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February 2, 2021

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 606

By: Rader

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

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 841, is amended to read as follows:

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

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

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

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

14 a. relocating from within the state,

15 b. subject to or in the process of recruitment by two or
16 more governmental entities within the state, or

17 c. which will be in direct competition with an existing
18 enterprise located in the state;

19 4. "Estimated direct state costs" means the costs projected by
20 the Oklahoma Department of Commerce to be incurred by the state
21 during the period of apportionment of local sales taxes, as a result
22 of the project and/or projects described in the related project
23 plan. For purposes of projecting state costs for a military growth
24

1 impact project, the military growth impacts shall be used in lieu of
2 the project and/or projects described in the related project plan;

3 5. "Estimated net direct state benefits" means the estimated
4 direct state benefits less the estimated direct state costs;

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

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

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

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

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

23 11. "Local sales taxes" means amounts payable to or for the
24 benefit of a local governmental entity calculated as a percentage,

1 which, except on transient lodgings, shall not exceed four and one-
2 half percent (4.5%) of gross sales whether imposed by ordinance,
3 resolution, covenant, or agreement;

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

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

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

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

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

23 (3) a number of out-of-state visitors of at least:
24

1 (a) twenty percent (20%) of the number of total
2 visitors, or

3 (b) twenty thousand (20,000) visitors per year,
4 and

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

7 (a) thirty percent (30%) of the number of total
8 visitors, or

9 (b) twenty-five thousand (25,000) visitors per
10 year, or

11 c. is a lake resort project, containing a hotel, a
12 conference center, and an eighteen-hole golf course,
13 located within twenty-five (25) linear miles of the
14 state boundary on a lake containing at least forty-
15 five thousand (45,000) surface acres of water, that is
16 estimated to generate at least Fifty Million Dollars
17 (\$50,000,000.00) in capital investment;

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

21 14. "Military growth impact community" means a city, town, or
22 county experiencing and reasonably projected to experience a
23 population growth of at least one thousand (1,000) persons and
24 increased payrolls of at least Ten Million Dollars (\$10,000,000.00)

1 within a five-year period directly resulting from federal military
2 base activities;

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

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

11 17. "Public entity" means those entities described in the Local
12 Development Act;

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

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

22 20. "State local government matching payment" means the payment
23 authorized by subsection D of Section 844 of this title.
24

SECTION 2. AMENDATORY 62 O.S. 2011, Section 844, is amended to read as follows:

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

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

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

D. Beginning July 1, 2005, the state local government matching payment shall be made in an amount equal to the lesser of the amount of local sales taxes which have been apportioned under the

1 applicable project plan during the period prescribed by subsection B
2 of this section pursuant to Section 861 of this title or the net
3 benefit rate multiplied by the actual gross sales derived from the
4 project, pursuant to the limits provided in Section 842 of this
5 title.

6 SECTION 3. AMENDATORY 62 O.S. 2011, Section 845, is
7 amended to read as follows:

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

22 SECTION 4. This act shall become effective November 1, 2021.

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
24 February 2, 2021 - DO PASS AS AMENDED