

1 STATE OF OKLAHOMA

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

3 SENATE BILL 517

By: Bingman

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5
6 AS INTRODUCED

7 An Act relating to cities and towns and revenue and
8 taxation; amending 11 O.S. 2001, Sections 21-103, as
9 last amended by Section 2, Chapter 1, O.S.L. 2005 and
10 21-104, as last amended by Section 4, Chapter 1,
11 O.S.L. 2005 (11 O.S. Supp. 2008, Sections 21-103 and
12 21-104), which relate to annexation of territory;
13 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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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as
18 last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp.
19 2008, Section 21-103), is amended to read as follows:

20 Section 21-103. A. Before the governing body of a city may
21 annex any territory adjacent or contiguous to the city, it must
22 obtain the written consent of the owners of at least a majority of
23 the acres to be annexed to the municipality and provide for notice
24 and a public hearing on the proposed annexation of the territory in

1 the manner provided in subsection B of this section; except that no
2 such consent is needed where:

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

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

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

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

17 c. prior to ~~the effective date of this act~~ November 1,
18 2004, the municipality has directed that notice be
19 published in accordance with subsection B of this
20 section.

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

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

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

1 C. Unless otherwise provided by law, a roadway or road right-
2 of-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 D. 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
24 hearing. The time for completion of the service plan shall be set

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

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

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

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

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

17 E. As used in this section:

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

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

6 3. "Spaceport" means any area as defined pursuant to Section
7 5202 of Title 74 of the Oklahoma Statutes.

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

21 G. Parcels of land situated within an area that is or may be
22 subject to any form of land use or other regulatory control as a
23 result of proximity to an airport, spaceport or military
24 installation shall not be exempt from municipal ordinances or other

1 laws regulating property for the purpose of operations necessary for
2 the use of an airport, spaceport or military installation and such
3 parcels of land shall be subject to all ordinances enacted pursuant
4 to Section 43-101.1 of this title.

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

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

12 Section 21-104. A. The town board of trustees by ordinance may
13 annex lots which are adjacent or contiguous to the town if the lots
14 have been platted and recorded in the office of the county clerk.
15 The governing body shall provide notice and a public hearing in the
16 following 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
24 conduct a public hearing on the question of annexing the territory.

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

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

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

17 B. When the town board of trustees desires to annex any
18 territory adjacent to the town which has not been platted and
19 recorded, the town board of trustees shall direct that notice of the
20 proposed annexation of the territory be published in a legal
21 newspaper of general circulation in the territory and shall hold a
22 public hearing on the proposed annexation. Unless otherwise
23 provided by law, a roadway or road right-of-way that is adjacent or
24 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,
24 legal or physical description, or other reasonable designation and

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

21 2. The public hearing of such annexation shall be held no
22 earlier than fourteen (14) days nor later than thirty (30) days
23 following the publication and mailing of the notice; and
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1 3. At the public hearing, the proposed service plan shall be
2 available for inspection and be explained to the property owners of
3 the territory to be annexed. The plan may be amended through
4 negotiation at the hearing. The final service plan shall be
5 incorporated into and made part of the ordinance annexing the
6 territory.

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

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

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

18 2. "Military installation" means those facilities constituting
19 the active or formerly active bases owned by the Department of
20 Defense or other applicable entity of the United States government
21 or by any entity of local government after transfer of title to such
22 installation; and

23 3. "Spaceport" means any area as defined pursuant to Section
24 5202 of Title 74 of the Oklahoma Statutes.

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

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

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

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

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

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

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