An Act

ENROLLED HOUSE
BILL NO. 1296

By: Derby, Roberts (Sean) and Faught of the House

and

Sykes and Garrison of the Senate

An Act relating to cities and towns; amending 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 2, O.S.L. 2010 (11 O.S. Supp. 2010, Section 21-103), which relates to annexation procedures; removing exceptions from consent requirement; repealing 11 O.S. 2001, Section 21-104, as last amended by Section 1, Chapter 188, O.S.L. 2010 (11 O.S. Supp. 2010, Section 21-104), which relates to annexation procedures; and providing an effective date.

SUBJECT: Annexation procedures

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 2, O.S.L. 2010 (11 O.S. Supp. 2010, Section 21-103), is amended to read as follows:

Section 21-103. A. Before the governing body of a city or town may annex any territory adjacent or contiguous to the city or town, 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:~~

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

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

~~c. prior to the November 1, 2004, the municipality has directed that notice be published in accordance with subsection B of this section~~.

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

1. 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 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. The notice shall state the date, time, and place 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;

2. 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 all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed and to the Sales and Use Tax Division of the Oklahoma Tax Commission;

provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and

3. 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.

C. 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.

D. 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 <u>or town</u>. 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 and to the board of county commissioners of the respective county where the proposed annexation is located. 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.

E. The prevailing property owner in an annexation dispute shall be entitled to court costs and reasonable attorney fees, including, but not limited to, when a municipality withdraws, revokes or otherwise reverses the ordinance at issue in response to litigation before issuance of a final judgment.

F. As used in 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.

G. 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 July 1, 2003, or parcels of land forty (40) acres or more used for agricultural purposes prior to annexation and have continued in uninterrupted agriculture use annexed into the municipal limits 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.

H. 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.

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

SECTION 2. REPEALER 11 O.S. 2001, Section 21-104, as last amended by Section 1, Chapter 188, O.S.L. 2010 (11 O.S. Supp. 2010, Section 21-104), is hereby repealed.

SECTION 3. This act shall become effective November 1, 2011

Passed the House of Representatives the 17th day of March, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 7th day of April, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 11th **day of** April, **20** 11, **at** April 4:23 **o'clock** P **M.**

By: Jessica R. Bryan

Approved by the Governor of the State of Oklahoma the 14th **day of** April, **20** 11, **at** 2:44 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 14th **day of** April, **20** 11, **at** 3:11 **o'clock** P **M.**

By: Michelle R Day