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February 26, 2019

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 473

By: Rader of the Senate

and

Fetgatter of the House

[public finance - Oklahoma Local Development and Enterprise Zone Incentive Leverage Act - investment amount - incentive or increment district - certification -

~~emergency~~]

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, is amended to read as follows:

Section 842. A. An enterprise which locates its facility within an enterprise zone or which expands its existing facility after the designation of an enterprise zone as authorized by law and 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 ~~and the income tax credit~~ authorized by
14 the Oklahoma Local Development and Enterprise Zone Incentive
15 Leverage Act.

16 D. The ~~combined~~ maximum amount of state local enterprise
17 matching payments ~~and the amount of income tax credit authorized~~
18 ~~pursuant to Section 2357.81 of Title 68 of the Oklahoma Statutes~~ for
19 an enterprise per fiscal year shall not exceed Two Hundred Thousand
20 Dollars (\$200,000.00).

21 E. Except as provided in subsection H of this section, for
22 purposes of the Oklahoma Local Development and Enterprise Zone
23 Incentive Leverage Act, the maximum amount of aggregate investment
24 in all qualifying facilities located in any single county which can

1 qualify for a state local enterprise matching payment pursuant to
2 subsection A of Section 844 of this title ~~or for an income tax~~
3 ~~credit as authorized by Section 2357.81 of Title 68 of the Oklahoma~~
4 ~~Statutes~~ shall be computed for each county of the state by
5 multiplying Two Hundred Dollars (\$200.00) times the population of
6 the county according to the ~~1999~~ most recent estimate provided by
7 the United States Bureau of the Census prior to the date an
8 application is made.

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

13 G. The aggregate investment limit for all facilities located
14 within a county which may qualify for the state local enterprise
15 matching payments pursuant to subsection A of Section 844 of this
16 title ~~or for an income tax credit as authorized by Section 2357.81~~
17 ~~of Title 68 of the Oklahoma Statutes~~ shall:

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

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

23 H. The aggregate limit for all state local government matching
24 payments made to any public entity on behalf of any local

1 governmental entity within a single county pursuant to subsection D
2 of Section 844 of this title for the duration of the Oklahoma Local
3 Development and Enterprise Zone Incentive Leverage Act shall be an
4 amount equal to the net benefit rate multiplied by the taxable gross
5 sales derived from the project over the period of apportionment of
6 local sales taxes, as certified by the Secretary of Commerce.

7 I. The payments authorized by Section 844 of this title ~~and the~~
8 ~~income tax credit authorized by Section 2357.81 of Title 68 of the~~
9 ~~Oklahoma Statutes~~ shall be available for business and governmental
10 entities qualifying pursuant to the Local Development Act for
11 investments made within an incentive district or for improvements
12 made within an increment district prior to December 31, 2007, or for
13 which an incentive district or an increment district has been
14 created prior to ~~December 31, 2018~~ December 31, 2028, if the
15 investments or improvements are begun not later than ~~December 31,~~
16 ~~2019~~ December 31, 2029.

17 J. The Oklahoma Department of Commerce shall promulgate rules
18 to establish a procedure for an enterprise or local governmental
19 entity to make application for state local enterprise and state
20 local government matching payments pursuant to this section. Such
21 rules shall reflect the intent that the Oklahoma Local Development
22 and Enterprise Zone Incentive Leverage Act be fiscally neutral to
23 the state.

1 SECTION 2. AMENDATORY 62 O.S. 2011, Section 843, is
2 amended to read as follows:

3 Section 843. A. In order to receive the state local enterprise
4 matching payment pursuant to the provisions of subsection A of
5 Section 844 of this title, the enterprise shall obtain a
6 certification, provided by the governing body of the local
7 governmental entity creating the incentive district, acknowledged by
8 the chief elected official of the local governing body that the
9 enterprise has qualified pursuant to the Local Development Act for
10 sales tax exemption. The certification document shall include:

11 1. The beginning date of the exemption;

12 2. The ending date of the exemption;

13 3. The total amount of projected investment to construct or
14 expand the facility during the period for which the incentives
15 available pursuant to the Local Development Act will be in force and
16 effect together with a certification by the Oklahoma Department of
17 Commerce that the facility is located in an enterprise zone; and

18 4. The legal name and business entity classification of the
19 entity to which exemption is afforded or to which sales tax payment
20 is made by the local governmental entity or entities pursuant to the
21 provisions of the Local Development Act.

22 B. The local governing body shall provide a copy of the
23 certification document to the Oklahoma Tax Commission.
24

1 C. After the enterprise provides a certification from the local
2 governing body, the Tax Commission shall make payment to the
3 enterprise identified in the certification document equal to the
4 amount of the sales tax from which the enterprise is certified as
5 exempt as identified in the certification in the manner prescribed
6 by subsection A of Section 844 of this title.

7 D. The state local enterprise matching payment shall be made
8 only for sales tax foregone by local governmental entities or
9 rebated to the business enterprise by local entities for purchases
10 made by the business enterprise and not on the basis of any sales
11 tax collected by the business enterprise from consumers or users on
12 taxable sales made by the enterprise.

13 E. In order to receive the state local governmental matching
14 payment pursuant to the provisions of subsection D of Section 844 of
15 this title, the local governmental entity shall provide to the Tax
16 Commission a certification, acknowledged by its mayor or
17 chairperson, that such local governmental entity has created an
18 increment district pursuant to the Local Development Act which
19 qualifies for a state local government matching payment. The
20 certification document shall include:

- 21 1. The beginning date of the increment district;
- 22 2. The ending date of the increment district;
- 23 3. A description of the project costs authorized by the project
24 plan for which the state local government matching payments will be

1 used and the estimated date for substantial completion of the
2 project being assisted as described in the application;

3 4. A certification by the Oklahoma Department of Commerce that
4 the project plan is located in an enterprise zone or supports a
5 qualifying major tourism destination project, and that the
6 qualifying investment and development has been or will be
7 substantially completed no later than ~~December 31, 2024~~ December 31,
8 2034;

9 5. The amount of the local sales taxes which have been
10 apportioned during the previous six-month period by the local
11 governmental entity for the payment of project costs pursuant to the
12 provisions of the Local Development Act; and

13 6. The name of the public entity identified in the project plan
14 pursuant to Section 858 of this title as the entity authorized to
15 carry out activities pursuant to the project plan.

16 After the local governmental entity provides such certification,
17 the Tax Commission shall make payment to the designated public
18 entity in an amount equal to the lesser of the certified amount of
19 the local sales taxes apportioned during the previous six (6) months
20 or the estimated net direct state benefits as prescribed by
21 subsection D of Section 844 of this title.

22 ~~SECTION 3. It being immediately necessary for the preservation~~
23 ~~of the public peace, health or safety, an emergency is hereby~~
24

~~declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.~~

COMMITTEE REPORT BY: COMMITTEE ON FINANCE
February 26, 2019 - DO PASS AS AMENDED