

ENROLLED SENATE
BILL NO. 494

By: Snyder of the Senate

and

Vaughn, Davis, Maddux and
Morgan of the House

An Act relating to revenue and taxation and public finance; allowing municipalities and counties to create transportation authority for certain purposes; providing for powers, designation of beneficiary and boundaries; authorizing authority to levy sales tax in certain amount; requiring voter approval prior to levy and providing procedures; providing for application of and exemption from such tax and specifying purpose thereof; prohibiting other uses; requiring identification of duration of tax when presented to voters; providing procedures for dissolution of authority; prohibiting repeal of tax for certain time period if proceeds pledged for debt retirement; providing for apportionment of excess revenue; amending Sections 4 and 9, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1994, Sections 853 and 858), which relate to the Local Development Act; modifying definition to include certain transportation-related projects; requiring certain plan be submitted to vote of the people; 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 1370.7 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a transportation authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing transportation-related projects located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any transportation authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing transportation-related projects within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes, as it relates to the financing of such transportation-related projects.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the transportation-related project within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a transportation-related project.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of transportation-related projects, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

SECTION 2. AMENDATORY Section 4, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1994, Section 853), is amended to read as follows:

Section 853. As used in Section 850 et seq. of this act title:

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

3. "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. "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. "Enterprise area" means any area within a designated state or federal enterprise zone;

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

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

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

13. "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.~~ 14. "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.~~ 15. "Public entity" means any city, town, county, board, commission, authority, district or public trust;

~~15.~~ 16. "Reinvestment area" means any area located within the limits of a city, town or county requiring public improvements, including but not limited to transportation-related projects identified by any transportation authority pursuant to Section 1 of this act, 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.~~ 17. "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 9, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1994, 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;

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.

E. Approval by any ad valorem taxing entities, if required pursuant to the provisions of Section 850 et seq. of this act, shall be secured before any plan or amendment thereto goes into effect.

F. Any project plan adopted by a transportation authority pursuant to Section 1 of this act, after having met the provisions of this section, shall be submitted to a vote of the people within the boundaries of the authority, pursuant to the provisions of subsections D through H of Section 868 of this title.

SECTION 4. This act shall become effective November 1, 1995.

Passed the Senate the 24th day of May, 1995.

President of the Senate

Passed the House of Representatives the 26th day of May, 1995.

Speaker of the House of
Representatives