

1 **SENATE FLOOR VERSION**

2 March 23, 2011

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 2117

6 By: Hickman and Jackson of the  
7 House

8 and

9 Mazzei and Ivester of the  
10 Senate

11 [ public finance - Local Development Act - modifying  
12 definitions - modifying requirement - modifying  
13 provisions - modifying reference to public entities ]

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

15 SECTION 1. AMENDATORY 62 O.S. 2001, Section 853, as last  
16 amended by Section 55, Chapter 5, O.S.L. 2004 (62 O.S. Supp. 2010,  
17 Section 853), is amended to read as follows:

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

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

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

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

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

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

14       6. "Enterprise zone" means an enterprise zone as designated by  
15 the Department of Commerce pursuant to the provisions of Section  
16 690.3 of this title or as designated by the federal government;

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

19       8. "Historic preservation area" means a geographic area listed  
20 in or nominated by the State Historic Preservation Officer to the  
21 National Register of Historic Places, an historic structure or  
22 structures listed individually in or nominated by the State Historic  
23 Preservation Officer to the National Register of Historic Places,  
24 with such area or structure being subject to historic preservation

1 zoning, or for purposes of ad valorem tax exemptions provided for in  
2 subsection D of Section 860 of this title, a structure subject to  
3 historic preservation zoning. Rehabilitation undertaken in an  
4 historic preservation area shall meet the Secretary of the  
5 Interior's Standards for Rehabilitation, latest revision, in order  
6 to be eligible for the incentives or exemptions granted pursuant to  
7 Section 860 of this title;

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

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

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

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

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

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

15 a. capital costs, including the actual costs of the  
16 acquisition and construction of public works, public  
17 improvements, new public or private buildings,  
18 structures, and fixtures; the actual costs of the  
19 acquisition, demolition, alteration, remodeling,  
20 repair, or reconstruction of existing public or  
21 private buildings, structures, and fixtures; and the  
22 actual costs of the acquisition of land and equipment  
23 for public works, public improvements and public  
24 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  
23 creation of the district, and the cost of implementing  
24 the project plan for the district,

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

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

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

22 16. "Public entity" means any city, town, county, board,  
23 commission, authority, district, urban renewal authority or public  
24 trust;

1           17. "Reinvestment area" means any area located within the  
2 limits of a city, town or county requiring public improvements,  
3 including but not limited to transportation-related projects  
4 identified by any transportation authority pursuant to Section  
5 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic  
6 stagnation or decline, to serve as a catalyst for retaining or  
7 expanding employment, to attract major investment in the area or to  
8 preserve or enhance the tax base or in which fifty percent (50%) or  
9 more of the structures in the area have an age of thirty-five (35)  
10 years or more. Such an area is detrimental to the public health,  
11 safety, morals or welfare. Such an area may become a blighted area  
12 because of any one or more of the following factors: dilapidation;  
13 obsolescence; deterioration; illegal use of individual structures;  
14 presence of structures below minimum code standards; abandonment;  
15 excessive vacancies; overcrowding of structures and community  
16 facilities; lack of ventilation, light or sanitary facilities;  
17 inadequate utilities; excessive land coverage; deleterious land use  
18 or layout; depreciation of physical maintenance; and lack of  
19 community planning. Such an area includes a blighted area as  
20 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at  
21 the time of approval of the project plan; and

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



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

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

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

16 1. Describes the boundaries of districts and project areas  
17 sufficiently definite to identify with ordinary and reasonable  
18 certainty the territory included in them;

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

22 3. Assigns a name to the district for identification purposes.  
23 The first district created shall be known as either an Incentive  
24 District or Increment District Number One, City, Town or County of

1 \_\_\_\_\_, whichever is applicable. Each subsequently created  
2 district shall be appropriately named and shall be assigned the next  
3 consecutive number; and

4 4. Contains findings that:

5 a. the project area or district meets at least one of the  
6 following criteria:

7 (1) is a reinvestment area,

8 (2) is a historic preservation area,

9 (3) is an enterprise area, or

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

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

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

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

19 d. the aggregate net assessed value of the taxable  
20 property in all districts as determined pursuant to  
21 Section 862 of this title within the city or town  
22 shall not exceed twenty-five percent (25%) of the  
23 total net assessed value of taxable property within  
24 the city or town for cities or towns having a

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

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

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

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

22 C. It is the intention of the Legislature in adopting the Local  
23 Development Act that no long-term contractual obligation be created  
24 by the mere adoption of an ordinance or resolution establishing an

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

13 D. However, nothing in the Local Development Act shall restrict  
14 the ability of:

15 1. Any city, town or county to:

16 a. issue debt in accordance with the applicable  
17 provisions of Article X of the Oklahoma Constitution,  
18 and any statutes enacted in connection therewith, and

19 b. use incremental revenues derived from an increment  
20 district to pay principal, interest or premium  
21 associated with such indebtedness; or

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

23 a. issue tax apportionment bonds or notes in accordance  
24 with Section 863 of this title or to issue other types

1 of revenue bonds or notes in accordance with other  
2 applicable provisions of Oklahoma law, and

- 3 b. use incremental revenues derived from an increment  
4 district to pay principal, interest or premium  
5 associated with such indebtedness.

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-22-11 - DO PASS,  
19 As Amended and Coauthored.  
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