

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

SUBCOMMITTEE RECOMMENDATION  
FOR

HOUSE BILL NO. 2703

By: McDaniel (Randy)

SUBCOMMITTEE RECOMMENDATION

An Act relating to public finance; amending 62 O.S. 2001, Sections 853, as last amended by Section 55, Chapter 5, O.S.L. 2004 and 856, as last amended by Section 3, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2009, Sections 853 and 856), which relate to the Local Development Act; modifying definitions; modifying requirement related to certain districts created by agreement; modifying provisions related to certain ordinances or resolutions; amending 61 O.S. 2001, Section 127, as amended by Section 25, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009, Section 127), which relates to certain contracts; modifying reference to public entities; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 853, as last amended by Section 55, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2009, 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

1 increment of ad valorem taxes and all or any portion of sales taxes,  
2 other local taxes or local fees, or any combination thereof, to  
3 financing a plan and project in accordance with this act;

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

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

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

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

17 6. "Enterprise zone" means an enterprise zone as designated by  
18 the Department of Commerce pursuant to the provisions of Section  
19 690.3 of this title or as designated by the federal government;

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

22 8. "Historic preservation area" means a geographic area listed  
23 in or nominated by the State Historic Preservation Officer to the  
24 National Register of Historic Places, an historic structure or

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

11 9. "Increment" means that portion of ad valorem taxes in excess  
12 of the amount of that portion of the taxes which are produced by the  
13 levy at the rate fixed each year by or for each such ad valorem  
14 taxing entity upon the base assessed value of the district or as to  
15 an area later added to the district, the effective date of the  
16 modification of the plan, or that portion of sales taxes, other  
17 local taxes or local fees collected each year reasonably determined  
18 by a formula approved by the governing body to be generated by the  
19 project, regardless of taxable location or recipient local public  
20 taxing entity, which may be apportioned for specific project costs  
21 or as a specific revenue source for other public entities in the  
22 area in which the project costs take place;

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

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

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

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

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

- 18            a. capital costs, including the actual costs of the  
19                acquisition and construction of public works, public  
20                improvements, new public or private buildings,  
21                structures, and fixtures; the actual costs of the  
22                acquisition, demolition, alteration, remodeling,  
23                repair, or reconstruction of existing public or  
24                private buildings, structures, and fixtures; and the

1 actual costs of the acquisition of land and equipment  
2 for public works, public improvements and public  
3 buildings and the actual costs of clearing and grading  
4 of such land and environmental remediation related  
5 thereto,

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

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

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

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

22 f. organizational costs, including the costs of  
23 conducting environmental impact studies or other  
24 impact studies, the cost of publicizing the

- 1 consideration of the project plan, costs incidental to  
2 creation of the district, and the cost of implementing  
3 the project plan for the district,
- 4 g. interest, before and during construction and for two  
5 (2) years after completion of construction, whether or  
6 not capitalized,
- 7 h. fees for bond guarantees, letters of credit and bond  
8 insurance,
- 9 i. the amount of any contributions offset made in  
10 connection with the implementation of the project  
11 plan,
- 12 j. the costs for determining or redetermining the base  
13 assessed value of a district,
- 14 k. costs of construction of public works or improvements,  
15 including but not limited to highways, roads, streets,  
16 bridges, sewers, traffic control systems and devices,  
17 telecommunications systems, parks, water distribution  
18 and supply systems, curbing, sidewalks and any similar  
19 public improvements, common utility or service  
20 facilities, landscaping, parking, and water  
21 detention/retention systems,
- 22 l. all or a portion of another taxing jurisdiction's  
23 capital costs resulting from the development or  
24 redevelopment project necessarily incurred or to be

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

13 15. "Project plan" means the approved plans of a city, town or  
14 county which may include a designated district or districts under  
15 this act in conformance with its comprehensive plan, which is  
16 intended by the payment of costs through apportionment of the  
17 increment or by the granting of incentives or exemptions to reduce  
18 or eliminate those conditions, the existence of which qualified the  
19 district, and to thereby enhance private investment of the tax bases  
20 of the taxing entities which extend into the district. Project  
21 plans may be a part of and incorporate existing neighborhood,  
22 renewal, economic development, public school and other such plans.  
23 Each project plan shall conform to the requirements specified by  
24 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  
23 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at  
24 the time of approval of the project plan; and



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

4 SECTION 2. AMENDATORY 62 O.S. 2001, Section 856, as last  
5 amended by Section 3, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2009,  
6 Section 856), is amended to read as follows:

7 Section 856. A. The governing body shall designate and adopt  
8 the proposed boundaries of any district and the proposed boundaries  
9 of any project area. Except as otherwise provided in this  
10 subsection, any districts created by a city or town shall be  
11 confined to that territory within the corporate limits of such city  
12 or town and any districts created by a county shall be confined to  
13 that territory within the unincorporated areas of the county. Any  
14 city, town or county may by agreement jointly create a ~~contiguous~~  
15 district with another entity.

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

19 1. Describes the boundaries of districts and project areas  
20 sufficiently definite to identify with ordinary and reasonable  
21 certainty the territory included in them;

22 2. Creates the district as of a date provided in it or defers  
23 determination of such date, provided such date must be no more than  
24 ten (10) years after the date of approval of the project plan;

1        3. Assigns a name to the district for identification purposes.  
2 The first district created shall be known as either an Incentive  
3 District or Increment District Number One, City, Town or County of  
4 \_\_\_\_\_, whichever is applicable. Each subsequently created  
5 district shall be appropriately named and shall be assigned the next  
6 consecutive number; and

7        4. Contains findings that:

8            a. the project area or district meets at least one of the  
9                following criteria:

10                (1) is a reinvestment area,

11                (2) is a historic preservation area,

12                (3) is an enterprise area, or

13                (4) is a combination of the areas specified in

14                        divisions (1), (2) and (3) of this subparagraph,

15            b. the improvement of the area is likely to enhance the  
16                value of other real property in the area and to  
17                promote the general public interest. It shall not be  
18                necessary to identify the specific parcels meeting the  
19                criteria,

20            c. the guidelines specified in paragraphs 1 and 2 of  
21                Section 852 of this title shall be followed,

22            d. the aggregate net assessed value of the taxable  
23                property in all districts as determined pursuant to  
24                Section 862 of this title within the city or town

1 shall not exceed twenty-five percent (25%) of the  
2 total net assessed value of taxable property within  
3 the city or town for cities or towns having a  
4 population of fifty thousand (50,000) or more or shall  
5 not exceed thirty-five percent (35%) of the total net  
6 assessed value of taxable property within the city or  
7 town for cities or towns having a population of less  
8 than fifty thousand (50,000),

9 e. for projects approved by a county, the aggregate net  
10 assessed value of the taxable property in all  
11 districts as determined pursuant to Section 862 of  
12 this title within the county shall not exceed fifteen  
13 percent (15%) of the total net assessed value of the  
14 taxable property within the county,

15 f. the aggregate net assessed value of the taxable  
16 property in all districts as determined pursuant to  
17 Section 862 of this title within the city, the town or  
18 the county shall not exceed twenty-five percent (25%)  
19 of the total net assessed value of any affected school  
20 district located within the city, town or county, and

21 g. the land area of this district and all other districts  
22 within the city, the town or the county shall not  
23 exceed twenty-five percent (25%) of the total land  
24 area of the city, the town or the county.

1 C. It is the intention of the Legislature in adopting the Local  
2 Development Act that no long-term contractual obligation be created  
3 by the mere adoption of an ordinance or resolution establishing an  
4 increment district. Notwithstanding any provision contained in an  
5 ordinance, resolution or project plan, an ordinance or resolution  
6 establishing an increment district shall constitute a legislative  
7 act and may be repealed, modified or amended at any time during the  
8 term of the increment district, by subsequent action of the  
9 governing body except as otherwise authorized pursuant to Sections  
10 854 and 863 of this title; provided, however, that no such ordinance  
11 shall be repealed, modified or amended during the time that any  
12 bonds payable from incremental revenues are outstanding without the  
13 consent of the bondholders, if such bonds are issued pursuant to the  
14 provisions of Article X, Section 35 of the Oklahoma Constitution  
15 following its amendment by State Question No. 693.

16 D. However, nothing in the Local Development Act shall restrict  
17 the ability of:

18 1. Any city, town or county to:

- 19 a. issue debt in accordance with the applicable  
20 provisions of Article X of the Oklahoma Constitution,  
21 and any statutes enacted in connection therewith, and  
22 b. use incremental revenues derived from an increment  
23 district to pay principal, interest or premium  
24 associated with such indebtedness; or

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

2            a. issue tax apportionment bonds or notes in accordance  
3                        with Section 863 of this title or to issue other types  
4                        of revenue bonds or notes in accordance with other  
5                        applicable provisions of Oklahoma law, and

6            b. use incremental revenues derived from an increment  
7                        district to pay principal, interest or premium  
8                        associated with such indebtedness.

9        SECTION 3.        AMENDATORY        61 O.S. 2001, Section 127, as  
10        amended by Section 25, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2009,  
11        Section 127), is amended to read as follows:

12        Section 127. This act shall apply to contracts made by a public  
13        ~~trust~~ entity operating pursuant to the Local Industrial Development  
14        Act or the Local Development Act except where the public  
15        improvements, buildings, or repairs are being made or constructed as  
16        a part of an agreement to provide development financing assistance,  
17        and where the cost of such public improvements does not exceed  
18        twenty-five percent (25%) of the total amount of the estimated  
19        public and private investment being made within the related  
20        increment district.

21        SECTION 4. It being immediately necessary for the preservation  
22        of the public peace, health and safety, an emergency is hereby  
23  
24

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.

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