

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 962

By: Monson

AS INTRODUCED

An Act relating to urban renewal and public finance; amending 11 O.S. 2001, Section 38-118, which relates to personal interest of public officials in certain project or property; expands certain prohibition; amending 62 O.S. 2001, Sections 854, as amended by Section 2, Chapter 255, O.S.L. 2003, 857, 863, as amended by Section 9, Chapter 255, O.S.L. 2003 (62 O.S. Supp. 2004, Sections 854 and 863), which relate to the Local Development Act; clarifying reference and certain power of a city, town or county; modifying disclosure requirement; limiting types of bonds or notes issued by public entities; and providing an effective date.

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 owned or controlled within the preceding two (2) years, any

interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this fact in writing to the municipal governing body, and any such officials, Commissioner or employee shall not participate in any action by the municipality (or Board or Commission thereof), or Urban Renewal Authority affecting such property. The disclosure required to be made by this section to the municipal governing body shall concurrently be made to the Urban Renewal Authority which has been vested with urban renewal project powers by the municipality pursuant to the provisions of this article. No Commissioner or other officer of any Urban Renewal Authority, Board or Commission exercising the powers pursuant to this article shall hold any other public office under the municipality other than his commissionership or office with respect to such Urban Renewal Authority.

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

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

1. Establish districts and create plans pursuant to the provisions of this act;
2. Cause project plans to be prepared, to approve the plans, and to implement the provisions and effectuate the purposes of the plans;
3. Cause bonds to be issued by public entities as provided for in Section 863 of this title;
4. Apportion local taxes or local fees and direct the use of local taxes and local fees for the purpose provided for in this act and pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma, including making prospective directions of

apportionment which continue for one (1) or more years and pledging apportioned tax increments beyond the current fiscal year to the repayment of indebtedness of other public entities;

5. Enter into any contracts or agreements determined by the governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;

6. Receive, from the federal government or the state, loans and grants for, or in aid of a project and to receive contributions from any other source to defray project costs;

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

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

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

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

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

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

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

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

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

15. Incur project costs;

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

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

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

SECTION 3. AMENDATORY 62 O.S. 2001, Section 863, as amended by Section 9, Chapter 255, O.S.L. 2003 (62 O.S. Supp. 2004, Section 863), is amended to read as follows:

Section 863. A. With the approval of the governing body, a public entity, other than a city, town or county, may issue tax apportionment bonds or notes, the proceeds of which may be used to pay project costs pursuant to the plan. Subject to the approval of the governing body, such public entity may issue refunding bonds or notes for the payment or retirement of bonds or notes previously issued by the public entity to pay project costs pursuant to the plan.

B. The public entity issuing tax apportionment bonds or notes may, as authorized by the governing body, irrevocably pledge all or part of the apportioned increments and other revenue for payment of

the tax apportionment bonds or notes. The part of the apportioned increments pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the apportionment fund and the future increments for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

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

D. Tax apportionment bonds may be issued to mature in a period not to exceed twenty-five (25) years in one or more series; provided, however, that for any increment district established after November 1, 1992, such time period shall be tolled for a period of time equal to the pendency of any litigation directly or indirectly challenging the increment district or apportionment or disbursement. The trust indenture, ordinance, or resolution approved, issued in connection with such bond or note, shall provide:

1. The date that the bond or note bears;
2. That the bond or note is payable on demand or at a specified time;
3. The interest rate that the bond or note bears;
4. The denomination of the bond or note;
5. Whether the bond or note is in coupon or registered form;

6. The conversion or registration privileges of the bond or note;

7. The manner of execution of the bond or note;

8. The medium of payment in which and the place or places at which the bond or note is payable;

9. The terms of redemption, with or without premium, to which the bond or note is subject;

10. The manner in which the bond or note is secured; and

11. Any other characteristic of the bond or note.

E. A bond or note issued pursuant to the provisions of the Local Development Act is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued pursuant to the provisions of the Local Development Act or the security of a bond or note issued pursuant to the provisions of the Local Development Act, if the bond or note recites in substance that it was issued by the public entity pursuant to the Local Development Act, the bond or note is deemed to have been issued for that purpose, and the recital shall be conclusive of its validity and the regularity of its issuance.

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

G. A tax apportionment bond or note issued pursuant to the provisions of this section is not a debt, liability, or obligation of the city, town or county creating or approving the plan, project

or increment district. The bond or note does not give rise to a charge against the general credit or taxing powers of such city, town or county and is not payable except as provided by the Local Development Act. Bonds or notes issued pursuant to the provisions of this section are not general obligations of the state and have no claim on the revenues or resources of the state. A bond or note issued pursuant to the provisions of this section must state the restrictions of this subsection on its face.

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

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

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

SECTION 4. This act shall become effective November 1, 2005.

50-1-893

JCR

6/13/2015 8:58:50 AM