OKLAHOMA STATE SENATE
GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS

Mr. President: Date: ______________________

Mr. Speaker:

The Conference Committee, to which was referred

SB 13

By: Mazzei of the Senate and Dank of the House

Title: Creating the Ad Valorem Reimbursement Fund; distribution of funds; modifying reimbursement amount. Effective date.

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together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.

2. That the attached Conference Committee Substitute be adopted.

SENATE CONFEREES:

Ballenger______________________ Mazzei______________________

Branan______________________ Myers______________________

Brinkley______________________ Newberry______________________

Burrage______________________ Nichols______________________

Crain______________________ Paddack______________________

Ford______________________ Rice______________________

Halligan______________________ Stanislawski______________________

Ivester______________________ Sykes______________________

Jolley______________________ Wilson______________________

Justice______________________ Wyrick______________________

Marlatt______________________ ______________________

HOUSE CONFEREES:

General Conference Committee on Appropriations

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 13 By: Mazzei of the Senate

and

Dank of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; amending 62 O.S. 2001, Sections 853, as last amended by Section 55, Chapter 5, O.S.L. 2004 and 856, as last amended by Section 3, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2010, Sections 853 and 856), which relate to the Local Development Act; modifying definitions; modifying requirement related to certain districts created by agreement; modifying provisions related to certain ordinances or resolutions; amending 61 O.S. 2001, Section 127, as amended by Section 25, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2010, Section 127), which relates to certain contracts; modifying reference to public entities; and declaring an emergency.

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. 2010, 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 provisions of Section 863 of this title to finance project costs, pursuant to a project plan, which are to be repaid in whole or part with apportioned increments;

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

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

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

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

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

9. "Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, <u>regardless of taxable location or recipient local public taxing entity,</u> which may be apportioned for specific project costs

or as a specific revenue source for other public entities in the area in which the project costs take place;

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

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

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

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

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

a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public or private buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing public or private buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment for public works, public improvements and public buildings and the actual costs of clearing and grading of such land and environmental remediation related thereto,

b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,

c. real property assembly costs, including clearance and preparation costs,

d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,

e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,

f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,

g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,

h. fees for bond guarantees, letters of credit and bond insurance,

i. the amount of any contributions offset made in connection with the implementation of the project plan,

j. the costs for determining or redetermining the base assessed value of a district,

k. costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,

l. all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs,

m. relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law,

n. all costs incurred in the maintenance, management, marketing and other services provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce, and

o. assistance in development financing to the extent the governing body approves such financing;

15. "Project plan" means the approved plans of a city, town or county which may include a designated district or districts under this act in conformance with its comprehensive plan, which is intended by the payment of costs through apportionment of the increment or by the granting of incentives or exemptions to reduce or eliminate those conditions, the existence of which qualified the district, and to thereby enhance private investment of the tax bases

of the taxing entities which extend into the district. Project plans may be a part of and incorporate existing neighborhood, renewal, economic development, public school and other such plans. Each project plan shall conform to the requirements specified by this act;

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

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

inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. Such an area includes a blighted area as defined in Section 38-101 of Title 11 of the Oklahoma Statutes at the time of approval of the project plan; and

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

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

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

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

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

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

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

4. Contains findings that:

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

(1) is a reinvestment area,

(2) is a historic preservation area,

(3) is an enterprise area, or

(4) is a combination of the areas specified in divisions (1), (2) and (3) of this subparagraph,

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

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

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

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

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

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

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

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

1. Any city, town or county to:

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

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

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

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

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

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

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

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

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