

1 **SENATE FLOOR VERSION**

2 February 18, 2013

3 SENATE BILL NO. 711

By: Brinkley of the Senate

4 and

5 Derby of the House

6
7
8 An Act relating to municipal annexation; amending 11
9 O.S. 2011, Section 21-103, which relates to
10 annexation procedures; providing required consent
11 exceptions for certain developments; and declaring an
12 emergency.

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

14 SECTION 1. AMENDATORY 11 O.S. 2011, Section 21-103, is
15 amended to read as follows:

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

23 1. A new development on unincorporated tracts of land connects
24 to any utility owned or operated by the municipality; or

1 2. Application for rezoning is made by the landowner to change
2 the land use of the tract of land to commercial or industrial use.

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

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

18 2. A copy of the notice of annexation shall be mailed by first-
19 class mail to all owners of property to be annexed as shown by the
20 current year's ownership rolls in the office of the county treasurer
21 and to all owners of property abutting any public right-of-way that
22 forms the boundary of the territory proposed to be annexed and to
23 the Sales and Use Tax Division of the Oklahoma Tax Commission;
24 provided that the notice of annexation shall be mailed by certified

1 mail to every person who owns a parcel of land of five (5) acres or
2 more used for agricultural purposes; and

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

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

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

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

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

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

13 2. 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; and

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

22 E. The prevailing property owner in an annexation dispute shall
23 be entitled to court costs and reasonable attorney fees, including,
24 but not limited to, when a municipality withdraws, revokes or

1 otherwise reverses the ordinance at issue in response to litigation
2 before issuance of a final judgment.

3 F. As used in this section:

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

10 2. "Military installation" means those facilities constituting
11 the active or formerly active bases owned by the Department of
12 Defense or other applicable entity of the United States government
13 or by any entity of local government after transfer of title to such
14 installation; and

15 3. "Spaceport" means any area as defined pursuant to Section
16 5202 of Title 74 of the Oklahoma Statutes.

17 G. Except for ordinances enacted pursuant to Section 43-101.1
18 of this title, parcels of land five (5) acres or more used for
19 agricultural purposes annexed into the municipal limits on or after
20 July 1, 2003, or parcels of land forty (40) acres or more used for
21 agricultural purposes prior to annexation and have continued in
22 uninterrupted agriculture use annexed into the municipal limits
23 shall be exempt from ordinances restricting land use and building
24 construction to the extent such land use or construction is related

1 to agricultural purposes. Where there is no residence within fifty
2 (50) feet of the boundaries of such a parcel of land, the property
3 shall not be subject to ordinances regulating conduct that would not
4 be an offense under state law; provided, that any such property that
5 discharges into the municipal water, wastewater, or sewer system
6 shall be subject to any ordinances or regulations related to
7 compliance with environmental standards for that system.

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

16 I. If territory is annexed pursuant to this section, the
17 annexing governing body shall provide notice by first-class mail
18 together with a map and plat of the annexed territory to the Sales
19 and Use Tax Division of the Oklahoma Tax Commission prior to the
20 effective date of such annexation. The Tax Commission shall notify
21 the known sales tax vendors within the boundaries of the annexed
22 territory as provided by Section 119 of Title 68 of the Oklahoma
23 Statutes.

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1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
6 February 18, 2013 - DO PASS
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