

**EHB 2703**

**THE STATE SENATE**  
**Wednesday, March 31, 2010**

**ENGROSSED**

**House Bill No. 2703**

**As Amended**

ENGROSSED HOUSE BILL NO. 2703 - By: McDaniel (Randy), Denney and Hickman of the House and Lamb of the Senate.

**[ public finance - Local Development Act - certain contracts ]**

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 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

1 provisions of Section 863 of this title to finance project costs,  
2 pursuant to a project plan, which are to be repaid in whole or part  
3 with apportioned increments;

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

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

10 6. "Enterprise zone" means an enterprise zone as designated by  
11 the Department of Commerce pursuant to the provisions of Section  
12 690.3 of this title or as designated by the federal government;

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

15 8. "Historic preservation area" means a geographic area listed  
16 in or nominated by the State Historic Preservation Officer to the  
17 National Register of Historic Places, an historic structure or  
18 structures listed individually in or nominated by the State Historic  
19 Preservation Officer to the National Register of Historic Places,  
20 with such area or structure being subject to historic preservation  
21 zoning, or for purposes of ad valorem tax exemptions provided for in  
22 subsection D of Section 860 of this title, a structure subject to  
23 historic preservation zoning. Rehabilitation undertaken in an

1 historic preservation area shall meet the Secretary of the  
2 Interior's Standards for Rehabilitation, latest revision, in order  
3 to be eligible for the incentives or exemptions granted pursuant to  
4 Section 860 of this title;

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

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

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

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

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

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

- 13       a. capital costs, including the actual costs of the  
14 acquisition and construction of public works, public  
15 improvements, new public or private buildings,  
16 structures, and fixtures; the actual costs of the  
17 acquisition, demolition, alteration, remodeling,  
18 repair, or reconstruction of existing public or  
19 private buildings, structures, and fixtures; and the  
20 actual costs of the acquisition of land and equipment  
21 for public works, public improvements and public  
22 buildings and the actual costs of clearing and grading

- 1 of such land and environmental remediation related  
2 thereto,
- 3 b. financing costs, including interest paid to holders of  
4 evidences of indebtedness or other obligations issued  
5 to pay for project costs and premium paid over the  
6 principal amount of the obligations because of the  
7 redemption of the obligations before maturity,
- 8 c. real property assembly costs, including clearance and  
9 preparation costs,
- 10 d. professional service costs, including those incurred  
11 for architectural, planning, engineering, legal and  
12 financial advice and services,
- 13 e. direct administrative costs, including reasonable  
14 charges for the time spent by employees of the city,  
15 town or county in connection with the implementation  
16 of a project plan or employees of private entities  
17 under contract with a public entity for project  
18 planning or implementation,
- 19 f. organizational costs, including the costs of  
20 conducting environmental impact studies or other  
21 impact studies, the cost of publicizing the  
22 consideration of the project plan, costs incidental to

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

1 Each project plan shall conform to the requirements specified by  
2 this act;

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

6 17. "Reinvestment area" means any area located within the  
7 limits of a city, town or county requiring public improvements,  
8 including but not limited to transportation-related projects  
9 identified by any transportation authority pursuant to Section  
10 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic  
11 stagnation or decline, to serve as a catalyst for retaining or  
12 expanding employment, to attract major investment in the area or to  
13 preserve or enhance the tax base or in which fifty percent (50%) or  
14 more of the structures in the area have an age of thirty-five (35)  
15 years or more. Such an area is detrimental to the public health,  
16 safety, morals or welfare. Such an area may become a blighted area  
17 because of any one or more of the following factors: dilapidation;  
18 obsolescence; deterioration; illegal use of individual structures;  
19 presence of structures below minimum code standards; abandonment;  
20 excessive vacancies; overcrowding of structures and community  
21 facilities; lack of ventilation, light or sanitary facilities;  
22 inadequate utilities; excessive land coverage; deleterious land use  
23 or layout; depreciation of physical maintenance; and lack of

1 community planning. Such an area includes a blighted area as  
2 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at  
3 the time of approval of the project plan; and

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

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

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

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

- 1           1. Describes the boundaries of districts and project areas  
2 sufficiently definite to identify with ordinary and reasonable  
3 certainty the territory included in them;
- 4           2. Creates the district as of a date provided in it or defers  
5 determination of such date, provided such date must be no more than  
6 ten (10) years after the date of approval of the project plan;
- 7           3. Assigns a name to the district for identification purposes.  
8 The first district created shall be known as either an Incentive  
9 District or Increment District Number One, City, Town or County of  
10 \_\_\_\_\_, whichever is applicable. Each subsequently created  
11 district shall be appropriately named and shall be assigned the next  
12 consecutive number; and
- 13           4. Contains findings that:
- 14           a. the project area or district meets at least one of the  
15 following criteria:
- 16                   (1) is a reinvestment area,  
17                   (2) is a historic preservation area,  
18                   (3) is an enterprise area, or  
19                   (4) is a combination of the areas specified in  
20                   divisions (1), (2) and (3) of this subparagraph,
- 21           b. the improvement of the area is likely to enhance the  
22 value of other real property in the area and to  
23 promote the general public interest. It shall not be

1           necessary to identify the specific parcels meeting the  
2           criteria,  
3           c.    the guidelines specified in paragraphs 1 and 2 of  
4           Section 852 of this title shall be followed,  
5           d.    the aggregate net assessed value of the taxable  
6           property in all districts as determined pursuant to  
7           Section 862 of this title within the city or town  
8           shall not exceed twenty-five percent (25%) of the  
9           total net assessed value of taxable property within  
10          the city or town for cities or towns having a  
11          population of fifty thousand (50,000) or more or shall  
12          not exceed thirty-five percent (35%) of the total net  
13          assessed value of taxable property within the city or  
14          town for cities or towns having a population of less  
15          than fifty thousand (50,000),  
16          e.    for projects approved by a county, the aggregate net  
17          assessed value of the taxable property in all  
18          districts as determined pursuant to Section 862 of  
19          this title within the county shall not exceed fifteen  
20          percent (15%) of the total net assessed value of the  
21          taxable property within the county,  
22          f.    the aggregate net assessed value of the taxable  
23          property in all districts as determined pursuant to

1 Section 862 of this title within the city, the town or  
2 the county shall not exceed twenty-five percent (25%)  
3 of the total net assessed value of any affected school  
4 district located within the city, town or county, and  
5 g. the land area of this district and all other districts  
6 within the city, the town or the county shall not  
7 exceed twenty-five percent (25%) of the total land  
8 area of the city, the town or the county.

9 C. It is the intention of the Legislature in adopting the Local  
10 Development Act that no long-term contractual obligation be created  
11 by the mere adoption of an ordinance or resolution establishing an  
12 increment district. Notwithstanding any provision contained in an  
13 ordinance, resolution or project plan, an ordinance or resolution  
14 establishing an increment district shall constitute a legislative  
15 act and may be repealed, modified or amended at any time during the  
16 term of the increment district, by subsequent action of the  
17 governing body except as otherwise authorized pursuant to Sections  
18 854 and 863 of this title; provided, however, that no such ordinance  
19 shall be repealed, modified or amended during the time that any  
20 bonds payable from incremental revenues are outstanding without the  
21 consent of the bondholders, if such bonds are issued pursuant to the  
22 provisions of Article X, Section 35 of the Oklahoma Constitution  
23 following its amendment by State Question No. 693.

1 D. However, nothing in the Local Development Act shall restrict  
2 the ability of:

3 1. Any city, town or county to:

4 a. issue debt in accordance with the applicable  
5 provisions of Article X of the Oklahoma Constitution,  
6 and any statutes enacted in connection therewith, and

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

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

11 a. issue tax apportionment bonds or notes in accordance  
12 with Section 863 of this title or to issue other types  
13 of revenue bonds or notes in accordance with other  
14 applicable provisions of Oklahoma law, and

15 b. use incremental revenues derived from an increment  
16 district to pay principal, interest or premium  
17 associated with such indebtedness.

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

21 Section 127. This act shall apply to contracts made by a public  
22 ~~trust~~ entity operating pursuant to the Local Industrial Development  
23 Act or the Local Development Act except where the public

1 improvements, buildings, or repairs are being made or constructed as  
2 a part of an agreement to provide development financing assistance,  
3 and where the cost of such public improvements does not exceed  
4 twenty-five percent (25%) of the total amount of the estimated  
5 public and private investment being made within the related  
6 increment district.

7 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-30-10 - DO PASS,  
8 As Amended.