STATE OF OKLAHOMA

2nd Extraordinary Session of the 50th Legislature (2006)

HOUSE BILL 1232 By: Hickman

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2001, Sections 852 and 853, as last amended by Section 55, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2005, Section 853), which relate to the Local Development Act; modifying statement of legislative intent; modifying definitions; providing for roads allowing ingress and egress with respect to business site location; and declaring an 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 anyway and that the governing body take care to exclude areas that do not meet this criteria;

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

4. That the tools of this act work in conjunction with existing programs and efforts such as the Oklahoma Main Street Program,

Oklahoma Enterprise Zone Act, historic preservation and other locally implemented economic development efforts;

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

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

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

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

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

10. That the governing bodies develop and apply clear standards, criteria and threshold limits that are applicable to all similar property and areas and that the governing bodies enact protection against nearby relocations to utilize incentives.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 853, as last amended by Section 55, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2005, 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 provisions of Section 863 of this title to finance project costs, pursuant to a project plan, which are to be repaid in whole or part with apportioned increments;

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

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

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

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

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

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

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

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

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

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

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

14. "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to planning, approval and implementation of the project plan. Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan may be used to pay project costs. Project costs include, but are not limited to:

a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public or private buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling,

repair, or reconstruction of existing public or private buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment for public works, public improvements and public buildings and the actual costs of clearing and grading of such land and environmental remediation related thereto,

b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,

c. real property assembly costs, including clearance and preparation costs,

d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,

e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,

f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,

g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,

h. fees for bond guarantees, letters of credit and bond insurance,

i. the amount of any contributions offset made in connection with the implementation of the project plan,

j. the costs for determining or redetermining the base assessed value of a district,

k. costs of construction of public works or improvements, including but not limited to highways, roads, <u>including roads providing ingress and egress for a business enterprise,</u> streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,

l. all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs,

m. relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law,

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

o. assistance in development financing to the extent the governing body approves such financing;

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

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

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

or layout; depreciation of physical maintenance; and lack of community planning. Such an area includes a blighted area as defined in Section 38-101 of Title 11 of the Oklahoma Statutes at the time of approval of the project plan; and

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

SECTION 3. 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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