

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3397 _____
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

On page 2, line 1 by inserting after the word "law" and before the word "to" the word "not";

On page 2, lines 2-3, by deleting all language beginning with the word "as" on line 2, through the comma "," following the word "numbering" on line 3;

By deleting Sections 2, 3, 4, 5 and 6 and by inserting in lieu thereof the following language:

(INSERT ATTACHED);

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Marcus McEntire

Adopted: _____

Reading Clerk

1 "SECTION 2. AMENDATORY 11 O.S. 2011, Section 44-104, is
2 amended to read as follows:

3 Section 44-104. The board of adjustment shall have the power
4 to:

5 1. Hear and decide appeals if it is alleged there is error in
6 any order, requirement, decision, or determination made by an
7 administrative official in the enforcement of any zoning ordinance;

8 2. Hear and decide special exceptions to the zoning ordinance
9 to allow a use, or a specifically designated element associated with
10 a use, which is not permitted by right in a particular district
11 because of potential adverse effect, but which if controlled in the
12 particular instance as to its relationship to the neighborhood and
13 to the general welfare, may be permitted by the board of adjustment,
14 where specifically authorized by the zoning ordinance, and in
15 accordance with the substantive and procedural standards of the
16 zoning ordinance;

17 3. Authorize in specific cases a variance from the terms,
18 standards and criteria that pertain to an allowed use category
19 within a zoning district as authorized by the zoning ordinance when
20 such cases are shown not to be contrary to the public interest if,
21 owing to special conditions, a literal enforcement of the provisions
22 of the ordinance will result in unnecessary hardship and so that the
23 spirit of the ordinance shall be observed and substantial justice
24 done; provided, however, the board shall have no power to authorize

1 variances as to use except as provided by paragraph 4 of this
2 section;

3 4. Hear and decide oil and/or gas applications or appeals
4 unless prohibited throughout a municipality by municipal ordinance.
5 The board of adjustment shall be required to make the findings
6 prescribed by Section 44-107 of this title in order to grant a
7 variance as to use with respect to any such application or appeal;

8 5. Hear utility customer appeals as outlined in Section 3 of
9 this act.

10 Exceptions and/or variances may be allowed by the board of
11 adjustment only after notice and hearing as provided in Section
12 44-108 of this title. The record of the meeting at which the
13 variance or special exception was granted shall show that each
14 element of a variance or special exception was established at the
15 public hearing on the question, otherwise said variance or special
16 exception shall be voidable on appeal to the district court.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 44-111 of Title 11, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Limited Power of Appeal - Any customer of a municipal
21 government, trust with a municipal government as a beneficiary, or
22 authority with a municipal government as a beneficiary, that
23 provides water, natural gas, electric power, or similar service to
24 its residents shall be eligible to seek an appeal under this section

1 as to any alleged overcharge of their utility account. In addition
2 to Oklahoma Open Meeting Act requirements, the only additional
3 notice requirement for utility customer appeals shall consist of
4 mailing written notice by the clerk of the board of adjustment to
5 the utility customer who has petitioned for a hearing before the
6 board of adjustment ten (10) days prior to the scheduled hearing.
7 The municipal government, trust, or authority may petition the
8 district court for attorney's fees and other costs to reimburse
9 actual expenses incurred for frivolous appeals under this section.

10 B. Appeal Hearing - The municipal government, trust or
11 authority and the utility customer shall be allowed adequate time to
12 make their respective presentations to the board. After the board
13 enters its decision, the matter shall be concluded and neither party
14 shall have any further right of appeal.

15 C. Remedy - The exclusive remedy of the board of adjustment in
16 regard to a utility customer appeal is limited to the meter test
17 outlined in subsection D of this section.

18 D. Authorized Meter Tests - If the municipal government, trust
19 or authority waives their right to a hearing or if the board of
20 adjustment determines there is sufficient evidence to order the
21 municipal government, trust or authority to obtain a test of the
22 utility meter in question, the following meter test procedure will
23 be followed. The utility customer shall be required to pay a
24 deposit to reimburse the municipality, trust or authority for only

1 the actual expenses of the meter test. If the meter is determined
2 to be out of compliance with the operational parameters as outlined
3 by the manufacturer, the utility customer's deposit will be returned
4 to the customer. If the meter is functioning within the operational
5 parameters as outlined by the manufacturer, the deposit will be
6 surrendered to the municipal government, trust or authority.
7 Additionally, if the meter is determined to be out of compliance
8 with the operational parameters as outlined by the manufacturer and
9 the meter test provides conclusive evidence there has been an
10 overcharge to the utility customer, the municipal government, trust
11 or authority shall make prompt and reasonable arrangements to
12 reimburse or otherwise credit the utility customer for the
13 overcharge."

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