

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 606 By: Rader of the Senate
3 and
4 Pfeiffer of the House
5
6

7 An Act relating to development incentives; amending
8 62 O.S. 2011, Sections 841, 844 and 845, which relate
9 to the Oklahoma Local Development and Enterprise Zone
10 Incentive Leverage Act; modifying definition;
11 requiring matching payment to equal the net benefit
12 rate multiplied by the actual gross sales; requiring
13 computation by the Oklahoma Department of Commerce;
14 converting fund to special account; eliminating fund
15 name; conforming language; eliminating certain limit
16 on liability for payments; and providing an effective
17 date.

15 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
16 and replace with:

17 "An Act relating to public finance; amending 62 O.S.
18 2011, Section 845, which relates to the Oklahoma
19 Local Development and Enterprise Zone Incentive
20 Leverage Act; converting fund to special account;
21 eliminating fund name; conforming language;
22 eliminating certain limit on liability for payments;
23 and providing an effective date.

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

23 SECTION 1. AMENDATORY 62 O.S. 2011, Section 845, is
24 amended to read as follows:

1 Section 845. There is hereby created within the State Treasury
2 ~~a special fund~~ an agency special account for the Oklahoma Tax
3 Commission ~~to be designated the "Oklahoma Local Development and~~
4 ~~Enterprise Zone Incentive Leverage Act Incentive Payment Fund".~~ The
5 Oklahoma Tax Commission is hereby authorized and directed to
6 withhold a portion of the taxes levied and collected pursuant to
7 Section 2355 of Title 68 of the Oklahoma Statutes for deposit into
8 the ~~fund~~ account in order to pay claims as they become due. All of
9 the amounts deposited in ~~such fund~~ the account shall be used and
10 expended by the Tax Commission solely for the purposes and in the
11 amounts authorized by the Oklahoma Local Development and Enterprise
12 Zone Incentive Leverage Act. ~~The liability of the State of Oklahoma~~
13 ~~to make the incentive payments under this act shall be limited to~~
14 ~~the balance contained in the fund created by this section.~~

15 SECTION 2. This act shall become effective November 1, 2021."

16 Passed the House of Representatives the 13th day of April, 2021.

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19 _____
20 Presiding Officer of the House of
Representatives

21 Passed the Senate the ____ day of _____, 2021.

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23

24 _____
Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 606

By: Rader of the Senate

3 and

4 Pfeiffer of the House

5
6 An Act relating to development incentives; amending
7 62 O.S. 2011, Sections 841, 844 and 845, which relate
8 to the Oklahoma Local Development and Enterprise Zone
9 Incentive Leverage Act; modifying definition;
10 requiring matching payment to equal the net benefit
11 rate multiplied by the actual gross sales; requiring
12 computation by the Oklahoma Department of Commerce;
13 converting fund to special account; eliminating fund
14 name; conforming language; eliminating certain limit
15 on liability for payments; and providing an effective
16 date.

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

18 SECTION 3. AMENDATORY 62 O.S. 2011, Section 841, is
19 amended to read as follows:

20 Section 841. As used in the Oklahoma Local Development and
21 Enterprise Zone Incentive Leverage Act:

22 1. "Enterprise" means any form of business organization
23 including, but not limited to, any partnership, sole proprietorship,
24 corporation, limited liability company or other legally constituted
business entity;

2. "Enterprise zone" means an area as defined pursuant to
paragraph 5 of Section 690.2 of this title;

1 3. "Estimated direct state benefits" means the total
2 incremental state tax revenues new to the state estimated by the
3 Oklahoma Department of Commerce to accrue to the state from new
4 investments and new employment during the period of apportionment of
5 local sales taxes as a result of the project and/or projects
6 described in the related project plan. For purposes of projecting
7 state benefits for a military growth impact project, the military
8 growth impacts shall be used in lieu of the project and/or projects
9 described in the related project plan. In projecting such benefits,
10 the Oklahoma Department of Commerce shall consider, if practicable,
11 whether or not the project plan involves an enterprise:

- 12 a. relocating from within the state,
- 13 b. subject to or in the process of recruitment by two or
14 more governmental entities within the state, or
- 15 c. which will be in direct competition with an existing
16 enterprise located in the state;

17 4. "Estimated direct state costs" means the costs projected by
18 the Oklahoma Department of Commerce to be incurred by the state
19 during the period of apportionment of local sales taxes, as a result
20 of the project and/or projects described in the related project
21 plan. For purposes of projecting state costs for a military growth
22 impact project, the military growth impacts shall be used in lieu of
23 the project and/or projects described in the related project plan;

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1 5. "Estimated net direct state benefits" means the estimated
2 direct state benefits less the estimated direct state costs;

3 6. "Facility" means the definition contained in paragraph 8 of
4 Section 690.2 of this title;

5 7. "Governing body" means the governing board of a local
6 governmental entity in the case of a single incentive district or
7 increment district when the boundaries of the district are
8 coextensive with or contained within the jurisdiction of any such
9 single local governmental entity or the governing boards of a
10 combination of counties, cities, or towns forming an incentive
11 district or an increment district pursuant to the provisions of the
12 Local Development Act;

13 8. "Incentive district" means an area created pursuant to the
14 provisions of the Local Development Act, including Section 856 of
15 this title;

16 9. "Increment district" means an area created pursuant to the
17 provisions of the Local Development Act;

18 10. "Local governmental entity" means a county, city or town
19 forming an incentive district or an increment district pursuant to
20 the provisions of the Local Development Act;

21 11. "Local sales taxes" means amounts payable to or for the
22 benefit of a local governmental entity calculated as a percentage,
23 which, except on transient lodgings, shall not exceed four and one-

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1 half percent (4.5%) of gross sales whether imposed by ordinance,
2 resolution, covenant, or agreement;

3 12. "Major tourism destination project" means a project which:

4 a. meets the definition of a "tourism attraction" as set
5 forth in subparagraph a of paragraph ~~10~~ 12 of Section
6 ~~2357.36~~ 2393 of Title 68 of the Oklahoma Statutes,
7 subject only to the restrictions of divisions (1), (3)
8 and (6) of subparagraph b of paragraph ~~10~~ 12 of
9 Section ~~2357.36~~ 2393 of Title 68 of the Oklahoma
10 Statutes,

11 b. is projected to meet the following qualifications
12 within three (3) years of the date of substantial
13 completion of the project based upon the findings of
14 the Oklahoma Department of Commerce:

15 (1) at least Fifty Million Dollars (\$50,000,000.00)
16 in capital investment,

17 (2) at least Fifty Million Dollars (\$50,000,000.00)
18 in projected annual gross sales revenues or at
19 least Ten Million Dollars (\$10,000,000.00) in
20 annual gross sales revenues to out-of-state
21 visitors,

22 (3) a number of out-of-state visitors of at least:

23 (a) twenty percent (20%) of the number of total
24 visitors, or

1 (b) twenty thousand (20,000) visitors per year,
2 and

3 (4) a number of visitors traveling at least one
4 hundred (100) miles of at least:

5 (a) thirty percent (30%) of the number of total
6 visitors, or

7 (b) twenty-five thousand (25,000) visitors per
8 year, or

9 c. is a lake resort project, containing a hotel, a
10 conference center, and an eighteen-hole golf course,
11 located within twenty-five (25) linear miles of the
12 state boundary on a lake containing at least forty-
13 five thousand (45,000) surface acres of water, that is
14 estimated to generate at least Fifty Million Dollars
15 (\$50,000,000.00) in capital investment;

16 13. "Military growth impacts" means the increases in
17 investment, employment, and residents resulting from military growth
18 activities;

19 14. "Military growth impact community" means a city, town, or
20 county experiencing and reasonably projected to experience a
21 population growth of at least one thousand (1,000) persons and
22 increased payrolls of at least Ten Million Dollars (\$10,000,000.00)
23 within a five-year period directly resulting from federal military
24 base activities;

1 15. "Military growth impact project" means a project pursuant
2 to the Local Development Act which the governing body determines to
3 be in support of the needs and quality of life issues resulting from
4 the military growth impacts;

5 16. "Net benefit rate" means the estimated net direct state
6 benefits computed as a percentage of gross taxable sales derived
7 from the project during the period of apportionment of local sales
8 taxes by the local governmental entity;

9 17. "Public entity" means those entities described in the Local
10 Development Act;

11 18. "Retail purposes" means the objectives of selling tangible
12 personal property, other than art, on the physical premises of an
13 establishment. Retail purposes shall not mean a hotel, motel,
14 entertainment facility, museum, cultural facility, art gallery,
15 restaurant ~~supporting another establishment excluded herein,~~
16 military growth impact project located within a military growth
17 impact community, or a major tourism destination project;

18 19. "State local enterprise matching payment" means the payment
19 authorized by subsection A of Section 844 of this title; and

20 20. "State local government matching payment" means the payment
21 authorized by subsection D of Section 844 of this title.

22 SECTION 4. AMENDATORY 62 O.S. 2011, Section 844, is
23 amended to read as follows:

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1 Section 844. A. If an enterprise is located within an
2 incentive district pursuant to the provisions of Section 856 of this
3 title, and the enterprise either constructs or expands a facility
4 that is located within an enterprise zone designated pursuant to the
5 provisions of Section 690.2 of this title, the enterprise shall be
6 eligible for a state local enterprise matching payment equal to the
7 amount of ~~sales tax exemption afforded to the enterprise pursuant to~~
8 ~~Section 860 of this title~~ the net benefit rate, as computed by the
9 Oklahoma Department of Commerce, as multiplied by the actual gross
10 sales derived from the project.

11 B. The state local enterprise matching payment shall be made
12 for the twelve-month period preceding March 1 of each calendar year.
13 The state local government matching payment shall be made for the
14 six-month periods preceding March 1 and September 1 of each calendar
15 year.

16 C. The state local enterprise matching payment shall be made in
17 an amount equal to the amount of sales tax for which the enterprise
18 has received payment during the period prescribed by subsection B of
19 this section pursuant to Section 860 of this title.

20 D. Beginning July 1, 2005, the state local government matching
21 payment shall be made in an amount equal to the lesser of the amount
22 of local sales taxes which have been apportioned under the
23 applicable project plan during the period prescribed by subsection B
24 of this section pursuant to Section 861 of this title or the net

1 benefit rate multiplied by the actual gross sales derived from the
2 project, pursuant to the limits provided in Section 842 of this
3 title.

4 SECTION 5. AMENDATORY 62 O.S. 2011, Section 845, is
5 amended to read as follows:

6 Section 845. There is hereby created within the State Treasury
7 ~~a special fund~~ an agency special account for the Oklahoma Tax
8 Commission ~~to be designated the "Oklahoma Local Development and~~
9 ~~Enterprise Zone Incentive Leverage Act Incentive Payment Fund".~~ The
10 Oklahoma Tax Commission is hereby authorized and directed to
11 withhold a portion of the taxes levied and collected pursuant to
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13 the ~~fund~~ account in order to pay claims as they become due. All of
14 the amounts deposited in ~~such fund~~ the account shall be used and
15 expended by the Tax Commission solely for the purposes and in the
16 amounts authorized by the Oklahoma Local Development and Enterprise
17 Zone Incentive Leverage Act. ~~The liability of the State of Oklahoma~~
18 ~~to make the incentive payments under this act shall be limited to~~
19 ~~the balance contained in the fund created by this section.~~

20 SECTION 6. This act shall become effective November 1, 2021.
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