

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1226

By: Roach

AS INTRODUCED

An Act relating to public finance; amending Sections 4 and 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1992, Sections 853 and 860), which relate to the Local Development Act; defining term; modifying approval process for the granting of certain incentives or exemptions; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1992, Section 853), is amended to read as follows:

Section 853. As used in this act:

1. "Act" means the Local Development Act, Section 850 et seq. of this title;

2. "Apportionment" means the direction by a governing body, authorized by the Legislature pursuant to Section 6C of Article X of the Oklahoma Constitution, to apply all or any portion of an increment of ad valorem taxes and all or any portion of sales taxes, other local taxes or local fees, or any combination thereof, to financing a plan and project in accordance with this act;

~~2.~~ 3. "Apportionment area" means the same as an increment district as defined under this act;

~~3.~~ 4. "Bonds" means evidences of indebtedness, tax apportionment bonds or other obligations issued by a public entity pursuant to the provisions of Section ~~14~~ 863 of this ~~act~~ title to finance project costs, pursuant to a project plan, which are to be repaid in whole or part with apportioned increments;

~~4.~~ 5. "District" means either an incentive district as authorized by Section ~~11~~ 860 of this ~~act~~ title or an increment district as authorized by Section ~~12~~ 861 of this ~~act~~ title. A district may consist of all or a portion of a project area;

~~5.~~ 6. "Enterprise area" means any area within a designated state or federal enterprise zone;

~~6.~~ 7. "Enterprise zone" means an enterprise zone as designated by the Department of Commerce pursuant to the provisions of Section 690.3 of this title or as designated by the federal government;

~~7.~~ 8. "Governing body" means the city council of a city, the board of trustees of a town or the board of county commissioners;

~~8.~~ 9. "Historic preservation area" means a district listed in or nominated by the State Historic Preservation Officer to the National Register of Historic Places or an historic structure or structures listed individually in or nominated by the State Historic Preservation Officer to the National Register of Historic Places, with such district or structure being subject to historic preservation zoning. Rehabilitation undertaken in an historic preservation area shall meet the Secretary of the Interior's Standards for Rehabilitation, latest revision, in order to be eligible for the incentives or exemptions granted pursuant to Section ~~11~~ 860 of this ~~act~~ title;

~~9.~~ 10. "Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad

valorem taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, which may be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place;

~~10.~~ 11. "Local taxes" means ad valorem taxes, sales taxes and other local taxes which are levied by or on the behalf of a taxing entity;

~~11.~~ 12. "Planning commission" means an organization established for local planning by local government or governments in accordance with the laws of this state;

~~12.~~ 13. "Project" means any public project in furtherance of the objectives of the project plan;

~~13.~~ 14. "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to public works or improvements and public buildings within a designated district. Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan shall be used to pay project costs. Project costs include, but are not limited to:

- a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of

- land and equipment for public works, public improvements and public buildings and the clearing and grading of such land and environmental remediation related thereto,
- b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,
 - c. real property assembly costs, including clearance and preparation costs,
 - d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,
 - e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,
 - f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,
 - g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,
 - h. fees for bond guarantees, letters of credit and bond insurance,

- i. the amount of any contributions offset made in connection with the implementation of the plan,
- j. the costs for determining or redetermining the base assessed value of a district,
- k. costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,
- l. all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs, and
- m. relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law;

~~13.~~ 15. "Project plan" means the approved plans of a city, town or county which may include a designated district or districts under this act in conformance with its comprehensive plan, which is intended by the payment of costs through apportionment of the increment or by the granting of incentives or exemptions to reduce or eliminate those conditions, the existence of which qualified the district, and to thereby enhance private investment of the tax bases of the taxing entities which extend into the district. Project plans may be a part of and incorporate existing neighborhood, renewal, economic development and other such plans. Each project plan shall conform to the requirements specified by this act;

~~14.~~ 16. "Public entity" means any city, town, county, board, commission, authority, district or public trust;

~~15.~~ 17. "Reinvestment area" means any area located within the limits of a city, town or county requiring public improvements to reverse economic stagnation or decline, to serve as a catalyst for retaining or expanding employment, to attract major investment in the area or to preserve or enhance the tax base or in which fifty percent (50%) or more of the structures in the area have an age of thirty-five (35) years or more. Such an area is detrimental to the public health, safety, morals or welfare. Such an area may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. Such an area includes a blighted area as defined in Section 38-101 of Title 11 of the Oklahoma Statutes at the time of approval of the project plan; and

~~16.~~ 18. "Taxing entity" means a city, town, county, school district, political subdivision or other local entity in which local taxes or fees are levied by or on its behalf.

SECTION 2. AMENDATORY Section 11, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1992, 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 retail establishments are located on the property. 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 this act. 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~~ an out-of-state 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~~ 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 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.

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