

EHB 2704

THE STATE SENATE
Wednesday, April 12, 2006

ENGROSSED
House Bill No. 2704
As Amended

ENGROSSED HOUSE BILL NO. 2704 - By: HICKMAN, WALKER, PRUETT, ARMES,
DeWITT, BILLY, ROGGOW, ELLIS, GLENN, DENNEY, BLACKWELL, BRADDOCK,
HIETT, SHERRER and HILLIARD of the House and GUMM of the Senate.

**[public finance - relating to Local Development Act -
modifying intent - modifying definitions -
emergency]**

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

SECTION 1. AMENDATORY 62 O.S. 2001, 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, with special
emphasis given to projects that would assist in the economic
development of rural areas of the state;

2. That the tools of this act not be used in areas where
investment, development and economic growth would have occurred

1 anyway and that the governing body take care to exclude areas that
2 do not meet this criteria;

3 3. That the tools of this act be used to supplement and not
4 supplant or replace normal public functions and services;

5 4. That the tools of this act work in conjunction with existing
6 programs and efforts such as the Oklahoma Main Street Program,
7 Oklahoma Enterprise Zone Act, historic preservation and other
8 locally implemented economic development efforts;

9 5. That any proposed districts be delineated with particular
10 emphasis not to have boundaries that dissect a similar area or
11 create unfair competitive advantage;

12 6. That the governing body recognizes the need for residential
13 and neighborhood treatment, capital improvements to neighborhood
14 public schools, as well as commercial/industrial development;

15 7. That where possible partial credits or credits that do not
16 utilize the full time frame allowed be pursued;

17 8. That maximum effort be made to allow full public knowledge
18 and participation in the local use of this act;

19 9. That conservation, preservation and rehabilitation be
20 emphasized while demolition, clearance and relocation be minimized
21 where possible; and

22 10. That the governing bodies develop and apply clear
23 standards, criteria and threshold limits that are applicable to all

1 similar property and areas and that the governing bodies enact
2 protection against nearby relocations to utilize incentives.

3 SECTION 2. AMENDATORY 62 O.S. 2001, Section 853, as last
4 amended by Section 55, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2005,
5 Section 853), is amended to read as follows:

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

7 1. "Apportionment" means the direction by a governing body,
8 authorized by the Legislature pursuant to Section 6C of Article X of
9 the Oklahoma Constitution, to apply all or any portion of an
10 increment of ad valorem taxes and all or any portion of sales taxes,
11 other local taxes or local fees, or any combination thereof, to
12 financing a plan and project in accordance with this act;

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

15 3. "Bonds" means evidences of indebtedness, tax apportionment
16 bonds or other obligations issued by a public entity pursuant to the
17 provisions of Section 863 of this title to finance project costs,
18 pursuant to a project plan, which are to be repaid in whole or part
19 with apportioned increments;

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

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

3 6. "Enterprise zone" means an enterprise zone as designated by
4 the Department of Commerce pursuant to the provisions of Section
5 690.3 of this title or as designated by the federal government;

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

8 8. "Historic preservation area" means a geographic area listed
9 in or nominated by the State Historic Preservation Officer to the
10 National Register of Historic Places, an historic structure or
11 structures listed individually in or nominated by the State Historic
12 Preservation Officer to the National Register of Historic Places,
13 with such area or structure being subject to historic preservation
14 zoning, or for purposes of ad valorem tax exemptions provided for in
15 subsection D of Section 860 of this title, a structure subject to
16 historic preservation zoning. Rehabilitation undertaken in an
17 historic preservation area shall meet the Secretary of the
18 Interior's Standards for Rehabilitation, latest revision, in order
19 to be eligible for the incentives or exemptions granted pursuant to
20 Section 860 of this title;

21 9. "Increment" means that portion of ad valorem taxes in excess
22 of the amount of that portion of the taxes which are produced by the
23 levy at the rate fixed each year by or for each such ad valorem

1 taxing entity upon the base assessed value of the district or as to
2 an area later added to the district, the effective date of the
3 modification of the plan, or that portion of sales taxes, other
4 local taxes or local fees collected each year reasonably determined
5 by a formula approved by the governing body to be generated by the
6 project, which may be apportioned for specific project costs or as a
7 specific revenue source for other public entities in the area in
8 which the project costs take place;

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

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

14 12. "Project" means all development activities pursuant to the
15 objectives of the project plan;

16 13. "Project area" means the geographic boundaries within which
17 development activities will occur. The project area may be
18 coextensive or larger than the increment district;

19 14. "Project costs" means the expenditures made or estimated to
20 be made and monetary obligations incurred or estimated to be
21 incurred which are listed in the project plan as costs of and
22 incidental to planning, approval and implementation of the project
23 plan. Any income, special assessments, or other revenues received,

1 or reasonably expected to be received, by the city, town or county
2 in connection with the implementation of the project plan may be
3 used to pay project costs. Project costs include, but are not
4 limited to:

- 5 a. capital costs, including the actual costs of the
6 acquisition and construction of public works, public
7 improvements, new public or private buildings,
8 structures, and fixtures; the actual costs of the
9 acquisition, demolition, alteration, remodeling,
10 repair, or reconstruction of existing public or
11 private buildings, structures, and fixtures; and the
12 actual costs of the acquisition of land and equipment
13 for public works, public improvements and public
14 buildings and the actual costs of clearing and grading
15 of such land and environmental remediation related
16 thereto,
- 17 b. financing costs, including interest paid to holders of
18 evidences of indebtedness or other obligations issued
19 to pay for project costs and premium paid over the
20 principal amount of the obligations because of the
21 redemption of the obligations before maturity,
- 22 c. real property assembly costs, including clearance and
23 preparation costs,

- 1 d. professional service costs, including those incurred
2 for architectural, planning, engineering, legal and
3 financial advice and services,
4 e. direct administrative costs, including reasonable
5 charges for the time spent by employees of the city,
6 town or county in connection with the implementation
7 of a project plan or employees of private entities
8 under contract with a public entity for project
9 planning or implementation,
10 f. organizational costs, including the costs of
11 conducting environmental impact studies or other
12 impact studies, the cost of publicizing the
13 consideration of the project plan, costs incidental to
14 creation of the district, and the cost of implementing
15 the project plan for the district,
16 g. interest, before and during construction and for two
17 (2) years after completion of construction, whether or
18 not capitalized,
19 h. fees for bond guarantees, letters of credit and bond
20 insurance,
21 i. the amount of any contributions offset made in
22 connection with the implementation of the project
23 plan,

- 1 j. the costs for determining or redetermining the base
2 assessed value of a district,
- 3 k. costs of construction of public works or improvements,
4 including but not limited to highways, roads,
5 including roads providing ingress and egress for a
6 business enterprise which employs no individual at an
7 average annualized wage which is less than one hundred
8 fifty percent (150%) of the federally mandated minimum
9 wage and which provides an employer-paid health
10 benefits plan, streets, bridges, sewers, traffic
11 control systems and devices, telecommunications
12 systems, parks, water distribution and supply systems,
13 curbing, sidewalks and any similar public
14 improvements, common utility or service facilities,
15 landscaping, parking, and water detention/retention
16 systems,
- 17 l. all or a portion of another taxing jurisdiction's
18 capital costs resulting from the development or
19 redevelopment project necessarily incurred or to be
20 incurred in furtherance of the objectives of the plan
21 and project, to the extent the governing body by
22 written agreement accepts and approves such costs,

- 1 m. relocation costs to the extent that a governing body
- 2 determines that relocation costs shall be paid or are
- 3 required to be paid by federal or state law,
- 4 n. all costs incurred in the maintenance, management,
- 5 marketing and other services provided through an
- 6 active Main Street Program recognized as such by the
- 7 Oklahoma Department of Commerce, and
- 8 o. assistance in development financing to the extent the
- 9 governing body approves such financing;

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

1 16. "Public entity" means any city, town, county, board,
2 commission, authority, district, urban renewal authority or public
3 trust;

4 17. "Reinvestment area" means any area located within the
5 limits of a city, town or county requiring public improvements,
6 including but not limited to transportation-related projects
7 identified by any transportation authority pursuant to Section
8 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic
9 stagnation or decline, to serve as a catalyst for retaining or
10 expanding employment, to attract major investment in the area or to
11 preserve or enhance the tax base or in which fifty percent (50%) or
12 more of the structures in the area have an age of thirty-five (35)
13 years or more. Such an area is detrimental to the public health,
14 safety, morals or welfare. Such an area may become a blighted area
15 because of any one or more of the following factors: dilapidation;
16 obsolescence; deterioration; illegal use of individual structures;
17 presence of structures below minimum code standards; abandonment;
18 excessive vacancies; overcrowding of structures and community
19 facilities; lack of ventilation, light or sanitary facilities;
20 inadequate utilities; excessive land coverage; deleterious land use
21 or layout; depreciation of physical maintenance; and lack of
22 community planning. Such an area includes a blighted area as

1 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at
2 the time of approval of the project plan; and

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

6 SECTION 3. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-4-06 - DO PASS,
11 As Amended.