



1 Section 853. As used in Section 850 et seq. of this title:

2 1. "Apportionment" means the direction by a governing body,  
3 authorized by the Legislature pursuant to Section 6C of Article X of  
4 the Oklahoma Constitution, to apply all or any portion of an  
5 increment of ad valorem taxes and all or any portion of sales taxes,  
6 other local taxes or local fees, or any combination thereof, to  
7 financing a plan and project in accordance with this act;

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

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

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

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

21 6. "Enterprise zone" means an enterprise zone as designated by  
22 the Department of Commerce pursuant to the provisions of Section  
23 690.3 of this title or as designated by the federal government;

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

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

16 9. "Increment" means that portion of ad valorem taxes in excess  
17 of the amount of that portion of the taxes which are produced by the  
18 levy at the rate fixed each year by or for each such ad valorem  
19 taxing entity upon the base assessed value of the district or as to  
20 an area later added to the district, the effective date of the  
21 modification of the plan, or that portion of sales taxes, other  
22 local taxes or local fees collected each year reasonably determined  
23 by a formula approved by the governing body to be generated by the

1 project, regardless of taxable location or recipient local public  
2 taxing entity, which may be apportioned for specific project costs  
3 or as a specific revenue source for other public entities in the  
4 area in which the project costs take place;

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

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

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

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

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

- 1 a. capital costs, including the actual costs of the  
2 acquisition and construction of public works, public  
3 improvements, new public or private buildings,  
4 structures, and fixtures; the actual costs of the  
5 acquisition, demolition, alteration, remodeling,  
6 repair, or reconstruction of existing public or  
7 private buildings, structures, and fixtures; and the  
8 actual costs of the acquisition of land and equipment  
9 for public works, public improvements and public  
10 buildings and the actual costs of clearing and grading  
11 of such land and environmental remediation related  
12 thereto,
- 13 b. financing costs, including interest paid to holders of  
14 evidences of indebtedness or other obligations issued  
15 to pay for project costs and premium paid over the  
16 principal amount of the obligations because of the  
17 redemption of the obligations before maturity,
- 18 c. real property assembly costs, including clearance and  
19 preparation costs,
- 20 d. professional service costs, including those incurred  
21 for architectural, planning, engineering, legal and  
22 financial advice and services,
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- 1 e. direct administrative costs, including reasonable  
2 charges for the time spent by employees of the city,  
3 town or county in connection with the implementation  
4 of a project plan or employees of private entities  
5 under contract with a public entity for project  
6 planning or implementation,
- 7 f. organizational costs, including the costs of  
8 conducting environmental impact studies or other  
9 impact studies, the cost of publicizing the  
10 consideration of the project plan, costs incidental to  
11 creation of the district, and the cost of implementing  
12 the project plan for the district,
- 13 g. interest, before and during construction and for two  
14 (2) years after completion of construction, whether or  
15 not capitalized,
- 16 h. fees for bond guarantees, letters of credit and bond  
17 insurance,
- 18 i. the amount of any contributions offset made in  
19 connection with the implementation of the project  
20 plan,
- 21 j. the costs for determining or redetermining the base  
22 assessed value of a district,
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- 1 k. costs of construction of public works or improvements,  
2 including but not limited to highways, roads, streets,  
3 bridges, sewers, traffic control systems and devices,  
4 telecommunications systems, parks, water distribution  
5 and supply systems, curbing, sidewalks and any similar  
6 public improvements, common utility or service  
7 facilities, landscaping, parking, and water  
8 detention/retention systems,
- 9 l. all or a portion of another taxing jurisdiction's  
10 capital costs resulting from the development or  
11 redevelopment project necessarily incurred or to be  
12 incurred in furtherance of the objectives of the plan  
13 and project, to the extent the governing body by  
14 written agreement accepts and approves such costs,
- 15 m. relocation costs to the extent that a governing body  
16 determines that relocation costs shall be paid or are  
17 required to be paid by federal or state law,
- 18 n. all costs incurred in the maintenance, management,  
19 marketing and other services provided through an  
20 active Main Street Program recognized as such by the  
21 Oklahoma Department of Commerce, and
- 22 o. assistance in development financing to the extent the  
23 governing body approves such financing;

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

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

16       17. "Reinvestment area" means any area located within the  
17 limits of a city, town or county requiring public improvements,  
18 including but not limited to transportation-related projects  
19 identified by any transportation authority pursuant to Section  
20 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic  
21 stagnation or decline, to serve as a catalyst for retaining or  
22 expanding employment, to attract major investment in the area or to  
23 preserve or enhance the tax base or in which fifty percent (50%) or

1 more of the structures in the area have an age of thirty-five (35)  
2 years or more. Such an area is detrimental to the public health,  
3 safety, morals or welfare. Such an area may become a blighted area  
4 because of any one or more of the following factors: dilapidation;  
5 obsolescence; deterioration; illegal use of individual structures;  
6 presence of structures below minimum code standards; abandonment;  
7 excessive vacancies; overcrowding of structures and community  
8 facilities; lack of ventilation, light or sanitary facilities;  
9 inadequate utilities; excessive land coverage; deleterious land use  
10 or layout; depreciation of physical maintenance; and lack of  
11 community planning. Such an area includes a blighted area as  
12 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at  
13 the time of approval of the project plan; and

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

17 SECTION 2. AMENDATORY 62 O.S. 2001, Section 856, as last  
18 amended by Section 3, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2010,  
19 Section 856), is amended to read as follows:

20 Section 856. A. The governing body shall designate and adopt  
21 the proposed boundaries of any district and the proposed boundaries  
22 of any project area. Except as otherwise provided in this  
23 subsection, any districts created by a city or town shall be

1 confined to that territory within the corporate limits of such city  
2 or town and any districts created by a county shall be confined to  
3 that territory within the unincorporated areas of the county. Any  
4 city, town or county may by agreement jointly create a ~~contiguous~~  
5 district with another entity.

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

9 1. Describes the boundaries of districts and project areas  
10 sufficiently definite to identify with ordinary and reasonable  
11 certainty the territory included in them;

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

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

21 4. Contains findings that:

22 a. the project area or district meets at least one of the  
23 following criteria:

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- 1 (1) is a reinvestment area,  
2 (2) is a historic preservation area,  
3 (3) is an enterprise area, or  
4 (4) is a combination of the areas specified in  
5 divisions (1), (2) and (3) of this subparagraph,

6 b. the improvement of the area is likely to enhance the  
7 value of other real property in the area and to  
8 promote the general public interest. It shall not be  
9 necessary to identify the specific parcels meeting the  
10 criteria,

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

13 d. the aggregate net assessed value of the taxable  
14 property in all districts as determined pursuant to  
15 Section 862 of this title within the city or town  
16 shall not exceed twenty-five percent (25%) of the  
17 total net assessed value of taxable property within  
18 the city or town for cities or towns having a  
19 population of fifty thousand (50,000) or more or shall  
20 not exceed thirty-five percent (35%) of the total net  
21 assessed value of taxable property within the city or  
22 town for cities or towns having a population of less  
23 than fifty thousand (50,000),

1 e. for projects approved by a county, the aggregate net  
2 assessed value of the taxable property in all  
3 districts as determined pursuant to Section 862 of  
4 this title within the county shall not exceed fifteen  
5 percent (15%) of the total net assessed value of the  
6 taxable property within the county,

7 f. the aggregate net assessed value of the taxable  
8 property in all districts as determined pursuant to  
9 Section 862 of this title within the city, the town or  
10 the county shall not exceed twenty-five percent (25%)  
11 of the total net assessed value of any affected school  
12 district located within the city, town or county, and

13 g. the land area of this district and all other districts  
14 within the city, the town or the county shall not  
15 exceed twenty-five percent (25%) of the total land  
16 area of the city, the town or the county.

17 C. It is the intention of the Legislature in adopting the Local  
18 Development Act that no long-term contractual obligation be created  
19 by the mere adoption of an ordinance or resolution establishing an  
20 increment district. Notwithstanding any provision contained in an  
21 ordinance, resolution or project plan, an ordinance or resolution  
22 establishing an increment district shall constitute a legislative  
23 act and may be repealed, modified or amended at any time during the

1 term of the increment district, by subsequent action of the  
2 governing body except as otherwise authorized pursuant to Sections  
3 854 and 863 of this title; provided, however, that no such ordinance  
4 shall be repealed, modified or amended during the time that any  
5 bonds payable from incremental revenues are outstanding without the  
6 consent of the bondholders, if such bonds are issued pursuant to the  
7 provisions of Article X, Section 35 of the Oklahoma Constitution  
8 following its amendment by State Question No. 693.

9 D. However, nothing in the Local Development Act shall restrict  
10 the ability of:

11 1. Any city, town or county to:

12 a. issue debt in accordance with the applicable  
13 provisions of Article X of the Oklahoma Constitution,  
14 and any statutes enacted in connection therewith, and

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

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

19 a. issue tax apportionment bonds or notes in accordance  
20 with Section 863 of this title or to issue other types  
21 of revenue bonds or notes in accordance with other  
22 applicable provisions of Oklahoma law, and  
23  
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1           b.    use incremental revenues derived from an increment  
2                district to pay principal, interest or premium  
3                associated with such indebtedness.

4           SECTION 3.        AMENDATORY        61 O.S. 2001, Section 127, as  
5 amended by Section 25, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2010,  
6 Section 127), is amended to read as follows:

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

16           SECTION 4. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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21 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
22 FINANCIAL SERVICES, dated 02-24-2011 - DO PASS, As Coauthored.