

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2204

By: Bastin

AS INTRODUCED

An Act relating to the Local Development Act;

amending Sections 3 and 4, Chapter 342, O.S.L.

1992, Section 6, Chapter 342, O.S.L. 1992, as

amended by Section 2, Chapter 69, O.S.L. 1993, and

Sections 7, 9, 10 and 13, Chapter 342, O.S.L. 1992

(62 O.S. Supp. 1993, Sections 852, 853, 855, 856,

858, 859 and 862), which relate to the Local

Development Act; modifying definitions; modifying

certain statutory references; deleting requirements

for certain plan; providing addition of property to

be considered as amendment to certain plan;

modifying requirement for certain notice period;

modifying term related to assessed valuation; and

declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 852), is amended to read as follows:

Section 852. It is the intent of the Legislature that the provisions of this act be used in accordance with the following guidelines:

1. That the tools of this act be used in those cases where investment, development and economic growth is difficult, but is possible if the provisions of this act are available;

2. That the tools of this act not be used in areas where the proposed investment, development and economic growth would have occurred anyway and that the governing body take care to exclude areas that do not meet this criteria;

3. That the tools of this act be used to supplement and not supplant or replace normal public functions and services;

4. That the tools of this act work in conjunction with existing programs and efforts such as the Oklahoma Main Street Program, Oklahoma Enterprise Zone Act, historic preservation and other locally implemented economic development efforts;

5. That any proposed districts be delineated with particular emphasis not to have boundaries that dissect a similar area or create unfair competitive advantage;

6. That the governing body recognizes the need for residential and neighborhood treatment as well as commercial/industrial development;

7. That where possible partial credits or credits that do not utilize the full time frame allowed be pursued;

8. That maximum effort be made to allow full public knowledge and participation in the local use of this act;

9. That conservation, preservation and rehabilitation be emphasized while demolition, clearance and relocation be minimized where possible; and

10. That the governing bodies develop and apply clear standards, criteria and threshold limits that are applicable to all similar property and areas and that the governing bodies enact protection against nearby relocations to utilize incentives.

SECTION 2. AMENDATORY Section 4, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, 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 accordance with the project plan as costs of ~~and incidental to public works or improvements and~~

~~public buildings within a designated district~~ the public project.

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~~ may 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 by 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 3. AMENDATORY Section 6, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 69, O.S.L. 1993 (62 O.S. Supp. 1993, Section 855), is amended to read as follows:

Section 855. A. ~~Prior to~~ Before the adoption and approval of a project plan and the ordinance or resolution required under Section 856 of this title and prior to the public hearing required under Section 859 of this title, the governing body shall appoint a review committee to review and make a recommendation concerning the proposed district, plan or project. The membership of the review committee shall consist of the following: a representative of the governing body who shall serve as chairperson; a representative of the planning commission having jurisdiction over the proposed district; a representative designated by each taxing jurisdiction within the proposed district whose ad valorem taxes might be impacted according to the plan; and three members representing the public at large and selected by the other committee members from a list of seven names submitted by the chairperson of the review committee.

B. The review committee shall consider and make its findings and recommendations to the governing body with respect to the conditions establishing the eligibility of the proposed district and the appropriateness of the approval of the proposed plan and project. The review committee may recommend that the plan be approved, denied or approved subject to conditions set forth by the committee.

C. Prior to approval by the governing body, the review committee shall consider and determine whether the proposed plan and project will have a financial impact on any taxing jurisdiction within the proposed district and shall report its findings to the governing body. Such considerations shall be concurrent with or subsequent to the review and consideration of the committee provided for in subsection B of this section. The approval of any district plan or project by the governing body shall address any findings of such impact by the review committee.

D. In the event of any changes in the area to be included in the proposed district or any substantial changes in the proposed plan and project or for any other reason deemed appropriate by the governing body, the review committee shall consider and may modify its findings and recommendations made pursuant to the provisions of subsection B of this section.

E. Approval of the proposed district or the proposed plan or project by the governing body which is in accord with the recommendation of the review committee shall be by a majority vote of the governing body. Such approval which is not in accord with the recommendations and/or conditions set forth by the review committee shall be by a two-thirds (2/3) majority vote.

F. Meetings of the review committee shall be subject to the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. Any information relating to the marketing plans, financial statements, trade secrets or any other proprietary information submitted to the review committee by a person or entity seeking adoption and approval of a proposed district, plan or project shall be confidential, except to the extent that the person or entity which provided the information consents to disclosure. Executive sessions may be held to discuss such information if deemed necessary by the review committee.

SECTION 4. AMENDATORY Section 7, Chapter 342, O.S.L.
1992 (62 O.S. Supp. 1993, Section 856), is amended to read as
follows:

Section 856. A. The governing body shall designate and adopt the proposed boundaries of any district and the proposed boundaries of any project. Except as otherwise provided in this subsection, any districts created by a city or town shall be confined to that territory within the corporate limits of such city or town and any districts created by a county shall be confined to that territory within the unincorporated areas of the county. Any city, town or county may by agreement jointly create a contiguous district with another entity.

B. Upon the adoption and approval of the project plan, the governing body shall adopt an ordinance or resolution, whichever is applicable, which:

1. Describes the boundaries of districts and projects sufficiently definite to identify with ordinary and reasonable certainty the territory included in it;

2. Creates the district as of a date provided in it;

3. Assigns a name to the district for identification purposes. The first district created shall be known as either an Incentive District or Increment District Number One, City, Town or County of _____, whichever is applicable. Each subsequently created district shall be appropriately named and shall be assigned the next consecutive number; and

4. Contains findings that:

a. the project area or district meets at least one of the following criteria:

- (1) is a reinvestment area,
- (2) is a historic preservation area,
- (3) is an enterprise area, or

- (4) is a combination of the areas specified in divisions (1), (2) and (3) of this paragraph,
- b. the improvement of the area is likely to enhance the value of other real property in the area and to promote the general public interest. It shall not be necessary to identify the specific parcels meeting the criteria,
 - c. the guidelines specified in paragraphs 1 and 2 of Section ~~3~~ 852 of this ~~act~~ title shall be followed,
 - d. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the city or town shall not exceed twenty-five percent (25%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of fifty thousand (50,000) or more or shall not exceed thirty-five percent (35%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of less than fifty thousand (50,000),
 - e. for projects approved by a county, the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the county shall not exceed fifteen percent (15%) of the total net assessed value of the taxable property within the county,
 - f. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section ~~13~~ 862 of this ~~act~~ title within the city, the town or the county shall not exceed twenty-five percent (25%) of the total net assessed value of any

affected school district located within the city, town or county, and

- g. the land area of this district and all other districts within the city, the town or the county shall not exceed twenty-five percent (25%) of the total land area of the city, the town or the county.

SECTION 5. AMENDATORY Section 9, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 858), is amended to read as follows:

Section 858. A. The governing body shall cause to be prepared a project plan. The appropriate local planning commission shall review the proposed project plan and shall make a recommendation on the plan to the governing body. The plan shall include the following items, if applicable, according to the type of district being formed:

- 1. A description of the proposed boundaries of the district and the proposed boundaries of the project by legal description and by street or other recognizable physical feature accompanied by a sketch clearly delineating the area in detail;

- 2. A statement listing the kind, number and location of the proposed public works or improvements, the anticipated private investments and the estimated public revenues which should accrue;

- 3. A list of estimated project costs including administrative expenses;

- 4. A general description of the methods of financing the estimated project costs, the expected sources of revenue to finance or pay project costs, and the general time when the costs or monetary obligations related thereto are to be incurred;

- 5. A map showing existing uses and conditions of real property in the district and a map showing proposed improvements to and proposed uses of that property;

- 6. Proposed changes in zoning;

7. Proposed changes in the master plan and city ordinances if required to implement the project plan; and

8. ~~The name of the person who shall be in charge of the implementation of all of the project plans of the district with such name being forwarded to the Department of Commerce; and~~

9. A designation of any public entity to be authorized to carry out all or any part of the project plan.

B. Before the governing body may approve such plan, notice must be given and public hearings must be held pursuant to the provisions of Section ~~10~~ 859 of this ~~act~~ title. The approval by the governing body must be by ordinance if a city or town or by resolution if a county which contains findings that the plan is feasible and conforms to the master plan, if any, of the city, town or county.

C. Except as otherwise provided in this section, the planning commission may recommend an amendment to a project plan, which amendment shall be subject to review by the review committee and approval by the governing body. Prior to the adoption of the amendment, the governing body shall give notice concerning such amendment and hold public hearings on such amendment in the manner prescribed by Section ~~10~~ 859 of this ~~act~~ title. The approval by the governing body must be by ordinance if a city or town or by resolution of a county which contains findings that the plan is feasible and conforms to the master plan, if any, of the city, town or county.

D. The governing body may grant the department, agency or public entity in charge of the implementation of the project plan the authority to make minor amendments to the plan. An amendment is considered to be minor if such amendment does not change the character or purpose of the plan; does not affect more than five percent (5%) of the district's area; or does not affect more than five percent (5%) of the public costs of the plan. All amendments made pursuant to the provisions of this subsection shall be

considered on a cumulative basis. Addition of property to the district area shall be an amendment requiring approval of the governing body subject to all reviews required by this section.

E. Approval by any ad valorem taxing entities, if required pursuant to the provisions of this act, shall be secured before any plan or amendment thereto goes into effect.

SECTION 6. AMENDATORY Section 10, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 859), is amended to read as follows:

Section 859. A. Before the adoption of a project plan or subsequent amendments thereto, the governing body must hold two public hearings. The primary purpose of the first hearing will be to provide information and to answer questions. A representative of the city, town or county shall present the city, town or county's proposed plan or amendment thereto. The date of the second public hearing shall be fixed in the presence of the persons in attendance at the hearing, but such date shall be ~~more~~ no less than seven (7) days after the date of the first public hearing. The purpose of the second public hearing shall be to give any interested persons the opportunity to express their views on the proposed plan or amendment thereto.

B. Notice of the first public hearing shall be given once by publication in a newspaper with circulation in the city, town or county. Such notice must be published no later than fourteen (14) days before the date of the public hearing. The notice shall include the following:

1. The time and place of the public hearing;
2. The boundaries of the proposed districts and proposed projects by legal description and by street location, if possible, accompanied by a sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included;

3. A statement that the first public hearing shall be for information and questions purposes only with persons being given the opportunity to be heard at the second public hearing before any votes are taken;

4. A description of the plan or amendment thereto and a location and time where the entire plan may be reviewed by any interested party; and

5. Such other matters as the city, town or county may deem appropriate.

C. The publication provided for in subsection B of this section shall apply to the second public hearing if:

1. Notice for both public hearings is not included in the notice of the first public hearing;

2. The location, date and time of the second public hearing is changed; or

3. The second public hearing is held more than fourteen (14) days ~~or more~~ after the first public hearing.

D. The provisions of this section shall not apply to the adoption of minor amendments as provided for in Section ~~9~~ 858 of this ~~act~~ title.

SECTION 7. AMENDATORY Section 13, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1993, Section 862), is amended to read as follows:

Section 862. A. Upon approval of a plan containing apportionment financing as provided in Section ~~12~~ 861 of this ~~act~~ title, the county assessor shall, within ninety (90) days, determine the total net assessed value of all taxable real property within the boundaries of an increment district which shall be certified by the assessor as the "base assessed value".

B. Any school district located within the boundaries of an increment district may file a protest with the governing body of the city, town or county as to the amount certified by the county

assessor as the "base assessed value" of the increment district. Such protest shall be filed within thirty (30) days after the "base assessed value" is certified by the county assessor. The governing body of the city, town or county shall notify the county assessor of the protest. Within thirty days after being notified of the protest, the county assessor shall redetermine the total assessed value of all taxable real property within the boundaries of the increment district and shall certify to the governing body of the city, town or county the redetermined amount as the "base assessed value" of that district.

C. After the county assessor has certified the "base assessed value" of the taxable real property in such increment district, then in respect to every taxing jurisdiction receiving taxes levied in the increment district, the county assessor or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within such increment district for the purpose of computing the tax levy to be extended upon taxable property within such increment district, for the purpose of calculating the general state school aid formula, or for the purpose of computing any debt limitation, shall in every year that the tax apportionment is in effect ascertain the amount of value of taxable property in such increment district by including in such amount the certified "base assessed value" of all taxable real property in such increment district in lieu of the equalized assessed value of all taxable real property in such increment district. The tax levy determined shall be extended to the current equalized assessed value of all property in the increment district in the same manner as the tax levy is extended to all other taxable property in the increment district. The method of extending taxes established under the provisions of this section shall terminate when the governing body adopts an ordinance or resolution dissolving the tax apportionment financing. The provisions of this act shall not be construed as

relieving property owners within an increment district from paying a uniform rate of taxes upon the current equalized assessed value of their taxable property as required by Section 5 of Article X of the Oklahoma Constitution.

SECTION 8. 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.

44-2-8361

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