

ENROLLED HOUSE
BILL NO. 2353

By: Bengé and Lamons of the
House

and

Riley of the Senate

An Act relating to cities and towns; authorizing municipalities and certain public trusts use of auction bidding procedures; specifying procedures for auction bidding; amending 11 O.S. 2001, Sections 21-103, as last amended by Section 1 of Enrolled House Bill No. 2666 of the 2nd Session of the 49th Oklahoma Legislature and 21-104, as amended by Section 2 of Enrolled House Bill No. 2666 of the 2nd Session of the 49th Oklahoma Legislature, which relate to annexation; modifying certain exemption from written consent; providing notice procedures for territory annexed by written consent; providing for additional notice under certain circumstances; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-115 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. A municipality or any public trust of which the municipality is beneficiary is authorized to use a reverse auction bidding procedure to obtain bids for the purchase of goods or services of any type of kind. The reverse auction shall be a real-time bidding process taking place at a previously scheduled time and Internet location and for a previously established duration, in which multiple suppliers, anonymous to each other, submit bids to provide the goods or services. The reverse auction procedure may be used as an alternative to any state law applicable to the purchase of the goods or services.

B. The procedure shall provide:

1. A bid opening and bid closure. At the opening date and time, the municipality or public trust shall begin accepting reverse auction electronic bids. Reverse auction bids shall be accepted until the bid closure, except as provided by paragraph 6 of this subsection, unless the municipality or public trust determines it is in the best interest of the municipality or public trust to extend the closing time and notifies the reverse auction bidders of the extended closing time by public announcement at the Internet

location at least fifteen (15) minutes prior to the original closing time;

2. The posting of all reverse auction bids electronically and updating of bids on a real-time basis by the municipality or public trust;

3. The authorization for the municipality or public trust to require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation or applicable acts;

4. The authorization for the municipality or public trust to also require potential bidders to prequalify as bidders and to restrict solicitations to prequalified online and reverse auction bidders;

5. The retention of the authority of the municipality or public trust to determine the criteria that will be used as the basis for making awards; and

6. The authorization for the municipality or public trust to determine it is in the best interest of the municipality or public trust to allow it to accept an electronic bid after the specified official closing date and time, in the event the municipality or public trust determines that a significant error or event occurred that affected the electronic receipt of any reverse auction bid by the municipality or public trust.

C. All bids submitted electronically through the reverse auction bidding process pursuant to this section are subject to the same public disclosure laws that govern bids received pursuant to any other law of this state governing procurement procedures for a municipality or public trust.

D. All remedies available to the municipality or public trust and suppliers through a bid process pursuant to any other law of this state are also available to the municipality or public trust reverse auction bidders in a reverse auction bidding process.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 21-103, as last amended by Section 1 of Enrolled House Bill No. 2666 of the 2nd Session of the 49th Oklahoma Legislature, 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; 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.

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

C. Before any territory is annexed to a municipality, without the written consent of the owners of at least a majority of the acres to be annexed to the municipality in accordance with subsection A of this section, the governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the municipality shall prepare a plan to extend municipal services including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services appropriate to the proposed annexed territory. The plan shall provide that the municipality complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the municipality adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the municipality shall complete the service plan within one hundred-twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the municipality at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If municipality services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the municipality to extend municipal services to any other area of the city. Such notice, hearing and plan shall be subject to the following provisions:

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

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

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

D. As used in subsection F of this section:

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

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

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

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

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

SECTION 3. AMENDATORY 11 O.S. 2001, Section 21-104, as amended by Section 2 of Enrolled House Bill No. 2666 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 21-104. A. The town board of trustees by ordinance may annex lots which are adjacent or contiguous to the town if the lots have been platted and recorded in the office of the county clerk. When the town board of trustees desires to annex any territory adjacent to the town which has not been platted and recorded, the town board of trustees shall direct that notice of the proposed

annexation of the territory be published in a legal newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed. Prior to the publication of notice, the town board of trustees shall prepare a plan to extend appropriate town services to the territory. The plan shall provide that the town board of trustees shall complete the implementation of the plan within a reasonable time to be determined at the hearing and shall set forth such time period in the ordinance annexing the territory. For purposes of this subsection, services may be provided by any method or means available to the town that have been used to extend such services to any other area of the town. Such notice, hearing, and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical location, legal or physical description, or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place the town board of trustees shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the town board of trustees directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of changing any road maintenance responsibilities. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;

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

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

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

SECTION 4. This act shall become effective November 1, 2004.

Passed the House of Representatives the 26th day of May, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 27th day of May, 2004.

Presiding Officer of the Senate