

ENROLLED SENATE  
BILL NO. 607

By: Williams (Penny) of the  
Senate

and

Roach of the House

An Act relating to public finance; amending 62 O.S. 1991, Section 690.2, which relates to the Oklahoma Enterprise Zone Act; amending Section 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 860), which relates to the Local Development Act; modifying definition of enterprise zone; modifying provisions related to incentives for certain establishments; defining term; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 1991, Section 690.2, is amended to read as follows:

Section 690.2 For the purposes of Section 690.1 et seq. of this title:

1. "Authority" means an "Enterprise District Management Authority" created pursuant to Section 690.7 of this title;
2. "Building" means a structure consisting of a foundation, walls, roof and other parts necessary to its occupation; provided however, it shall not include a structure intended to be used for residence purposes;
3. "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship or corporation;
4. "Enterprise district" means at least three but not more than six contiguous enterprise zones formed for the purpose of issuing general obligation bonds;
5. "Enterprise zone" means:
  - a. a county which meets the following criteria:
    - (1) has an average unemployment rate of over one and one-half (1 1/2) times the state average for a twelve-month period as determined by the Oklahoma Department of Commerce based upon data from the Oklahoma Employment Security Commission, or
    - (2) at the time of said determination by the Oklahoma Department of Commerce based upon data from the Oklahoma Employment Security Commission is designated as a labor surplus area by the United States Secretary of Labor pursuant to 15 U.S.C.A., Section 644(n), or
    - (3) has for three (3) consecutive months or more a fifty percent (50%) or greater increase over its average unemployment rate for the previous calendar year, as determined by the Oklahoma Department of Commerce based upon data from the

Oklahoma Employment Security Commission; provided said increase results in an unemployment rate that exceeds the state average unemployment rate for the previous calendar year, or

- (4) those counties that have an unemployment rate that exceeds the state average unemployment rate for a twelve-month period as determined by the Department of Commerce based on data from the Employment Security Commission and a net population out-migration of four percent (4%) or greater for the period of 1980 to 1988 as determined by the Department of Commerce, or
  - (5) those counties that have an average population decrease of ten percent (10%) or greater based on data from the latest two federal decennial censuses as determined by the Oklahoma Department of Commerce, or
- b. an area within or contiguous to the corporate limits of any city or town of this state which the Oklahoma Department of Commerce approves, upon application, as an area of economic distress as determined by its guidelines which include the fact that a majority of the households within the specified area have an income of less than eighty percent (80%) of the median income of this state as specified in ~~this act~~; Section 690.1 et seq. of this title, or
  - c. an area designated as a federal enterprise zone as provided by Section 690.3 of this title, or
  - d. any city or town located within a county which has been designated an enterprise zone by the Oklahoma Department of Commerce pursuant to division (5) of subparagraph a of this paragraph;

6. "Equipment" means machinery necessary to the construction or manufacture of products for resale;

7. "Expand" means to make expenditures to add land, buildings, machinery, equipment or other materials, except inventory, to a facility that equal at least ten percent (10%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation;

8. "Facility" means an enterprise's place of business in an enterprise zone, including land, buildings, machinery, equipment and other materials, except inventory used in business. "Facility" does not include an establishment used primarily for making retail sales;

9. "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five (35) hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment;

10. "New employee" means a full-time employee first employed by an enterprise at a facility after the designation of an enterprise zone;

11. "Position" means the position of one full-time employee performing a particular set of tasks and duties;

12. "Priority Enterprise Zones" means enterprise zones which are selected to receive additional resources or programs after meeting the criteria specified in this act;

13. "Project" means any undertaking by an enterprise to establish a facility or to improve a facility by expansion, in an enterprise zone or enterprise district;

14. "Responsible tenant" means any person, partnership, firm, company or corporation whether organized for profit or not deemed by

the Authority, after proper investigation, to be financially responsible to assume all rental and all other obligations prescribed by the Authority in the leasing of any building or equipment on which the Authority has a loan outstanding; and

15. "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty percent (50%) of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

SECTION 2. AMENDATORY Section 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 860), is amended to read as follows:

Section 860. A. A project plan may contain a provision that certain local taxes may be subject to incentives or may be exempted in reinvestment areas, historic preservation areas or enterprise areas.

B. The governing body may grant incentives or exemptions from local taxation only on the new investment made. No ad valorem tax incentives or exemptions may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. No ad valorem tax incentives or exemptions authorized in this section may be granted ~~if eating and drinking places as well as other~~ for retail establishments are located on the property. If a retail establishment is located in property which otherwise qualifies for an incentive or exemption pursuant to this section, the incentive or exemption shall not be allowed for that portion of the property used for such retail establishment. As used in this subsection, "retail establishment" shall not include an establishment that provides lodging, including but not limited to a hotel, apartment hotel, public rooming house or motel. No ad valorem tax incentives or exemptions authorized in this section may be granted if the property is located in an increment district or if the property is subject to the ad valorem tax exemption for new or expanding manufacturing facilities as authorized by Section 6B of Article X of the Oklahoma Constitution. In the event of disposition by lease or sublease to a lessee not entitled to an ad valorem tax exemption, the improvements placed thereon shall not be entitled to an ad valorem tax exemption provided for in Section 850 et seq. of this act title. The incentives or exemptions, which may be full or partial, may be granted for a period not to exceed five (5) years; however, in enterprise zones incentives or exemptions may be granted for a period not to exceed six (6) years.

C. No incentives or exemptions may be granted to any business or firm that is relocating from within the state and is subject to or in the process of recruitment by two or more governmental entities within the state unless the governmental entity in which the business or firm does not locate adopts a resolution giving their approval to the granting of incentives or exemptions to the business or firm locating in the competing governmental entity. No incentives or exemptions may be granted to an out-of-state business or firm that is subject to or in the process of recruitment by two or more governmental entities within the state except as otherwise provided for in this subsection. The prohibition against incentives or exemptions to a business or firm relocating within the state may be waived upon application by the governing body to, and approval of, the Director of the Oklahoma Department of Commerce. In order for the Director to approve the waiver, the Director must find that the incentives or exemptions are necessary and sufficient to attract the business or firm and that the benefits generated by the business location outweigh the costs of the business location.

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

Passed the Senate the 2nd day of May, 1994.

President of the Senate

Passed the House of Representatives the 12th day of April, 1994.

Speaker of the House of Representatives