

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2434

By: Turner and Pope (Clay)

COMMITTEE SUBSTITUTE

An Act relating to economic development; enacting the Rural Enhancement Capital Asset Planning Act; making legislative findings; defining terms; providing for establishment of flexible procedures; providing certain monies subject to requirements; providing for deposit of funds into accounts; providing for subaccount; specifying availability and access to accounts; providing for distribution of funds to certain governmental entities; providing for certain priority; creating Rural Enhancement Capital Asset Planning Fund; specifying continuing fund; establishing separate accounts; providing for division of certain account; prohibiting certain deposits and transfers; specifying certain entities eligible for funding; prohibiting expenditures on behalf of certain entities; providing for direct payments to counties under certain circumstances; prescribing procedures for fund request; requiring development of public infrastructure and capital asset plan; prescribing procedures with respect to plan; specifying voting approval requirement; specifying matching funds not required by certain entities; prohibiting payment of administrative expenses; providing exception; requiring monitor of fund expenditures by State Auditor and Inspector; prescribing penalty for misuse of funds; imposing treble damage penalty; providing for deposit of penal amount; authorizing initial planning expenditures; providing for expenditure methods; providing for construction of provisions as in furtherance of governmental functions; enacting the Rural Oklahoma Housing Development Initiative of 2000; defining terms; providing for administration by Oklahoma Housing Finance Agency; authorizing state income tax credit for certain entities; providing for computation of credit; providing for distribution of credit amounts to certain entities; prohibiting allocation for benefit of certain entities; authorizing application for tax credits to benefit certain areas; specifying activities for which credit available; requiring creation of certain accounts; providing for distribution of credit amounts; prohibiting certain transfers; prohibiting certain allocation in excess of specified amount; prohibiting retention of funds by Oklahoma Housing Finance Agency for certain purpose; requiring promulgation of rules; imposing limit on funding amount; prescribing requirements for award procedures; authorizing redistribution of credits; imposing certain criteria;

providing for aggregation of certain entities for purposes of act; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2 through 11 of this act shall be known and may be cited as the "Rural Enhancement Capital Asset Planning Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2301 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds that communities, both incorporated and unincorporated, in rural areas of the State of Oklahoma sometimes have difficulty in establishing and properly maintaining public capital assets and public infrastructure and in obtaining funds for the planning of essential capital improvements and additions.

B. As used in this act, "public infrastructure" includes, but is not limited to:

1. Municipal or rural water systems;
2. Municipal or rural sewage disposal and treatment systems;
3. Municipal or rural solid waste disposal or treatment systems; and
4. Municipal or rural transportation systems.

C. In order to remove impediments to economic development in rural communities and in rural areas, and in order to maintain a desirable quality of life for residents and other legal entities in rural areas, the Legislature hereby establishes a procedure pursuant to which public funds may be used in a flexible manner for the planning, establishment and maintenance of public infrastructure.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2302 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The monies appropriated to the Rural Enhancement Capital Asset Planning Fund shall be subject to all of the requirements of Sections 4 through 11 of this act. There shall be deposited into each of the accounts provided by Section 4 of this act the sum of one-tenth (1/10) of the amount appropriated to the Rural Capital Asset Planning Fund with the exception of one account which shall be divided equally into two subaccounts. One of the two subaccounts shall be available to one and only one of the entities described by subsection B of Section 5 of this act for distribution to cities or towns within the respective jurisdiction of the entity if the population of such city or town does not exceed seven thousand (7,000) persons according to the latest Federal Decennial Census or for the benefit of an unincorporated area. However, funds may also be expended for cities or towns with a population below seven thousand (7,000) persons based upon the current population estimate according to the U.S. Census Bureau. Funds may be expended for those cities and towns until the next Federal Decennial Census subsequent to the passage of this act.

B. Any city or town with a population less than one thousand five hundred (1,500) persons according to the latest Federal Decennial Census shall have a higher priority for funds from the amount referred to in subsection A of this section than jurisdictions of greater size. Among such cities or towns, those municipalities having relatively weaker fiscal capacity shall have a priority for capital asset planning funds in preference to other municipalities.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2303 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a fund within the State Treasury to be known as the Rural Enhancement Capital Asset Planning Fund. The fund shall be a continuing fund not subject to fiscal year limitations. Within the Rural Enhancement Capital Asset Planning Fund there shall be established ten separate accounts into which shall be deposited such funds as may be provided by law.

B. One of nine accounts shall be available to each entity described in subsection A of Section 5 of this act.

C. One account shall be divided equally into two subaccounts. One of the two subaccounts shall be available to each of the entities described by subsection B of Section 5 of this act for distribution to cities or towns within the respective jurisdiction of the entity if the population of such city or town does not exceed seven thousand (7,000) persons according to the latest Federal Decennial Census or for the benefit of an unincorporated area. However, funds may also be expended for cities or towns with a population below seven thousand (7,000) persons based upon the current population estimate according to the U.S. Census Bureau. Funds may be expended for those cities and towns until the next Federal Decennial Census subsequent to the passage of this act.

D. No funds deposited into one account or subaccount shall be transferred to any other account. No entity may access any more than one account per fiscal year and the total expenditure from any one account for each fiscal year may not exceed the amount of funds available to each account as may be provided by law.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2304 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A voluntary association of Oklahoma local governmental jurisdictions or another legal entity, including a public trust or a nonprofit corporation or other entity which performs functions for the benefit of or which exists for the primary benefit of Oklahoma

local governmental jurisdictions and which is not described in subsection B of this section, shall be eligible to obtain funding for rural public infrastructure planning as authorized by subsection B of Section 4 of this act.

B. A voluntary association of Oklahoma local governmental jurisdictions containing at least one municipality with a population in excess of three hundred fifty thousand (350,000) persons according to the latest Federal Decennial Census, shall be eligible to obtain funding as authorized by subsection C of Section 4 of this act.

C. The entities described in subsection A or B of this section and which are eligible for any funds authorized by Section 4 of this act shall be prohibited from making expenditures on behalf of or from making payment directly to any city or town with a population in excess of seven thousand (7,000) persons using any funds deposited to the Rural Enhancement Capital Asset Planning Fund created by Section 4 of this act.

D. An organization described in subsection A or B of this section shall be authorized to make payment of funds obtained pursuant to Section 4 of this act directly to a county if the funds are used for the benefit of an unincorporated area located within the county to which payment is made. After the county has provided a request to an organization described in subsection A or B of this section for funds to benefit an unincorporated area of the county, together with a statement that the county has conducted a review of the needs of unincorporated areas located within the county and that the funding requested is consistent with the evaluation of priorities for funds by the county, the funds requested may be paid to the county. Any funds paid to a county pursuant to the provisions of this subsection shall be expended by the county exclusively for the purpose identified in the request.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2305 of Title 62, unless there is created a duplication in numbering, reads as follows:

The governing board of an entity described by subsection A or B of Section 5 of this act shall develop a plan for the use of available funds for the public infrastructure and capital asset planning needs within its respective jurisdiction.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2306 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. In order for an eligible entity to obtain funds provided for by Section 4 of this act, the entity shall file the organizational plan required by Section 6 of this act with the State Auditor and Inspector.

B. In order to be filed, the plan shall have first been approved by an affirmative vote of two-thirds (2/3) of the governing board of an entity described by subsection A or B of Section 5 of this act. The vote shall be memorialized in a document, executed under oath, that the record of the vote is a true and accurate account of the proceedings conducted by the governing board to be filed with the State Auditor and Inspector.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2307 of Title 62, unless there is created a duplication in numbering, reads as follows:

No entity with a population less than five thousand (5,000) persons which qualifies for funds pursuant to Section 4 of this act shall be required to provide matching funds or to provide equivalent value in order to obtain available funds for capital asset planning expenditures.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2308 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by subsection C of this section, the funds available pursuant to the provisions of Section 4 of this act shall not be used to pay any administrative expenses of the entity requesting the funds. The State Auditor and Inspector shall monitor expenditures made pursuant to the Rural Enhancement Capital Asset Planning Act to ensure compliance with the provisions of this section. Misuse of funds by an entity shall disqualify the entity from further funding for a period of one (1) year from the date as of which any report by the State Auditor and Inspector is issued revealing a violation of the requirements of this section.

B. Except for funds authorized by subsection C of this section, an entity which violates the provisions of this section shall be liable to the State of Oklahoma for treble the amount of funds identified as having been impermissibly used for the payment or reimbursement of administrative expenses. The payment shall be made to the State Auditor and Inspector for deposit in the Rural Enhancement Capital Asset Planning Fund and such funds shall become available for distribution as otherwise provided by this act except that no such funds shall be paid to an entity which has been required to make the treble damage payment.

C. Upon verification by the State Auditor and Inspector's office that an entity is qualified to receive funds for a purpose authorized by this act, the entity shall be eligible for an initial planning expenditure payment of not to exceed five percent (5%) of the amount contained in the account created for the entity pursuant to Section 4 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2309 of Title 62, unless there is created a duplication in numbering, reads as follows:

Expenditures from the Rural Enhancement Capital Asset Planning Fund shall be made in the same manner as provided by law for the expenditure of other public funds.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2310 of Title 62, unless there is created a duplication in numbering, reads as follows:

The expenditures from the Rural Enhancement Capital Asset Planning Fund and other expenditures governed by this act, if made in accordance with the requirements of this act, shall be construed as an expenditure of public funds in furtherance of governmental functions and for the purpose of conferring general and uniform benefits resulting from the expenditures upon the residents and other legal entities located in areas subject to the jurisdiction of the entities described in subsection A or B of Section 5 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.71 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 12 through 14 of this act shall be known and may be cited as the "Rural Oklahoma Housing Development Initiative of 2000".

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.72 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in the Rural Oklahoma Housing Development Initiative of 2000:

1. "Agency" means the Oklahoma Housing Finance Agency or its successor agency;

2. "Eligibility statement" means a statement authorized and issued by the Oklahoma Housing Finance Agency certifying that a given project qualifies for the Oklahoma Housing Tax Credit provided pursuant to Section 14 of this act. The Oklahoma Housing Finance Agency shall promulgate rules establishing criteria upon which the eligibility statements will be issued;

3. "Federal low-income housing tax credit" means the federal tax credit as defined in Section 42 of the Internal Revenue Code of 1986, as amended;

4. "Median income" means those incomes which are determined by the United States Department of Housing and Urban Development guidelines and adjusted for size;

5. "Moderately priced home" means any unit constructed for sale to the general public with a price that does not exceed a payment burden equivalent to thirty percent (30%) of one hundred twenty percent (120%) of the area's gross median income assuming no down payment and current market rates as published annually by the Oklahoma Housing Finance Agency;

6. "Qualified Oklahoma project" means a qualified building or development as that term is defined in this act, which is located in Oklahoma; and

7. "Taxpayer" means a person, firm or corporation subject to the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.73 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Credits appropriated by law to the Oklahoma Housing Finance Agency for the purpose of funding the Oklahoma Housing Tax Credit shall be administered by the Oklahoma Housing Finance Agency.

B. For taxable years beginning after January 1, 2000, an entity as described in this act with an ownership interest in an eligible project shall be allowed a state income tax credit to be termed the Oklahoma Housing Tax Credit if the Oklahoma Housing Finance Agency issues an eligibility statement for that project.

C. The Oklahoma Housing Tax Credit shall be calculated on the following basis:

1. If the project consists of rental units, the credit will be based upon an amount equal to twenty percent (20%) of the applicable federal tax credit based upon available funds with the limits described in paragraph 1 and subparagraph b of paragraph 2 of subsection J of this section;

2. If the project consists of new housing units for ownership, the credit will be based on an amount equal to twenty percent (20%) of the per unit cost, not to exceed Fifteen Thousand Dollars (\$15,000.00) based on available funds within the limits described in paragraph 1 and subparagraph b of paragraph 2 of subsection J of this section;

3. If the project contains housing units consisting of both rental and ownership, the credit will be based on percentages applicable to each respective activity.

D. The credits referred to in subsection A of this section shall be distributed to eligible cities and towns, counties, unincorporated areas, and nonprofit organizations located within the areas represented by the boundaries of the following organizations:

1. Association of Central Oklahoma Governments (ACOG);
2. Association of South Central Oklahoma Governments (ASCOG);
3. Central Oklahoma Economic Development District (COEDD);
4. Eastern Oklahoma Economic Development District (EOEDD);
5. Grand Gateway Economic Development Association (GGEDA);
6. Indian Nations Council of Governments (INCOG);
7. Kiamichi Economic Development District (KEDDO);
8. Northern Oklahoma Development Association (NODA);
9. Oklahoma Economic Development Association (OEDA);
10. Southern Oklahoma Development Association (SODA); and
11. South Western Oklahoma Development Authority (SWODA).

E. The credits referred to in subsection A of this section shall not be allocated for the benefit of cities, towns, or regions with a population in excess of fifteen thousand (15,000) persons

according to the latest Federal Decennial Census or most recent population estimate according to the U.S. Census Bureau.

F. An entity described in subsection D of this section may apply for tax credits to be used for the benefit of an unincorporated area within a county served by that entity. Any county may enter into an agreement with an entity described in subsection D of this section if the county is located within the area served by the entity.

G. The credits referred to in subsection A of this section may be expended for any activity that directly results in the creation of new housing units. Such activities may include, but shall not be limited to, extension of essential services to a proposed site, acquisition of land, necessary engineering and architectural plans, and actual construction of housing units.

H. The Oklahoma Housing Finance Agency shall establish ten (10) separate accounts containing one tenth (1/10) of the tax credits annually appropriated to the Oklahoma Housing Tax Credit Program per account. Each account shall be available for distribution to qualified entities located within the area served by entities described in subsection A of Section 2007 of Title 62 of the Oklahoma Statutes or for distribution to benefit unincorporated areas with the exception of one account which shall be divided equally into two subaccounts. Each one of the two subaccounts shall be available for distribution to qualified entities located within the respective jurisdiction of the entities described by paragraph 1 or paragraph 6 of subsection D of this section, respectively, or for distribution to benefit unincorporated areas. No credits deposited into one account or subaccount shall be transferred to any other account except as provided for by this section. The total tax credit allocation from any one account or subaccount for each fiscal year may not exceed the amount of tax credits available to each account as may be provided by law.

I. The Oklahoma Housing Finance Agency shall not be allowed to retain any of the funds referred to in subsection A of this section for administration. All such funds shall be distributed to eligible entities as authorized by law.

J. In order to ensure fair and equitable distribution of the funds referred to in subsection A of this section, the Oklahoma Housing Finance Agency shall promulgate rules for administering, determining priority of, approving and funding applications for such funds. The rules shall implement the provisions of this section including the following:

1. No qualified entity shall be approved nor funded for more than Five Hundred Fifty Thousand Dollars (\$550,000.00) from such credits in any twelve-month period;

2. The award procedure must include a preapplication phase based upon criteria developed by the Oklahoma Housing Finance Agency. If no eligible projects are submitted from any area described in subsection D of this section prior to the established deadline, then such area's tax credit allocations may be redistributed to projects in other areas provided the following criteria are met:

- a. at least eighty-five percent (85%) of the annual allocation must directly benefit rural areas as defined in the federal statutes and federal regulations governing programs administered by the U.S. Department of Housing and Urban Development, and
- b. at no time shall any region described in subsection D of this section receive more than twenty percent (20%) of the annual allocation in any given funding year.

K. In order to prevent substantially the same entity or area from receiving an undue advantage, a political subdivision and all its public trusts and similar subordinate entities together shall be treated as one and the same qualified entity. This requirement

shall be applicable to multiple nonprofit organizations serving the same area where multiple tax credit allocations would benefit a single project.

SECTION 15. Sections 1 through 11 of this act shall become effective July 1, 2000.

SECTION 16. Sections 12, 13 and 14 of this act shall become effective January 1, 2000.

SECTION 17. 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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