

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3248

By: Blackburn

AS INTRODUCED

An Act relating to public finance; amending 11 O.S. 1991, Section 22-104, which relates to powers of municipalities; permitting cities to exercise powers pursuant to Local Development Act; amending Section 3, Chapter 342, O.S.L. 1992, Section 4, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 332, O.S.L. 1995, and Section 5, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1997, Sections 852, 853, and 854), which relate to the Local Development Act; modifying guidelines, definitions, and powers granted to cities and counties to include capital improvements to public schools; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 22-104, is amended to read as follows:

Section 22-104. Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the

authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality; ~~and~~

2. Acquire, own, and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose including but not limited to public utility and public park purposes, and for the location thereon of waterworks, electric light and gas plants and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction plants, pipelines for the transmission and transportation of gas, water, stormwater, and sewerage, and for any plant for the manufacture of any material for public improvement purposes and public buildings; ~~and~~

3. Exercise the right of eminent domain for any municipal purpose, within or without its corporate limits, and to establish, lay, and operate any plant or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made; ~~and~~

4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same; ~~and~~

5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks, and improvements; ~~and~~

6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by such municipally owned or controlled public utility, business

enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality; ~~and~~

7. Lease at a stipulated rental rate any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future; and

8. Exercise powers necessary to carry out the purpose of the Local Development Act as set forth in Section 854 of Title 62 of the Oklahoma Statutes.

SECTION 2. AMENDATORY Section 3, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1997, 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 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, capital improvements to neighborhood public schools, 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 3. AMENDATORY Section 4, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 332, O.S.L. 1995 (62 O.S. Supp. 1997, Section 853), is amended to read as follows:

Section 853. As used in Section 850 et seq. of this 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 863 of this 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 860 of this title or an increment district as authorized by Section 861 of this 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 860 of this 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, including public school 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;

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, public school and other such plans. Each project plan shall conform to the requirements specified by this act;

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

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

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 4. AMENDATORY Section 5, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1997, Section 854), is amended to read as follows:

Section 854. In addition to any other powers conferred by law, a city, town or county may exercise any powers necessary to carry out the purpose of this act, including power to:

1. Establish districts and create plans pursuant to the provisions of this act;
2. Cause project plans to be prepared, to approve the plans, and to implement the provisions and effectuate the purposes of the plans;
3. Cause bonds to be issued by public entities as provided for in Section 14 863 of this ~~act~~ title;
4. Apportion local taxes or local fees and direct the use of local taxes and local fees for the purpose provided for in this act;
5. Enter into any contracts or agreements determined by the governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;
6. Receive, from the federal government or the state, loans and grants for, or in aid of a project and to receive contributions from any other source to defray project costs;
7. Grant tax incentives or exemptions in the manner provided for in this act;
8. Acquire by purchase, donation or lease, and own, convey, lease, mortgage, or dispose of land and other property, real or personal, or rights or interests therein;
9. Clear and improve property acquired by it pursuant to the project plan and construct public facilities on it or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration, or repair of the property;
10. Cause parks, playgrounds, or schools, including capital improvements to public schools, or water, sewer, or drainage facilities or any other public improvements which it is otherwise authorized to undertake, to be laid out, constructed, or furnished in connection with the project;
11. Lay out and construct, alter, relocate, change the grade of, make specific repairs upon, or discontinue public ways and construct sidewalks in, or adjacent to, the district;

12. Cause sidewalks, ways for vehicular travel, playgrounds, or water, sewer, or drainage facilities and similar improvements to be constructed within the district for the particular use of the district or those dwelling or working in it;

13. Adopt ordinances or resolutions or repeal or modify such ordinances or resolutions or establish exceptions to existing ordinances and resolutions regulating the design, construction, and use of buildings;

14. Sell, mortgage, lease, transfer, or dispose of any property, or interest therein, acquired by it pursuant to the project plan for development, redevelopment, or rehabilitation in accordance with the plan, provided, in the event of disposition by lease or sublease to a lessee not entitled to a tax exemption, the improvements placed thereon shall not be entitled to a tax exemption;

15. Incur project costs;

16. Designate a public entity to exercise the powers enumerated in this section, except paragraphs 1, 4 and 7 of this section;

17. Invest project revenues as provided in this act; and

18. Do all things necessary or convenient to carry out the powers granted in this act and otherwise authorized by the laws of this state.

SECTION 5. This act shall become effective November 1, 1998.

46-2-8398

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