STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1199

By: Ervin and Deutschendorf of the House

and

Fisher of the Senate

COMMITTEE SUBSTITUTE

[economic development - Regional Economic Development District Act - codification - 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 821 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Regional Economic Development District Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 822 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Regional Economic Development District Act is intended to implement and execute paragraph (h) of Section 35 of Article X of the Constitution of the State of Oklahoma as amended pursuant to the provisions of Enrolled House Bill No. 1198 of the 1st Session of the 48th Oklahoma Legislature by providing for the issuance of bonds by municipalities and counties located within regional economic development districts. None of the provisions of the Regional Economic Development District Act shall be effective until the amendment to Section 35 of Article X of the Constitution of the

State of Oklahoma as proposed by Enrolled House Bill No. 1198 of the 1st Session of the 48th Oklahoma Legislature is approved by the people.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 823 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in the Regional Economic Development District Act:

1. "Bonds" means any bonds, notes, certificates of participation or other evidences of indebtedness issued pursuant to Section 35 of Article X of the Oklahoma Constitution;

2. "Department" means the Oklahoma Department of Commerce established pursuant to Section 5001 et seq. of Title 74 of the Oklahoma Statutes and any successor agency;

3. "Governing body" means the city council, city commission, board of trustees of a municipality or the board of commissioners of a county;

4. "Participating Entity" means any municipality or county comprising an established Regional District;

5. "Project" means the acquisition or construction of real or personal property, or both, by or for the use of public or private entities as may be authorized for economic development purposes by the Legislature pursuant to the provisions of Section 35 of Article X of the Oklahoma Constitution; and

6. "Regional District" means a regional economic development district, as designated by the Governor pursuant to Section 7 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 824 of Title 62, unless there is created a duplication in numbering, reads as follows:

Regional Districts may be created pursuant to the provisions of this act, to assist in financing economic development projects which have a substantial regional economic impact, by allowing

municipalities and counties comprising such districts to issue bonds in accordance with Section 35 of Article X of the Oklahoma Constitution. Such districts may be comprised of:

1. Two or more municipalities;

2. Two or more counties; or

3. One or more municipalities and one or more counties.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 825 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Upon a request by the Governor, the Oklahoma Department of Commerce shall prepare a Preliminary Project Plan relating to a proposed project. This Preliminary Project Plan shall set forth the following information:

1. A description of the economic development project, including the name of private companies being assisted, if any, and the nature of such assistance;

2. An estimate of the total project costs of the project;

3. A description of the bonds proposed to be issued, including the par amount of bonds proposed for issuance by each municipality or county comprising the proposed Regional District;

4. A listing of the municipalities and counties comprising the proposed Regional District;

5. A description of the economic impact that the project will have on the municipalities and counties comprising the proposed Regional District;

6. A description of the type and amount of tax that will be authorized for the payment of principal, interest and premium, if any, on the bonds;

7. The name of the public trust designated to administer the project; and

8. Such other information as the Department may deem appropriate.

B. Following the preparation of the Preliminary Project Plan, the Department shall conduct public hearings for the purpose of receiving input from the public regarding the Preliminary Project Plan. The public hearings shall be held at sites located throughout all of the municipalities or counties comprising the proposed Regional District. Notice of the time, date, and place of the public hearings shall be published in one or more newspapers of general circulation within each of the municipalities and counties comprising the proposed Regional District. The notice shall also inform the public that a copy of the Preliminary Project Plan can be obtained from the Department without charge. Such publication shall be at least seven (7) days prior to the hearings. At the hearings, comments from all interested persons shall be received by the Department and a record made of such comments.

C. After the public hearings are concluded, the Department shall prepare a Final Project Plan, based upon the Preliminary Project Plan, but giving due consideration to the comments received at the public hearings. The Final Project Plan shall also include a certification by the Department that the proposed project will have a substantial economic impact on each of the municipalities and counties proposed for inclusion in the Regional District. The Final Project Plan shall include the same items listed in subsection A of this section. No municipalities or counties may be listed in the Final Project Plan for inclusion in a Regional District other than those listed in the Preliminary Project Plan. A municipality or county may be omitted in the Final Project Plan if the Department determines that the project will not have a substantial economic impact within such municipality or county. Thereafter, the Department shall forward the Final Project Plan to the Governor.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 826 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. After receipt and review of the Final Project Plan, the Governor shall either approve the Final Project Plan and the terms and conditions contained therein, or the Governor shall reject the plan and return it to the Oklahoma Department of Commerce along with any revisions which the Governor may deem appropriate. If returned to the Department, the Department will revise the plan and resubmit the plan to the Governor.

B. Once the Final Project Plan is approved by the Governor, the Governor shall then issue an election proclamation calling for an election to be held within each of the municipalities and counties listed in the Final Project Plan. The election proclamation shall set a date on which elections shall be held within each of the listed municipalities and counties. The elections shall be conducted by the appropriate county election board or boards pursuant to the general election laws of the state, but shall be coordinated by the State Election Board under such procedures as it may, by rule, prescribe. Notice of the election shall be given by the mayor of each municipality or by the county commissioners of each county, by advertisement weekly for at least four times in a newspaper of general circulation in said municipality or county, with the last publication to be not less than ten (10) days prior to the date of the elections. All costs associated with the holding of such elections shall be paid for by the Department, and no municipal or county funds shall be used; provided, however, that the Governor is authorized to accept donations from private parties for the purpose of defraying all or a portion of the costs associated with the holding of such elections.

C. The State Election Board shall certify the results of such elections and shall forward the same to the Governor.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 827 of Title 62, unless there is created a duplication in numbering, reads as follows:

If the voters of one or more of the municipalities or counties listed in the Final Project Plan approve the authorization of bonds issued pursuant to this act, the Governor shall determine, with the assistance of the Department, whether the bonds authorized by such entity or entities will provide sufficient financial resources to allow for the project to be undertaken. If the Governor determines that sufficient financial resources are available and that the project is feasible, then the Governor shall, by executive order, establish a Regional District comprised of those municipalities and counties whose voters approved the issuance of bonds pursuant to this act. No municipality or county whose voters failed to authorize the issuance of bonds shall be a part of the Regional District established by the Governor.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 828 of Title 62, unless there is created a duplication in numbering, reads as follows:

Once a Regional District has been established by the Governor, the governing bodies of each of the Participating Entities comprising such district shall take all actions required by law for the issuance of the type of bonds described in the Final Project Plan. A transcript of proceedings for each of the Participating Entities shall thereafter be prepared and submitted to the Attorney General of Oklahoma for examination. Such bonds, having been examined and certified as legal obligations by the Attorney General in accordance with such requirements as the Attorney General may make, shall be incontestable in any court of the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction thereof within thirty (30) days from the date of such approval. Bonds so approved by the Attorney General shall be prima facie valid and binding obligations according to their terms. The only objection which may be offered thereto in any suit instituted after such thirty-day period shall have expired shall be a violation of

provisions of either the United States Constitution or the Oklahoma Constitution.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 829 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Bonds issued pursuant to this act shall:

1. Be issued in one or more series;

2. Bear such date or dates;

3. Mature at such time or times not exceeding twenty-five (25) years from their date;

4. Be in such denomination or denominations;

5. Be payable in such medium of payment at such place or places;

6. Be subject to such terms of redemption with or without premium; and

7. Bear such rate or rates of interest as may be provided in the Final Project Plan; provided, however, that the average coupon rate for such bonds shall not exceed fourteen percent (14%) per annum.

B. All bonds issued hereunder, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon an open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the Participating Entity is located prior to the date on which bids are received and opened; provided, however, that the Governor may waive this requirement if the Governor determines that a lower aggregate interest cost may be obtained through a negotiated sale. In no event, however, shall any bonds issued hereunder be sold for less than ninety-six percent (96%) of par value.

C. Bonds shall have all the qualities and incidents of negotiable paper and the interest thereon shall not be subject to taxation by the State of Oklahoma.

D. Each Participating Entity may issue bonds pursuant to this act for the purpose of refunding any obligations of such entity issued pursuant to this act.

E. The bonds issued pursuant to this act shall not constitute an obligation of the State of Oklahoma, or general obligations of the issuers thereof, but shall be special, limited obligations payable solely from the taxes or other revenues described in the Final Project Plan and only to the extent authorized by the voters of each Participating Entity. The governing body of each Participating Entity is hereby authorized and directed to pledge all or any part of such revenues to the payment of principal, interest and premium, if any, on the bonds issued by such Participating Entity.

F. A Participating Entity may enter into any agreement or contracts with the United States of America or the State of Oklahoma or any agency or instrumentality thereof which it may consider advisable or necessary in order to obtain a grant of funds or other aid to be used in connection with the proceeds of the bonds.

G. Bonds issued pursuant to this act shall not be subject to the provisions of the Municipal and County Industrial Development Bonds Act, but instead, shall be issued pursuant to the provisions of this act.

H. Any bank, trust or insurance company organized under the laws of Oklahoma may invest its capital, surplus and reserves in bonds issued under the provisions of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 830 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Governor is hereby authorized to file an application, at the Governor's discretion, with the Supreme Court of Oklahoma for the validation of any bonds to be issued hereunder or for any writ, including mandamus, which may lie in relation to any action to be taken by the governing body of a Participating Entity. Exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation within the Regional District. Such notice shall inform all persons interested that they may file protests against the validation or approval and be present at the hearing and contest the same. Such notice shall be published one time, not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time at the discretion of the court.

B. In any action to approve bonds, if the Supreme Court is satisfied that the bonds have been properly authorized in accordance with the provisions of this act, and that when issued they will constitute valid obligations of the respective issuers in accordance with their terms, the Supreme Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Supreme Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the governing body of each Participating Entity, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court of the State of Oklahoma.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 831 of Title 62, unless there is created a duplication in numbering, reads as follows:

All proceeds received by a Participating Entity from the sale of bonds shall be transferred to a public trust created pursuant to the

provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes, which public trust shall have among its beneficiaries, all of the Participating Entities. In lieu of a public trust, the Oklahoma Development Finance Authority may be designated as the agency in charge of administering the Regional District, subject to the approval of the governing board of the Oklahoma Development Finance Authority. The administering agency shall be responsible for disbursing funds from proceeds of the sale of the bonds for payment of all costs relating to the project, including the costs of issuance of the bonds, and may take title to such property and take all other such actions as it deems necessary to implement the Final Project Plan. The administering agency shall be entitled to collect an administrative fee from the proceeds of the bond, said fee to be described in the Final Project Plan. The Final Project Plan may also designate said agency to serve as the paying agent for any monies which are to be remitted to the Participating Entities, whether such revenues are in the form of lease payments, debt service payments, tax increment revenues or otherwise.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 832 of Title 62, unless there is created a duplication in numbering, reads as follows:

The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

SECTION 13. This act shall become effective upon approval of the proposed amendment to Section 35 of Article X of the Constitution of the State of Oklahoma set forth in Enrolled House Bill No 1198 of the 1st Session of the 48th Oklahoma Legislature and shall have the force and effect of law on the date the election results are certified.

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