unless otherwise
22 provided by law, a roadway or road right-of-way that is adjacent or
23 contiguous to the territory to be annexed shall be considered a part

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

22 1. The notice shall describe the boundaries of the territory
23 proposed to be annexed by reference to a map, geographical location,

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

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

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

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

14 D. As used in subsection 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 E. Except for ordinances enacted pursuant to Section 43-101.1
6 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 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 G. If territory is annexed pursuant to this section, the
4 annexing governing body shall provide notice by first class mail to
5 all owners of property to be annexed and to the Oklahoma Tax
6 Commission prior to the effective date of such annexation.

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

10 Upon receipt of a notice from a governing body regarding the
11 boundaries of a proposed annexation of a territory pursuant to
12 Section 21-103 or 21-104 of Title 11 of the Oklahoma Statutes, the
13 Oklahoma Tax Commission shall, to the extent practicable, provide
14 notice to all known sales tax vendors within the proposed boundaries
15 regarding possible changes in the applicable rate of sales tax. If
16 such territory is annexed, the Tax Commission shall provide
17 additional notice to all known sales tax vendors within the
18 boundaries of the annexed territory regarding the applicable rate of
19 sales tax.

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

21 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-3-09 - DO PASS,
22 As Amended and Coauthored.