

1 ENGROSSED SENATE
2 BILL NO. 1240

By: Bergstrom of the Senate

3 and

4 Cornwell of the House

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6
7 An Act relating to the Oklahoma Local Development and
8 Enterprise Zone Incentive Leverage Act; amending 62
9 O.S. 2011, Sections 842, as amended by Section 1,
10 Chapter 215, O.S.L. 2019 and 847 (62 O.S. Supp. 2019,
11 Section 842), which relate to program administration;
12 modifying required content of specified rules
13 promulgated by Oklahoma Department of Commerce;
14 deleting obsolete reference; requiring certain
15 information be included in specified Oklahoma Tax
16 Commission report; and providing an effective date.

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

18 SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, as
19 amended by Section 1, Chapter 215, O.S.L. 2019 (62 O.S. Supp. 2019,
20 Section 842), is amended to read as follows:

21 Section 842. A. An enterprise which locates its facility
22 within an enterprise zone or which expands its existing facility
23 after the designation of an enterprise zone as authorized by law and
24 which is located in an incentive district as authorized pursuant to
the provisions of the Local Development Act shall be eligible for
the state local enterprise matching payment authorized pursuant to
subsection A of Section 844 of this title.

1 B. 1. A local governmental entity which approves a project
2 plan pursuant to the provisions of the Local Development Act within
3 an enterprise zone or in support of a major tourism destination
4 project which the local governmental entity determines is likely to
5 significantly benefit contiguous or nearby enterprise zone census
6 tracts shall be eligible for the state local government matching
7 payment authorized pursuant to subsection D of Section 844 of this
8 title; provided, no state local government matching payment shall be
9 made for project costs in relation to:

10 a. any gambling establishment, or

11 b. any development within a project plan that provides
12 for more than ten percent (10%) of the net leasable
13 space of such development to be used for retail
14 purposes.

15 State local government matching payments shall not be used to
16 supplant local revenue currently being expended within the increment
17 district boundaries.

18 2. In order to be eligible for state local government matching
19 payments for approving a project within an enterprise zone, a local
20 governmental entity shall provide to the Oklahoma Department of
21 Commerce as part of the application provided for in subsection J of
22 this section:

23 a. an estimate of incremental revenues likely to be
24 derived from the project, and

1 b. certification that all projects described within the
2 related project plan will generate, in the aggregate,
3 a minimum of either One Million Dollars
4 (\$1,000,000.00) in payroll, exclusive of payroll for
5 construction, or Five Million Dollars (\$5,000,000.00)
6 in investment.

7 3. In order to be eligible for state local government matching
8 payments in support of a major tourism destination project, a local
9 governmental entity shall provide to the Oklahoma Department of
10 Commerce as part of the application provided for in subsection J of
11 this section:

12 a. an estimate of incremental revenues new to the state
13 likely to be derived from the project,

14 b. certification that the major tourism destination meets
15 the applicable criteria described in paragraph 12 of
16 Section 841 of this title, and

17 c. an agreement to provide payment to the Oklahoma
18 Department of Commerce to defray the costs of the
19 study required by paragraph 4 of this subsection.

20 4. To determine if a project qualifies as a major tourism
21 destination project pursuant to subparagraph b of paragraph 12 of
22 Section 841 of this title and to assist in other required
23 determinations, the Oklahoma Department of Commerce shall cause a
24 market and feasibility study to be conducted by an independent

1 consultant with experience in the conduct of such studies. Upon
2 review of the feasibility report, the Oklahoma Department of
3 Commerce shall make its finding as to the reasonable probability
4 that the proposed project is a major tourism destination project as
5 provided in subparagraph b of paragraph 12 of Section 841 of this
6 title.

7 C. For purposes of the Oklahoma Local Development and
8 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a
9 retail activity, where otherwise prohibited by the Oklahoma
10 Enterprise Zone Act for purposes of the benefits and incentives
11 extended pursuant to the Oklahoma Enterprise Zone Act, shall be
12 considered an eligible enterprise for purposes of the state local
13 enterprise matching payment authorized by the Oklahoma Local
14 Development and Enterprise Zone Incentive Leverage Act.

15 D. The maximum amount of state local enterprise matching
16 payments for an enterprise per fiscal year shall not exceed Two
17 Hundred Thousand Dollars (\$200,000.00).

18 E. Except as provided in subsection H of this section, for
19 purposes of the Oklahoma Local Development and Enterprise Zone
20 Incentive Leverage Act, the maximum amount of aggregate investment
21 in all qualifying facilities located in any single county which can
22 qualify for a state local enterprise matching payment pursuant to
23 subsection A of Section 844 of this title shall be computed for each
24 county of the state by multiplying Two Hundred Dollars (\$200.00)

1 times the population of the county according to the most recent
2 estimate provided by the United States Bureau of the Census prior to
3 the date an application is made.

4 F. The computation required by subsection E of this section
5 shall be the maximum amount of aggregated investment qualifying for
6 the purposes of all enterprises for the duration of the Oklahoma
7 Local Development and Enterprise Zone Incentive Leverage Act.

8 G. The aggregate investment limit for all facilities located
9 within a county which may qualify for the state local enterprise
10 matching payments pursuant to subsection A of Section 844 of this
11 title shall:

12 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for
13 counties with a population of less than one hundred thousand
14 (100,000) persons; and

15 2. Not be greater than Forty Million Dollars (\$40,000,000.00)
16 for all other counties of the state.

17 H. The aggregate limit for all state local government matching
18 payments made to any public entity on behalf of any local
19 governmental entity within a single county pursuant to subsection D
20 of Section 844 of this title for the duration of the Oklahoma Local
21 Development and Enterprise Zone Incentive Leverage Act shall be an
22 amount equal to the net benefit rate multiplied by the taxable gross
23 sales derived from the project over the period of apportionment of
24 local sales taxes, as certified by the Secretary of Commerce.

1 I. The payments authorized by Section 844 of this title shall
2 be available for business and governmental entities qualifying
3 pursuant to the Local Development Act for investments made within an
4 incentive district or for improvements made within an increment
5 district prior to December 31, 2007, or for which an incentive
6 district or an increment district has been created prior to December
7 31, 2028, if the investments or improvements are begun not later
8 than December 31, 2029.

9 J. The Oklahoma Department of Commerce shall promulgate rules
10 ~~to establish~~ for administration of the Oklahoma Local Development
11 and Enterprise Zone Incentive Leverage Act. Such rules shall:

12 1. Include a procedure for an enterprise or local governmental
13 entity to make application for state local enterprise and state
14 local government matching payments pursuant to this section.—~~Such~~
15 ~~rules shall reflect;~~

16 2. Reflect the intent that the Oklahoma Local Development and
17 Enterprise Zone Incentive Leverage Act be fiscally neutral to the
18 state; and

19 3. Establish reporting requirements for successful applicants
20 which allow data collection and analysis by the Department on
21 employment, capital investment, changes in assessed value and other
22 impacts resulting from payments and reporting of such data by the
23 Department to the Oklahoma Tax Commission for the purposes of
24 subsection B of Section 847 of this title.

1 SECTION 2. AMENDATORY 62 O.S. 2011, Section 847, is
2 amended to read as follows:

3 Section 847. A. The Oklahoma Tax Commission shall maintain a
4 record of state local enterprise matching payments and state local
5 government matching payments made pursuant to Section 844 of this
6 title ~~and a record of income tax credits claimed pursuant to Section~~
7 ~~2357.81 of Title 68 of the Oklahoma Statutes.~~ Local sales taxes
8 apportioned under the applicable project plan shall be reported,
9 collected, remitted, and disbursed in the same manner as other local
10 sales taxes under Title 68 of the Oklahoma Statutes.

11 B. The Tax Commission shall prepare a report separately
12 identifying the amounts described in subsection A of this section
13 and data and analysis prepared by the Oklahoma Department of
14 Commerce pursuant to subsection J of Section 842 of this title and
15 shall submit the report prior to April 1 each year to the Governor,
16 the Speaker of the House of Representatives and the President Pro
17 Tempore of the Senate.

18 SECTION 3. This act shall become effective November 1, 2020.
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