

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3118

By: Gann

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2021, Sections 851, 853, and 855, which relate to the Local Development Act; modifying definitions; modifying references to blight; modifying procedures for approval of certain district, plan or project; requiring submission of question to voters of applicable jurisdiction; requiring approval of district, plan or project by majority vote; modifying provisions related to supermajority approval by governing board; requiring separate approval by local taxing jurisdictions; modifying provisions related to confidential information; prohibiting members of review committees from receiving things of value; requiring members of review committees to complete certain instruction; requiring annual meetings of review committees; requiring for certain presentations to review committees; requiring review committees to obtain certain professional opinions; imposing limitation based upon certain advice provided to governing body or other entities; requiring review committee to obtain certain information; requiring economic impact statement; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2021, Section 851, is amended to read as follows:

1 Section 851. The Local Development Act shall serve to implement
2 and execute Section 6C of Article X of the Oklahoma Constitution as
3 approved by the voters of the State of Oklahoma on November 6, 1990,
4 by:

5 1. Providing for the granting of incentives and exemptions from
6 taxation within certain areas, placing restrictions thereon, and
7 limiting the time period for the exemptions, as authorized by
8 subsection A thereof;

9 2. Providing for apportionment of an increment of local taxes
10 and fees, placing restrictions thereon, and limiting the time period
11 for the apportionment, as authorized by subsection B thereof; and

12 3. Providing for the planning, financing, and carrying out of
13 development and redevelopment within certain areas, as authorized by
14 subsection C thereof.

15 Nothing in the Local Development Act shall be construed in a
16 manner contrary to or inconsistent with the provisions of said
17 constitutional provision.

18 The Legislature hereby finds that historic preservation,
19 reinvestment or enterprise areas as defined under this act are
20 unproductive, undeveloped, or underdeveloped ~~or blighted~~ areas
21 pursuant to subsection C of Section 6 of Article X of the Oklahoma
22 Constitution.

23 SECTION 2. AMENDATORY 62 O.S. 2021, Section 853, is
24 amended to read as follows:
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1 Section 853. As used in Section 850 et seq. of this title:

2 1. "Apportionment" means the direction by a governing body,
3 authorized by the Legislature pursuant to Section 6C of Article X of
4 the Oklahoma Constitution, to apply all or any portion of an
5 increment of ad valorem taxes and all or any portion of sales taxes,
6 other local taxes or local fees, or any combination thereof, to
7 financing a plan and project in accordance with this act;

8 2. "Apportionment area" means the same as an increment district
9 as defined under this act;

10 3. "Bonds" means evidences of indebtedness, tax apportionment
11 bonds or other obligations issued by a public entity pursuant to the
12 provisions of Section 863 of this title to finance project costs,
13 pursuant to a project plan, which are to be repaid in whole or part
14 with apportioned increments;

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

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

21 6. "Enterprise zone" means an enterprise zone as designated by
22 the Department of Commerce pursuant to the provisions of Section
23 690.3 of this title or as designated by the federal government;

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

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

16 9. "Increment" means that portion of ad valorem taxes in excess
17 of the amount of that portion of the taxes which are produced by the
18 levy at the rate fixed each year by or for each such ad valorem
19 taxing entity upon the base assessed value of the district or as to
20 an area later added to the district, the effective date of the
21 modification of the plan, or that portion of sales taxes, other
22 local taxes or local fees collected each year reasonably determined
23 by a formula approved by the governing body to be generated by the
24 project, regardless of taxable location or recipient local public
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1 taxing entity, which may be apportioned for specific project costs
2 or as a specific revenue source for other public entities in the
3 area in which the project costs take place;

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

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

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

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

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

- 23 a. capital costs, including the actual costs of the
24 acquisition and construction of public works, public
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1 improvements, new public or private buildings,
2 structures, and fixtures; the actual costs of the
3 acquisition, demolition, alteration, remodeling,
4 repair, or reconstruction of existing public or
5 private buildings, structures, and fixtures; and the
6 actual costs of the acquisition of land and equipment
7 for public works, public improvements and public
8 buildings and the actual costs of clearing and grading
9 of such land and environmental remediation related
10 thereto,

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

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

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

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

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

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

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

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

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

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

- 3 1. all or a portion of another taxing jurisdiction's
4 capital costs resulting from the development or
5 redevelopment project necessarily incurred or to be
6 incurred in furtherance of the objectives of the plan
7 and project, to the extent the governing body by
8 written agreement accepts and approves such costs,
9 m. relocation costs to the extent that a governing body
10 determines that relocation costs shall be paid or are
11 required to be paid by federal or state law,
12 n. all costs incurred in the maintenance, management,
13 marketing and other services provided through an
14 active Main Street Program recognized as such by the
15 Oklahoma Department of Commerce, and
16 o. assistance in development financing to the extent the
17 governing body approves such financing;

18 15. "Project plan" means the approved plans of a city, town or
19 county which may include a designated district or districts under
20 this act in conformance with its comprehensive plan, which is
21 intended by the payment of costs through apportionment of the
22 increment or by the granting of incentives or exemptions to reduce
23 or eliminate those conditions, the existence of which qualified the
24 district, and to thereby enhance private investment of the tax bases
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1 of the taxing entities which extend into the district. Project
2 plans may be a part of and incorporate existing neighborhood,
3 renewal, economic development, public school and other such plans.
4 Each project plan shall conform to the requirements specified by
5 this act;

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

9 17. "Reinvestment area" means any area located within the
10 limits of a city, town or county requiring public improvements,
11 including but not limited to transportation-related projects
12 identified by any transportation authority pursuant to Section
13 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic
14 stagnation or decline, to serve as a catalyst for retaining or
15 expanding employment, to attract major investment in the area or to
16 preserve or enhance the tax base or in which fifty percent (50%) or
17 more of the structures in the area have an age of thirty-five (35)
18 years or more. Such an area is detrimental to the public health,
19 safety, morals or welfare. Such an area may become ~~a blighted~~ an
20 underdeveloped area because of any one or more of the following
21 factors: dilapidation; obsolescence; deterioration; illegal use of
22 individual structures; presence of structures below minimum code
23 standards; abandonment; excessive vacancies; overcrowding of
24 structures and community facilities; lack of ventilation, light or
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1 sanitary facilities; inadequate utilities; excessive land coverage;
2 deleterious land use or layout; depreciation of physical
3 maintenance; and lack of community planning. ~~Such an area includes~~
4 ~~a blighted area as defined in Section 38-101 of Title 11 of the~~
5 ~~Oklahoma Statutes at the time of approval of the project plan; and~~

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

9 SECTION 3. AMENDATORY 62 O.S. 2021, Section 855, is
10 amended to read as follows:

11 Section 855. A. Prior to the adoption and approval of a
12 project plan and the ordinance or resolution required under Section
13 856 of this title and prior to the public hearing required under
14 Section 859 of this title, the governing body shall appoint a review
15 committee to review and make a recommendation concerning the
16 proposed district, plan or project. The membership of the review
17 committee shall consist of the following: a representative of the
18 governing body who shall serve as chairperson; a representative of
19 the planning commission having jurisdiction over the proposed
20 district; a representative designated by each taxing jurisdiction
21 within the proposed district whose ad valorem taxes might be
22 impacted according to the plan; and three members representing the
23 public at large and selected by the other committee members from a
24 list of seven names submitted by the chairperson of the review
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1 committee; provided, at least one of the members representing the
2 public at large shall be a representative of the business community
3 in the city, town, or county considering the proposed plan and
4 project, and if a proposed plan objective is development of
5 principally commercial retail, such representative shall be either a
6 retailer or a representative of a retail organization.

7 B. The review committee shall consider and make its findings
8 and recommendations to the governing body with respect to the
9 conditions establishing the eligibility of the proposed district.
10 The review committee recommendations shall include the analysis used
11 to project revenues over the life of the project plan, the effect on
12 the taxing entities and the appropriateness of the approval of the
13 proposed plan and project. The review committee may recommend that
14 the project plan be approved, denied or approved subject to
15 conditions set forth by the committee.

16 C. Prior to approval by the governing body, the review
17 committee shall consider and determine whether the proposed plan and
18 project will have a financial impact on any taxing jurisdiction and
19 business activities within the proposed district and shall report
20 its findings to the governing body. Such considerations shall be
21 concurrent with or subsequent to the review and consideration of the
22 committee provided for in subsection B of this section. The
23 approval of any district plan or project by the governing body shall
24 address any findings of such impact by the review committee.

1 D. In the event of any changes in the area to be included in
2 the proposed district or any substantial changes in the proposed
3 plan and project or for any other reason deemed appropriate by the
4 governing body, the review committee shall consider and may modify
5 its findings and recommendations made pursuant to the provisions of
6 subsection B of this section.

7 E. Approval of the proposed district or the proposed plan or
8 project by the governing body which is in accord with the
9 recommendation of the review committee shall be by a majority vote
10 of the governing body. ~~Such approval which is not in accord with~~
11 ~~the recommendations and/or conditions set forth by the review~~
12 ~~committee shall be by a two-thirds (2/3) majority vote~~ voters of the
13 applicable jurisdiction. If the district, plan or project is
14 sponsored by a county, the question for creation of the district,
15 plan or project shall be submitted to a vote of the eligible voters
16 of the county. If the district, plan or project is sponsored by a
17 city or town, the question for creation of the district, plan or
18 project shall be submitted to a vote of the eligible voters of the
19 applicable city or town. No district, plan or project shall be
20 created or approved unless a majority of the eligible voters voting
21 on such question as provided by this subsection approve the creation
22 of the district. Any local taxing jurisdiction that does not
23 separately approve the formation of an increment district shall not
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1 be included in the district and its tax revenues shall not be
2 apportioned for use by an increment district.

3 F. Meetings of the review committee shall be subject to the
4 Oklahoma Open Meeting Act. ~~Any information relating to the~~
5 ~~marketing plans, financial statements, trade secrets or any other~~
6 ~~proprietary information submitted to the review committee by a~~
7 ~~person or entity seeking adoption and approval of a proposed~~
8 ~~district, plan or project shall be confidential, except to the~~
9 ~~extent that the person or entity which provided the information~~
10 ~~consents to disclosure. Executive sessions may be held to discuss~~
11 ~~such information if deemed necessary by the review committee.~~

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 855.1-A of Title 62, unless
14 there is created a duplication in numbering, reads as follows:

15 A. No member of a review committee shall accept anything of
16 value from a person, firm, partnership, limited partnership, limited
17 liability partnership, limited liability company, corporation, or
18 other legal entity that would benefit, directly or indirectly, from
19 the formation of an incentive district or an increment district.

20 B. No member of a review committee shall accept anything of
21 value from any person or legal entity acting on behalf of an entity
22 described in subsection A of this section.

23 C. Before a review committee votes to recommend the creation of
24 an incentive district or increment district pursuant to the
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1 provisions of the Local Development Act, each member of the
2 committee shall be required to complete at least twelve (12) hours
3 of instruction which includes the provisions of the Local
4 Development Act, applicable concepts related to the utilization of
5 sales tax revenue or other locally authorized revenues, including ad
6 valorem tax revenue, in either an incentive district or an increment
7 district. The provider for the instruction shall issue a
8 certificate of completion to a person who successfully completes the
9 course of instruction required by this subsection.

10 D. A review committee shall be required to meet at least once
11 each calendar year.

12 E. Before a review committee makes a recommendation to the
13 applicable governing body for the creation of an incentive district
14 or an increment district, the review committee shall call for a
15 presentation in support of the decision and a presentation in
16 opposition to the decision.

17 F. Before a review committee makes a recommendation to the
18 applicable governing body related to the formation of an incentive
19 district or an increment district, the review committee shall obtain
20 the professional opinion of such legal and financial advisors as the
21 committee may select to evaluate the proposal. No person or firm
22 providing advice to either the applicable governing body or to any
23 legal entity described in subsection A of this section shall be
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1 eligible to provide advice to the review committee pursuant to the
2 provisions of this subsection.

3 G. Before a review committee makes any recommendation to a
4 governing body related to the formation of an incentive district or
5 an increment district, the review committee shall be provided with
6 the following information related to each and every for-profit
7 business enterprise as described in subsection A of this section:

8 1. Whether the equity interest of the entity is traded publicly
9 and if so, the market in or upon which the equity securities are
10 listed for purposes of trading;

11 2. Whether the legal entity is formed pursuant to the laws of a
12 state of the United States or if not, the jurisdiction pursuant to
13 the laws of which the legal entity is organized or authorized to do
14 business;

15 3. The North American Industry Classification Code, with
16 sufficient specificity to identify the actual business activity to
17 be conducted, for the business enterprise, inclusive of any and all
18 business activity that would be conducted within the boundary of an
19 incentive district or an increment district;

20 4. Whether the legal entity pursues or has adopted
21 environmental, social, or governance policies that are inconsistent
22 with profit maximization; and

23 5. Whether the legal entity pursues or has adopted diversity,
24 equity, or inclusion policies.
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1 H. Before a review committee makes any recommendation to a
2 governing body related to the formation of an incentive district or
3 an increment district, the review committee shall prepare or have a
4 qualified third party prepare an economic impact study which shall
5 include the effect of any apportioned tax revenues on local taxing
6 jurisdictions, the economic effects likely to occur as a result of
7 the completion of the project and such other information as the
8 review committee may determine to be relevant.

9 SECTION 5. This act shall become effective November 1, 2024.
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