

EHB 1786

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 1786

As Amended

ENGROSSED HOUSE BILL NO. 1786 - By: Shannon, Sherrer, Ownbey, Walker and Armes of the House and Barrington of the Senate.

[economic development - Local Government Infrastructure
Cost Recovery Payment Act - Local Government Infrastructure
Cost Recovery Revolving Fund - codification - effective
date -
emergency]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4001 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may cited as the "Local Government Infrastructure Cost Recovery Payment Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4002 of Title 62, unless there is created a duplication in numbering, reads as follows:

The expenditures from the Local Government Infrastructure Cost Recovery Revolving Fund, if made in accordance with the requirements of this act, shall be construed as an expenditure of public funds in furtherance of essential state government functions and for the purpose of conferring general and uniform benefits resulting from

1 the expenditures upon the residents and other legal entities located
2 in areas subject to the jurisdiction of the local government entity
3 making application for infrastructure cost recovery payments.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4003 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 As used in this act:

8 1. "Eligible infrastructure costs" means **at least Five Hundred**
9 **Thousand Dollars (\$500,000.00)** expended by a local government entity
10 prior to the beginning of business operations or substantially
11 contemporaneous with the beginning of business operations by a
12 targeted vendor for:

- 13 a. road and street construction, repair and maintenance,
- 14 b. bridge construction, repair and maintenance,
- 15 c. surface water management assets, including but not
16 limited to pipe, grates, channels, culverts or other
17 related assets,
- 18 d. sanitary sewer management assets,
- 19 e. such other tangible assets, whether consisting of real
20 or personal property, or improvements upon real
21 property, designated by a local government entity in
22 connection with a targeted vendor;

1 2. "Growth revenue" means the amount of state sales tax revenue
2 collected by a targeted vendor establishing a new business location
3 within the unincorporated area of a county or the incorporated area
4 of a city or town derived from sales of tangible personal property
5 or services made by such vendor for the first time **within a county**
6 **or municipality. Under no circumstances shall "growth revenue" mean**
7 **revenue derived from the relocation or expansion of a vendor serving**
8 **the same service area within a fifty-mile radius of the new**
9 **location;**

10 3. "Infrastructure cost recovery amount" means some portion,
11 not in excess of one hundred percent (100%), of the growth revenue
12 designated by a local government entity to be paid to the local
13 government entity during the infrastructure cost recovery period for
14 eligible infrastructure recovery costs;

15 4. "Local government entity" means:

- 16 a. an incorporated city,
- 17 b. an incorporated town, or
- 18 c. a county;

19 5. "State sales tax" means the levy imposed pursuant to Section
20 1354 of Title 68 of the Oklahoma Statutes and does not include
21 proceeds from the levy of sales tax imposed by a county, city or
22 town; and

1 6. "Targeted vendor" means a lawfully recognized business
2 entity engaged in a retail or commercial enterprise making taxable
3 sales of property or services subject to the levy of the state sales
4 tax for the first time within the unincorporated area of a county or
5 for the first time within the incorporated area of a city or town
6 and identified by a local government entity pursuant to Section 4 of
7 this act; **provided, the Oklahoma Department of Commerce shall**
8 **certify that a vendor qualifies as a targeted vendor pursuant to**
9 **this paragraph only if prior to the beginning of business operations**
10 **or substantially contemporaneous with the beginning of business**
11 **operations, the vendor has expended at least Five Hundred Thousand**
12 **Dollars (\$500,000.00) for tangible assets, whether consisting of**
13 **real or personal property or improvements on real property.**

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4004 of Title 62, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A local government entity shall be authorized to receive an
18 infrastructure cost recovery payment for eligible infrastructure
19 costs as provided by this act.

20 B. A local government entity shall make application to the
21 Oklahoma Tax Commission for payments authorized by this act on such
22 forms as the Tax Commission may prescribe for such purpose.

1 C. The application shall require the local government to
2 identify:

3 1. The legal name of the targeted vendor and the form of
4 business organization through which the business activity is or will
5 be conducted;

6 2. The physical location or address at which the principal
7 business activity of the vendor is or will be conducted;

8 3. A description of the business activity that is or will be
9 conducted by the targeted vendor;

10 4. The infrastructure asset or assets for which the
11 infrastructure cost recovery payment is claimed;

12 5. The cost of eligible infrastructure assets to be repaid
13 through the payments authorized by this act;

14 6. The period for which the infrastructure recovery payments
15 are requested;

16 7. The total amount of the infrastructure recovery payment; and

17 8. Such other information as the Tax Commission may require.

18 D. The Tax Commission shall evaluate the application to
19 determine whether the local government entity is entitled to
20 payments otherwise authorized by this act.

21 E. If the Tax Commission determines that the local government
22 entity is eligible, the Tax Commission shall make a monthly payment,
23 in the amount designated by the local government entity and, subject

1 to a maximum period of five (5) years, for the period of time
2 designated by the local government entity, from the Local Government
3 Infrastructure Cost Recovery Revolving Fund created by Section 5 of
4 this act.

5 F. No monthly payment shall be made to a local government
6 entity in an amount exceeding the growth revenue remitted by the
7 targeted vendor. If more than one vendor is a targeted vendor with
8 respect to one local government entity, the monthly payment shall
9 not exceed the total amount of growth revenue remitted by all
10 targeted vendors with respect to such local government entity.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4005 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 There is hereby created in the State Treasury a revolving fund
15 for the Oklahoma Tax Commission to be designated the "Local
16 Government Infrastructure Cost Recovery Revolving Fund". The fund
17 shall be a continuing fund, not subject to fiscal year limitations,
18 and shall consist of all monies received by the Oklahoma Tax
19 Commission from state sales tax collections consisting of growth
20 revenue from targeted vendors. All monies accruing to the credit
21 of said fund are hereby appropriated and may be budgeted and
22 expended by the Oklahoma Tax Commission for the purpose of making
23 infrastructure cost recovery payments to an eligible local

1 government entity. Expenditures from said fund shall be made upon
2 warrants issued by the State Treasurer against claims filed as
3 prescribed by law with the Director of State Finance for approval
4 and payment.

5 SECTION 6. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4006 of Title 62, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Using information provided by a local government entity, the
9 Oklahoma Tax Commission shall identify any and all targeted vendors
10 remitting growth revenues.

11 B. Sales tax returns filed by targeted vendors shall be
12 analyzed to determine the amount of growth revenue remitted by the
13 targeted vendors.

14 C. The Tax Commission shall transfer to the Local Government
15 Infrastructure Cost Recovery Revolving Fund each month the amount of
16 growth revenues remitted by all targeted vendors which will be
17 required to make infrastructure cost recovery payments.

18 SECTION 7. This act shall become effective July 1, 2009.

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

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-31-09 - DO PASS,
24 As Amended and Coauthored.