

THE STATE SENATE  
Thursday, March 23, 2000

ENGROSSED  
House Bill No. 2635  
As Amended

ENGROSSED HOUSE BILL NO. 2635 - By: ROACH and BLACKBURN of the House  
and WILLIAMS of the Senate.

[ public finance - Local Development Act - modifying  
definition - defining terms - codification - effective date ]

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

SECTION 1. AMENDATORY Section 4, Chapter 342, O.S.L.  
1992, as last amended by Section 2, Chapter 412, O.S.L. 1998 (62  
O.S. Supp. 1999, 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

1 provisions of Section 863 of this title to finance project costs,  
2 pursuant to a project plan, which are to be repaid in whole or part  
3 with apportioned increments;

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

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

10 6. "Enterprise zone" means an enterprise zone as designated by  
11 the Department of Commerce pursuant to the provisions of Section  
12 690.3 of this title or as designated by the federal government;

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

15 8. "Historic preservation area" means a district listed in or  
16 nominated by the State Historic Preservation Officer to the National  
17 Register of Historic Places, ~~or~~ an historic structure or structures  
18 listed individually in or nominated by the State Historic  
19 Preservation Officer to the National Register of Historic Places,  
20 with such district or structure being subject to historic  
21 preservation zoning, or for purposes of ad valorem tax exemptions  
22 provided for in subsection D of Section 860 of this title, a  
23 structure subject to historic preservation zoning. Rehabilitation

1 undertaken in an historic preservation area shall meet the Secretary  
2 of the Interior's Standards for Rehabilitation, latest revision, in  
3 order to be eligible for the incentives or exemptions granted  
4 pursuant to Section 860 of this title;

5 9. "Increment" means that portion of ad valorem taxes in excess  
6 of the amount of that portion of the taxes which are produced by the  
7 levy at the rate fixed each year by or for each such ad valorem  
8 taxing entity upon the base assessed value of the district or as to  
9 an area later added to the district, the effective date of the  
10 modification of the plan, or that portion of sales taxes, other  
11 local taxes or local fees collected each year reasonably determined  
12 by a formula approved by the governing body to be generated by the  
13 project, which may be apportioned for specific project costs or as a  
14 specific revenue source for other public entities in the area in  
15 which the project costs take place;

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

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

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

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

- 11            a. capital costs, including the actual costs of the  
12 acquisition and construction of public works, public  
13 improvements, new public buildings, structures, and  
14 fixtures; the actual costs of the acquisition,  
15 demolition, alteration, remodeling, repair, or  
16 reconstruction of existing buildings, structures, and  
17 fixtures; and the actual costs of the acquisition of  
18 land and equipment for public works, public  
19 improvements and public buildings and the clearing and  
20 grading of such land and environmental remediation  
21 related thereto,
- 22            b. financing costs, including interest paid to holders of  
23 evidences of indebtedness or other obligations issued

1           to pay for project costs and premium paid over the  
2           principal amount of the obligations because of the  
3           redemption of the obligations before maturity,  
4       c.    real property assembly costs, including clearance and  
5           preparation costs,  
6       d.    professional service costs, including those incurred  
7           for architectural, planning, engineering, legal and  
8           financial advice and services,  
9       e.    direct administrative costs, including reasonable  
10          charges for the time spent by employees of the city,  
11          town or county in connection with the implementation  
12          of a project plan or employees of private entities  
13          under contract with a public entity for project  
14          planning or implementation,  
15       f.    organizational costs, including the costs of  
16          conducting environmental impact studies or other  
17          impact studies, the cost of publicizing the  
18          consideration of the project plan, costs incidental to  
19          creation of the district, and the cost of implementing  
20          the project plan for the district,  
21       g.    interest, before and during construction and for two  
22          (2) years after completion of construction, whether or  
23          not capitalized,

- 1           h.    fees for bond guarantees, letters of credit and bond  
2                insurance,
- 3           i.    the amount of any contributions offset made in  
4                connection with the implementation of the plan,
- 5           j.    the costs for determining or redetermining the base  
6                assessed value of a district,
- 7           k.    costs of construction of public works or improvements,  
8                including but not limited to highways, roads, streets,  
9                bridges, sewers, traffic control systems and devices,  
10              telecommunications systems, parks, water distribution  
11              and supply systems, curbing, sidewalks and any similar  
12              public improvements, common utility or service  
13              facilities, landscaping, parking, and water  
14              detention/retention systems,
- 15          l.    all or a portion of another taxing jurisdiction's  
16                capital costs resulting from the development or  
17                redevelopment project necessarily incurred or to be  
18                incurred in furtherance of the objectives of the plan  
19                and project, to the extent the governing body by  
20                written agreement accepts and approves such costs,
- 21          m.    relocation costs to the extent that a governing body  
22                determines that relocation costs shall be paid or are  
23                required to be paid by federal or state law, and

1           n.    all costs incurred in the maintenance, management,  
2                   marketing and other services provided through an  
3                   active Main Street Program recognized as such by the  
4                   Oklahoma Department of Commerce;

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

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

19       16.   "Reinvestment area" means any area located within the  
20   limits of a city, town or county requiring public improvements,  
21   including but not limited to transportation-related projects  
22   identified by any transportation authority pursuant to Section  
23   1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic

1 stagnation or decline, to serve as a catalyst for retaining or  
2 expanding employment, to attract major investment in the area or to  
3 preserve or enhance the tax base or in which fifty percent (50%) or  
4 more of the structures in the area have an age of thirty-five (35)  
5 years or more. Such an area is detrimental to the public health,  
6 safety, morals or welfare. Such an area may become a blighted area  
7 because of any one or more of the following factors: dilapidation;  
8 obsolescence; deterioration; illegal use of individual structures;  
9 presence of structures below minimum code standards; abandonment;  
10 excessive vacancies; overcrowding of structures and community  
11 facilities; lack of ventilation, light or sanitary facilities;  
12 inadequate utilities; excessive land coverage; deleterious land use  
13 or layout; depreciation of physical maintenance; and lack of  
14 community planning. Such an area includes a blighted area as  
15 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at  
16 the time of approval of the project plan; and

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

20 SECTION 2. AMENDATORY Section 11, Chapter 342, O.S.L.  
21 1992, as amended by Section 2, Chapter 183, O.S.L. 1994 (62 O.S.  
22 Supp. 1999, Section 860), is amended to read as follows:



1       Section 860. A. A project plan may contain a provision that  
2       certain local taxes may be subject to incentives or may be exempted  
3       in reinvestment areas, historic preservation areas or enterprise  
4       areas.

5       B. The governing body may grant incentives or exemptions from  
6       local taxation only on the new investment made. No ad valorem tax  
7       incentives or exemptions may be granted on the value of property  
8       which has been assessed or which is subject to assessment prior to  
9       the adoption of the project plan. No ad valorem tax incentives or  
10      exemptions authorized in this section may be granted for retail  
11      establishments. If a retail establishment is located in property  
12      which otherwise qualifies for an incentive or exemption pursuant to  
13      this section, the incentive or exemption shall not be allowed for  
14      that portion of the property used for such retail establishment. As  
15      used in this subsection, "retail establishment" shall not include an  
16      establishment that provides lodging, including but not limited to a  
17      hotel, apartment hotel, public rooming house or motel. No ad  
18      valorem tax incentives or exemptions authorized in this section may  
19      be granted if the property is located in an increment district or if  
20      the property is subject to the ad valorem tax exemption for new or  
21      expanding manufacturing facilities as authorized by Section 6B of  
22      Article X of the Oklahoma Constitution. In the event of disposition  
23      by lease or sublease to a lessee not entitled to an ad valorem tax

1 exemption, the improvements placed thereon shall not be entitled to  
2 an ad valorem tax exemption provided for in Section 850 et seq. of  
3 this title. The incentives or exemptions, which may be full or  
4 partial, may be granted for a period not to exceed five (5) years;  
5 however, in enterprise zones incentives or exemptions may be granted  
6 for a period not to exceed six (6) years.

7 C. No incentives or exemptions may be granted to any business  
8 or firm that is relocating from within the state and is subject to  
9 or in the process of recruitment by two or more governmental  
10 entities within the state unless the governmental entity in which  
11 the business or firm does not locate adopts a resolution giving  
12 their approval to the granting of incentives or exemptions to the  
13 business or firm locating in the competing governmental entity. No  
14 incentives or exemptions may be granted to an out-of-state business  
15 or firm that is subject to or in the process of recruitment by two  
16 or more governmental entities within the state except as otherwise  
17 provided for in this subsection. The prohibition against incentives  
18 or exemptions to a business or firm relocating within the state may  
19 be waived upon application by the governing body to, and approval  
20 of, the Director of the Oklahoma Department of Commerce. In order  
21 for the Director to approve the waiver, the Director must find that  
22 the incentives or exemptions are necessary and sufficient to attract

1 the business or firm and that the benefits generated by the business  
2 location outweigh the costs of the business location.

3 D. A project plan may contain a provision that ad valorem taxes  
4 may be exempted in a historic preservation area that is adjacent to  
5 and serves designated historical residential areas for neighborhood  
6 commercial preservation purposes in order for the neighborhood to  
7 retain its basic character and scale. No ad valorem tax exemption  
8 may be granted on the value of property which has been assessed or  
9 which is subject to assessment prior to the adoption of the project  
10 plan. The governing body may grant the exemption only on the  
11 increase in value of the property. Property eligible for this  
12 exemption must be owner-occupied or investor-occupied. The  
13 exemptions may be granted for a specific period of time as  
14 determined by the agreement and may be renewed.

15 SECTION 3. AMENDATORY Section 16, Chapter 342, O.S.L.  
16 1992 (62 O.S. Supp. 1999, Section 865), is amended to read as  
17 follows:

18 A. In accordance with the requirements of Section 6C of Article  
19 X of the Oklahoma Constitution, the tax incentives or exemptions  
20 granted pursuant to the provisions of Section ~~11~~ 860 of this ~~act~~  
21 title shall only be allowed for that portion of the tax under  
22 jurisdiction of another local taxing entity by written agreement

1 between said other local taxing entity and the governing body of the  
2 city, town or county.

3 B. In order for the tax incentives or exemptions to be granted  
4 for that portion of the tax under the jurisdiction of each taxing  
5 entity within the district, the governing body of the taxing entity  
6 must adopt the agreement provided for in subsection A of this  
7 section upon a majority vote of those members eligible to vote as  
8 determined by Section ~~8~~ 857 of this ~~act~~ title. Action on the  
9 agreement by these governing bodies must occur within sixty (60)  
10 days after the governing body of the city, town or county submits  
11 the proposed agreement to the governing bodies of such taxing  
12 entities.

13 SECTION 4. AMENDATORY Section 17, Chapter 342, O.S.L.  
14 1992 (62 O.S. Supp. 1999, Section 866), is amended to read as  
15 follows:

16 Section 866. A. There shall be a written agreement between the  
17 governing body and the property owners who are granted tax  
18 incentives or exemptions pursuant to Section ~~11~~ 860 of this ~~act~~  
19 title. The written agreement may include, but shall not be limited  
20 to, the following:

21 1. List the kind, number, and location of all proposed  
22 improvements to the property;

1        2. Provide access to and authorize inspection of the property  
2 by city, town or county employees to ensure that the improvements or  
3 repairs are made according to the specifications and conditions of  
4 the agreement;

5        3. Limit the uses of the property consistent with the general  
6 purpose of encouraging development or redevelopment of the area  
7 during the period that the tax incentives or exemptions or the  
8 increment financing are in effect;

9        4. Provide for recapturing the local tax revenue lost as a  
10 result of the agreement if the owner of the property fails to make  
11 the improvements or repairs as provided by the agreement; and

12        5. Include any other requirement deemed by the governing body  
13 necessary to carry out the agreement.

14        B. There shall be a written agreement between the governing  
15 body and the property owners in historic preservation areas who are  
16 granted ad valorem tax exemptions pursuant to subsection D of  
17 Section 860 of this title. The written agreement shall include the  
18 following:

19        1. List the location of the property;

20        2. Provide access to and authorize inspection of the property  
21 by city, town or county employees to ensure that the property is  
22 being maintained according to the specifications and conditions of  
23 the agreement;

1       3. Limit the uses of the property consistent with the general  
2 purpose of encouraging neighborhood commercial preservation of the  
3 area during the period that the ad valorem tax exemptions are in  
4 effect;

5       4. Provide for recapturing the ad valorem tax revenue lost as a  
6 result of the agreement if the owner of the property fails to  
7 maintain the property as provided by the agreement; and

8       5. Include any other requirement deemed by the governing body  
9 necessary to carry out the agreement.

10       C. The governing body shall enter into written agreements with  
11 active project participants of increment projects. The written  
12 agreement may include, but shall not be limited to, the provisions  
13 specified in paragraphs 1 through 5 of subsection A of this section.

14       SECTION 5.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2357.34 of Title 68, unless  
16 there is created a duplication in numbering, reads as follows:

17       A. For tax years beginning after December 31, 2000, there shall  
18 be allowed a credit against the tax imposed by Section 2355 of Title  
19 68 of the Oklahoma Statutes for qualified rehabilitation  
20 expenditures incurred in connection with any certified historic  
21 hotel located in an increment district created pursuant to the Local  
22 Development Act. The amount of the credit shall be one hundred

1 percent (100%) of the federal rehabilitation credit provided for in  
2 Section 47 of Title 26 of the United States Code.

3 B. If the credit allowed pursuant to this section exceeds the  
4 amount of income taxes due or if there are no state income taxes due  
5 on the income of the taxpayer, the amount of the credit allowed but  
6 not used in any taxable year may be carried forward as a credit  
7 against subsequent income tax liability for a period not exceeding  
8 five (5) years following the qualified expenditures.

9 C. All rehabilitation work to which the credit may be applied  
10 shall be approved by the State Historic Preservation Office prior to  
11 completion of the rehabilitation project as meeting the Secretary of  
12 the Interior's Standards for Rehabilitation so that the office can  
13 provide corrective comments to the taxpayer in order to preserve the  
14 historical qualities of the building. **A certified historic hotel**  
15 **building may be rehabilitated for any lawful use or uses, including**  
16 **without limitation** mixed uses and still retain eligibility for the  
17 credit provided for in this section.

18 D. As used in this section:

19 1. "Certified historic hotel" means a hotel that is listed on  
20 the National Register of Historic Places within three (3) years of  
21 taking the credit pursuant to this section; and

22 2. "Qualified rehabilitation expenditures" means capital  
23 expenditures that qualify for the federal rehabilitation credit

1 provided in Section 47 of Title 26 of the United States Code and  
2 that were paid after December 31, 2000. Qualified rehabilitated  
3 expenditures do not include capital expenditures for nonhistoric  
4 additions except an addition that is required by state or federal  
5 regulations that related to historic preservation, safety, or  
6 accessibility. In addition qualified rehabilitation expenditures do  
7 not include expenditures related to the cost of acquisition of the  
8 property.

9 SECTION 6. This act shall become effective November 1, 2000.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-21-00 - DO PASS,  
11 As Amended.