

CS for SB 962

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**THE STATE SENATE**  
**Wednesday, March 2, 2005**

**Committee Substitute for**  
**Senate Bill No. 962**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 962 - By: MONSON and GUMM  
of the Senate and WINCHESTER of the House.

[ urban renewal and public finance -  
emergency ]

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 38-118, is  
amended to read as follows:

Section 38-118. No public official or employee of a  
municipality (or Board or Commission thereof), and no Commissioner  
or employee of an Urban Renewal Authority which has been vested by a  
municipality with urban renewal project powers under this article,  
shall voluntarily acquire any personal interest, direct or indirect,  
in any urban renewal project, or in any property that is to be  
acquired or developed with public finance assistance and that is  
included or planned to be included in any urban renewal project of  
such municipality or in any contract or proposed contract in  
connection with such urban renewal project. Where such acquisition  
is not voluntary, the interest acquired shall be immediately  
disclosed in writing to the municipal governing body. If such  
official, Commissioner or employee presently owns or controls, or

1 owned or controlled within the preceding two (2) years, any  
2 interest, direct or indirect, in any property which he knows is  
3 included or planned to be included in an urban renewal project, he  
4 shall immediately disclose this fact in writing to the municipal  
5 governing body, and any such officials, Commissioner or employee  
6 shall not participate in any action by the municipality (or Board or  
7 Commission thereof), or Urban Renewal Authority affecting such  
8 property. The disclosure required to be made by this section to the  
9 municipal governing body shall concurrently be made to the Urban  
10 Renewal Authority which has been vested with urban renewal project  
11 powers by the municipality pursuant to the provisions of this  
12 article. No Commissioner or other officer of any Urban Renewal  
13 Authority, Board or Commission exercising the powers pursuant to  
14 this article shall hold any other public office under the  
15 municipality other than his commissionership or office with respect  
16 to such Urban Renewal Authority.

17 SECTION 2. AMENDATORY 62 O.S. 2001, Section 854, as  
18 amended by Section 2, Chapter 255, O.S.L. 2003 (62 O.S. Supp. 2004,  
19 Section 854), is amended to read as follows:

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

- 1           1. Establish districts and create plans pursuant to the  
2 provisions of this act;
- 3           2. Cause project plans to be prepared, to approve the plans,  
4 and to implement the provisions and effectuate the purposes of the  
5 plans;
- 6           3. Cause bonds to be issued by public entities as provided for  
7 in Section 863 of this title;
- 8           4. Apportion local taxes or local fees and direct the use of  
9 local taxes and local fees for the purpose provided for in this act.  
10 Pursuant to Section 6C of Article X of the Constitution of the State  
11 of Oklahoma, a direction of apportionment may be prospective and may  
12 continue for one (1) or more years, and apportioned tax increments  
13 may be pledged beyond the current fiscal year to the repayment of  
14 indebtedness of other public entities, notwithstanding the  
15 provisions of Section 26 of Article X of the Constitution of the  
16 State of Oklahoma or any other provisions of law;
- 17           5. Enter into any contracts or agreements determined by the  
18 governing body to be necessary or convenient to implement the  
19 provisions and effectuate the purposes of project plans;
- 20           6. Receive, from the federal government or the state, loans and  
21 grants for, or in aid of a project and to receive contributions from  
22 any other source to defray project costs;

1       7. Grant tax incentives or exemptions in the manner provided  
2 for in this act;

3       8. Acquire by purchase, donation or lease, and own, convey,  
4 lease, mortgage, or dispose of land and other property, real or  
5 personal, or rights or interests therein;

6       9. Clear and improve property acquired by it pursuant to the  
7 project plan and construct public facilities on it or contract for  
8 the construction, development, redevelopment, rehabilitation,  
9 remodeling, alteration, or repair of the property;

10      10. Cause parks, playgrounds, or schools, including capital  
11 improvements to public schools, or water, sewer, or drainage  
12 facilities or any other public improvements which it is otherwise  
13 authorized to undertake, to be laid out, constructed, or furnished  
14 in connection with the project;

15      11. Lay out and construct, alter, relocate, change the grade  
16 of, make specific repairs upon, or discontinue public ways and  
17 construct sidewalks in, or adjacent to, the project area;

18      12. Cause sidewalks, ways for vehicular travel, playgrounds, or  
19 water, sewer, or drainage facilities and similar improvements to be  
20 constructed within the project area for the particular benefit of  
21 the project area or those dwelling or working in it;

22      13. Adopt ordinances or resolutions or repeal or modify such  
23 ordinances or resolutions or establish exceptions to existing

1 ordinances and resolutions regulating the design, construction, and  
2 use of buildings;

3 14. Sell, mortgage, lease, transfer, or dispose of any  
4 property, or interest therein, acquired by it pursuant to the  
5 project plan for development, redevelopment, or rehabilitation in  
6 accordance with the plan, upon such terms and conditions determined  
7 by the governing body to be appropriate for achieving the objectives  
8 of the project plan; 7 provided, in the event of disposition by lease  
9 or sublease to a lessee not entitled to a tax exemption, the  
10 improvements placed thereon shall not be entitled to a tax  
11 exemption;

12 15. Incur project costs;

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

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

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

19 SECTION 3. AMENDATORY 62 O.S. 2001, Section 856, as last  
20 amended by Section 57, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2004,  
21 Section 856), is amended to read as follows:

22 Section 856. A. The governing body shall designate and adopt  
23 the proposed boundaries of any district and the proposed boundaries

1 of any project area. Except as otherwise provided in this  
2 subsection, any districts created by a city or town shall be  
3 confined to that territory within the corporate limits of such city  
4 or town and any districts created by a county shall be confined to  
5 that territory within the unincorporated areas of the county. Any  
6 city, town or county may by agreement jointly create a contiguous  
7 district with another entity.

8 B. Upon the adoption and approval of the project plan, the  
9 governing body shall adopt an ordinance or resolution, whichever is  
10 applicable, which:

11 1. Describes the boundaries of districts and project areas  
12 sufficiently definite to identify with ordinary and reasonable  
13 certainty the territory included in them;

14 2. Creates the district as of a date provided in it;

15 3. Assigns a name to the district for identification purposes.

16 The first district created shall be known as either an Incentive  
17 District or Increment District Number One, City, Town or County of  
18 \_\_\_\_\_, whichever is applicable. Each subsequently created  
19 district shall be appropriately named and shall be assigned the next  
20 consecutive number; and

21 4. Contains findings that:

22 a. the project area or district meets at least one of the  
23 following criteria:

1 (1) is a reinvestment area,  
2 (2) is a historic preservation area,  
3 (3) is an enterprise area, or  
4 (4) is a combination of the areas specified in  
5 divisions (1), (2) and (3) of this subparagraph,  
6 b. the improvement of the area is likely to enhance the  
7 value of other real property in the area and to  
8 promote the general public interest. It shall not be  
9 necessary to identify the specific parcels meeting the  
10 criteria,  
11 c. the guidelines specified in paragraphs 1 and 2 of  
12 Section 852 of this title shall be followed,  
13 d. the aggregate net assessed value of the taxable  
14 property in all districts as determined pursuant to  
15 Section 862 of this title within the city or town  
16 shall not exceed twenty-five percent (25%) of the  
17 total net assessed value of taxable property within  
18 the city or town for cities or towns having a  
19 population of fifty thousand (50,000) or more or shall  
20 not exceed thirty-five percent (35%) of the total net  
21 assessed value of taxable property within the city or  
22 town for cities or towns having a population of less  
23 than fifty thousand (50,000),

- 1 e. for projects approved by a county, the aggregate net  
2 assessed value of the taxable property in all  
3 districts as determined pursuant to Section 862 of  
4 this title within the county shall not exceed fifteen  
5 percent (15%) of the total net assessed value of the  
6 taxable property within the county,
- 7 f. the aggregate net assessed value of the taxable  
8 property in all districts as determined pursuant to  
9 Section 862 of this title within the city, the town or  
10 the county shall not exceed twenty-five percent (25%)  
11 of the total net assessed value of any affected school  
12 district located within the city, town or county, and
- 13 g. the land area of this district and all other districts  
14 within the city, the town or the county shall not  
15 exceed twenty-five percent (25%) of the total land  
16 area of the city, the town or the county.

17 C. It is the intention of the Legislature in adopting the Local  
18 Development Act that no long-term contractual obligation be created  
19 by the mere adoption of an ordinance or resolution establishing an  
20 increment district. Notwithstanding any provision contained in an  
21 ordinance, resolution or project plan, an ordinance or resolution  
22 establishing an increment district shall constitute a legislative  
23 act and may be repealed, modified or amended at any time during the

1 term of the increment district, by subsequent action of the  
2 governing body except as otherwise authorized pursuant to Sections  
3 854 and 863 of this title; provided, however, that no such ordinance  
4 shall be repealed, modified or amended during the time that any  
5 bonds payable from incremental revenues are outstanding without the  
6 consent of the bondholders, if such bonds are issued pursuant to the  
7 provisions of Article X, Section 35 of the Oklahoma Constitution  
8 following its amendment by State Question No. 693.

9 D. However, nothing in the Local Development Act shall restrict  
10 the ability of:

11 1. Any city, town or county to:

- 12 a. issue debt in accordance with the applicable  
13 provisions of Article X of the Oklahoma Constitution,  
14 and any statutes enacted in connection therewith, and  
15 b. use incremental revenues derived from an increment  
16 district to pay principal, interest or premium  
17 associated with such indebtedness; or

18 2. Any public entity, other than a city, town or county, to:

- 19 a. issue tax apportionment bonds or notes in accordance  
20 with Section 863 of this title or to issue other types  
21 of revenue bonds or notes in accordance with other  
22 applicable provisions of Oklahoma law, and

1           b.    use incremental revenues derived from an increment  
2                    district to pay principal, interest or premium  
3                    associated with such indebtedness.

4           SECTION 4.        AMENDATORY        62 O.S. 2001, Section 857, is  
5 amended to read as follows:

6           Section 857.  A.  If any member of the governing body of a city,  
7 town or county which is in the process of adopting a project plan  
8 for a district or which has adopted such a plan pursuant to the  
9 provisions of ~~this act~~ the Local Development Act or if any member of  
10 the governing body of a taxing entity within the boundaries of a  
11 district or any person who is a member of the immediate family of  
12 such member, owns or controls a financial interest, direct or  
13 indirect, in any property in any ~~district or proposed district~~  
14 project area to be acquired or developed with public financial  
15 assistance, said member shall disclose the same in writing to the  
16 clerk of the city, town or county with such disclosure entered into  
17 the minutes of the governing body.  Any such member with any  
18 interest of ten percent (10%) or more or any such member with an  
19 immediate family member with any interest of ten percent (10%) or  
20 more shall be ineligible to vote on any matter or transaction  
21 pertaining to such property, and shall refrain from taking any other  
22 official action related to such property.

1           B. For purposes of this act and unless otherwise provided  
2 therein, any matter requiring a vote by the governing body of a  
3 city, town or county or a governing body of a taxing entity within  
4 the district shall be by a majority of those eligible to vote.

5           SECTION 5.           AMENDATORY           62 O.S. 2001, Section 858, as  
6 amended by Section 5, Chapter 255, O.S.L. 2003 (62 O.S. Supp. 2004,  
7 Section 858), is amended to read as follows:

8           Section 858. A. The governing body shall cause to be prepared  
9 a project plan. The appropriate local planning commission shall  
10 review the proposed project plan and shall make a recommendation on  
11 the plan to the governing body. The project plan shall include the  
12 following items, if applicable, according to the type of district  
13 being formed:

14           1. A description of the proposed boundaries of the district and  
15 the proposed boundaries of the project area by legal description and  
16 by street or other recognizable physical feature accompanied by a  
17 sketch clearly delineating the area in detail;

18           2. A general description of the proposed public works or  
19 improvements, the anticipated private investments and the estimated  
20 public revenues which should accrue;

21           3. A list of estimated project costs including administrative  
22 expenses;

1       4. A general description of the methods of financing the  
2 estimated project costs, the expected sources of revenue to finance  
3 or pay project costs, and the general time when the costs or  
4 monetary obligations related thereto are to be incurred;

5       5. A map showing existing uses and conditions of real property  
6 in the district and a map showing proposed improvements to and  
7 proposed uses of that property;

8       6. Proposed changes in zoning;

9       7. Proposed changes in the master plan and city ordinances if  
10 required to implement the project plan;

11       8. The name of the person who shall be in charge of the  
12 implementation of all of the project plans of the district with such  
13 name being forwarded to the Department of Commerce; and

14       9. A designation of any public entity to be authorized to carry  
15 out all or any part of the project plan.

16       B. Before the governing body may approve such project plan,  
17 notice must be given and public hearings must be held pursuant to  
18 the provisions of Section 859 of this title. The approval by the  
19 governing body must be by ordinance if a city or town or by  
20 resolution if a county which contains findings that the plan is  
21 feasible and conforms to the master plan, if any, of the city, town  
22 or county.

1 C. Except as otherwise provided in this section, the planning  
2 commission may recommend an amendment to a project plan, which  
3 amendment shall be subject to review by the review committee and  
4 approval by the governing body. Prior to the adoption of the  
5 amendment, the governing body shall give notice concerning such  
6 amendment and hold public hearings on such amendment in the manner  
7 prescribed by Section 859 of this title. The approval by the  
8 governing body must be by ordinance if a city or town or by  
9 resolution of a county which contains findings that the plan is  
10 feasible and conforms to the master plan, if any, of the city, town  
11 or county.

12 D. The governing body may grant the department, agency or  
13 public entity in charge of the implementation of the project plan  
14 the authority to make minor amendments to the plan. An amendment is  
15 considered to be minor if such amendment does not change the  
16 character or purpose of the plan; does not affect more than five  
17 percent (5%) of the district's area; or does not affect more than  
18 five percent (5%) of the public costs of the plan to be financed by  
19 apportioned tax increments. All amendments made pursuant to the  
20 provisions of this subsection shall be considered on a cumulative  
21 basis.

22 E. Approval by any ad valorem taxing entities, if required  
23 pursuant to the provisions of Section 850 et seq. of this title,

1 shall be secured before any plan or amendment thereto goes into  
2 effect.

3 F. Any project plan adopted by a transportation authority  
4 pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes,  
5 after having met the provisions of this section, shall be submitted  
6 to a vote of the people within the boundaries of the authority,  
7 pursuant to the provisions of subsections D through H of Section 868  
8 of this title.

9 SECTION 6. AMENDATORY 62 O.S. 2001, Section 863, as  
10 amended by Section 9, Chapter 255, O.S.L. 2003 (62 O.S. Supp. 2004,  
11 Section 863), is amended to read as follows:

12 Section 863. A. With the approval of the governing body, a  
13 public entity, other than a city, town or county, may issue tax  
14 apportionment bonds or notes, other bonds or notes, or both, the  
15 proceeds of which may be used to pay project costs pursuant to the  
16 plan notwithstanding any other statutory provision to the contrary.  
17 Subject to the approval of the governing body, such public entity  
18 may issue refunding bonds or notes for the payment or retirement of  
19 bonds or notes previously issued by the public entity to pay project  
20 costs pursuant to the plan.

21 B. The public entity issuing tax apportionment bonds or notes  
22 may, as authorized by the governing body pursuant to Section 6C of  
23 Article X of the Constitution of the State of Oklahoma, irrevocably

1 pledge all or part of the apportioned increments and other revenue  
2 for payment of the tax apportionment bonds or notes. The part of  
3 the apportioned increments pledged in payment may be used only for  
4 the payment of the bonds or notes or interest on the bonds or notes  
5 until the bonds or notes have been fully paid. A holder of the  
6 bonds or notes or of coupons issued on the bonds has a lien to the  
7 extent authorized by the pledge against the apportionment fund and  
8 the future increments for payment of the bonds or notes and interest  
9 on the bonds or notes and may protect or enforce the lien at law or  
10 in equity.

11 C. The issuing public entity may provide in the contract with  
12 the owners or holders of tax apportionment bonds that they will pay  
13 into the apportionment fund all or any part of the revenue produced  
14 or received from the operation or sale of a facility acquired,  
15 improved, or constructed pursuant to a project plan, to be used to  
16 pay principal and interest on the bonds. If the public entity  
17 agrees, the owners or holders of these bonds may have a lien or  
18 mortgage on a facility acquired, improved, or constructed with the  
19 proceeds of the bonds.

20 D. Tax apportionment bonds may be issued to mature in a period  
21 not to exceed twenty-five (25) years in one or more series;  
22 provided, however, that for any increment district established after  
23 November 1, 1992, such time period shall be tolled for a period of

1 time equal to the pendency of any litigation directly or indirectly  
2 challenging the increment district or apportionment or disbursement.  
3 The trust indenture, ordinance, or resolution approved, issued in  
4 connection with such bond or note, shall provide:

- 5 1. The date that the bond or note bears;
- 6 2. That the bond or note is payable on demand or at a specified  
7 time;
- 8 3. The interest rate that the bond or note bears;
- 9 4. The denomination of the bond or note;
- 10 5. Whether the bond or note is in coupon or registered form;
- 11 6. The conversion or registration privileges of the bond or  
12 note;
- 13 7. The manner of execution of the bond or note;
- 14 8. The medium of payment in which and the place or places at  
15 which the bond or note is payable;
- 16 9. The terms of redemption, with or without premium, to which  
17 the bond or note is subject;
- 18 10. The manner in which the bond or note is secured; and
- 19 11. Any other characteristic of the bond or note.

20 E. A bond or note issued pursuant to the provisions of the  
21 Local Development Act is fully negotiable. In a suit, action, or  
22 other proceeding involving the validity or enforceability of a bond  
23 or note issued pursuant to the provisions of the Local Development

1 Act or the security of a bond or note issued pursuant to the  
2 provisions of the Local Development Act, if the bond or note recites  
3 in substance that it was issued by the public entity pursuant to the  
4 Local Development Act, the bond or note is deemed to have been  
5 issued for that purpose, and the recital shall be conclusive of its  
6 validity and the regularity of its issuance.

7 F. A bank, trust company, savings bank or institution, savings  
8 and loan association, investment company or other person carrying on  
9 a banking or investment business; an insurance company, insurance  
10 association, or other person carrying on an insurance business; or  
11 an executor, administrator, curator, trustee, or other fiduciary may  
12 invest any sinking funds, money, or other funds belonging to it or  
13 in its control in tax apportionment bonds or notes issued under the  
14 Local Development Act. This act does not relieve any person of the  
15 duty to exercise reasonable care in selecting securities or of  
16 complying with other applicable laws.

17 G. A tax apportionment bond or note issued pursuant to the  
18 provisions of this section is not a debt, liability, or obligation  
19 of the city, town or county creating or approving the plan, project  
20 or increment district. The bond or note does not give rise to a  
21 charge against the general credit or taxing powers of such city,  
22 town or county and is not payable except as provided by the Local  
23 Development Act. Bonds or notes issued pursuant to the provisions

1 of this section are not general obligations of the state and have no  
2 claim on the revenues or resources of the state. A bond or note  
3 issued pursuant to the provisions of this section must state the  
4 restrictions of this subsection on its face.

5 H. A tax apportionment bond or note issued pursuant to the  
6 provisions of this section may not be included in any computation of  
7 the general obligation debt of the city, town or county creating or  
8 approving the plan, project or increment district.

9 I. A public entity may not issue bonds or notes, pursuant to  
10 the provisions of this section, providing for repayment of any  
11 portion of the principal from apportioned tax increments in an  
12 amount that exceeds the total cost of implementing the project plan  
13 for which the bonds or notes are issued except to the extent that  
14 bond or notes issues may be sized to include costs of issuance,  
15 credit enhancement fees or premiums, and reasonably required  
16 reserves or amounts to be repaid from sources other than apportioned  
17 tax increments.

18 J. All bonds issued pursuant to the provisions of this section  
19 shall be reviewed by the Oklahoma State Bond Advisor who will give a  
20 recommendation on such bonds to the issuing entity.

21 SECTION 7. It being immediately necessary for the preservation  
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.  
3 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-22-05 - DO PASS,  
4 As Amended and Coauthored.