

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 317

By: Pemberton

AS INTRODUCED

An Act relating to development incentives; amending 62 O.S. 2021, Section 842, which relates to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; adding certain reporting requirements pursuant to the promulgation of rules by the Oklahoma Department of Commerce; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2021, 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.

B. 1. A local governmental entity which approves a project plan pursuant to the provisions of the Local Development Act within

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

- 8 a. any gambling establishment, or
- 9 b. any development within a project plan that provides  
10 for more than fifty percent (50%) of the net leasable  
11 space of such development to be used for retail  
12 purposes except for such portions of a development  
13 which includes grocery or specialty food store  
14 enterprises defined under NAICS Manual Industry Group  
15 No. 4451 or 4452 that provide healthy nutrition  
16 options including fresh fruits, vegetables, whole  
17 grains, seeds, nuts and healthy protein and that  
18 improve access within one-half (1/2) mile of any low  
19 income and low access geographies identified by the  
20 United States Department of Agriculture.

21 State local government matching payments shall not be used to  
22 supplant local revenue currently being expended within the increment  
23 district boundaries.

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

- 6            a. an estimate of incremental revenues likely to be  
7                derived from the project, and
- 8            b. certification that all projects described within the  
9                related project plan will generate, in the aggregate,  
10               a minimum of either One Million Dollars  
11                (\$1,000,000.00) in payroll, exclusive of payroll for  
12                construction, or Five Million Dollars (\$5,000,000.00)  
13                in investment.

14        3. In order to be eligible for state local government matching  
15 payments in support of a major tourism destination project, a local  
16 governmental entity shall provide to the Oklahoma Department of  
17 Commerce as part of the application provided for in subsection J of  
18 this section:

- 19            a. an estimate of incremental revenues new to the state  
20                likely to be derived from the project,
- 21            b. certification that the major tourism destination meets  
22                the applicable criteria described in paragraph 12 of  
23                Section 841 of this title, and

1           c.     an agreement to provide payment to the Oklahoma  
2                     Department of Commerce to defray the costs of the  
3                     study required by paragraph 4 of this subsection.

4           4.    To determine if a project qualifies as a major tourism  
5 destination project pursuant to subparagraph b of paragraph 12 of  
6 Section 841 of this title and to assist in other required  
7 determinations, the Oklahoma Department of Commerce shall cause a  
8 market and feasibility study to be conducted by an independent  
9 consultant with experience in the conduct of such studies. Upon  
10 review of the feasibility report, the Oklahoma Department of  
11 Commerce shall make its finding as to the reasonable probability  
12 that the proposed project is a major tourism destination project as  
13 provided in subparagraph b of paragraph 12 of Section 841 of this  
14 title.

15           C.    For purposes of the Oklahoma Local Development and  
16 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a  
17 retail activity, where otherwise prohibited by the Oklahoma  
18 Enterprise Zone Act for purposes of the benefits and incentives  
19 extended pursuant to the Oklahoma Enterprise Zone Act, shall be  
20 considered an eligible enterprise for purposes of the state local  
21 enterprise matching payment authorized by the Oklahoma Local  
22 Development and Enterprise Zone Incentive Leverage Act.

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

4 E. Except as provided in subsection H of this section, for  
5 purposes of the Oklahoma Local Development and Enterprise Zone  
6 Incentive Leverage Act, the maximum amount of aggregate investment  
7 in all qualifying facilities located in any single county which can  
8 qualify for a state local enterprise matching payment pursuant to  
9 subsection A of Section 844 of this title shall be computed for each  
10 county of the state by multiplying Two Hundred Dollars (\$200.00)  
11 times the population of the county according to the most recent  
12 estimate provided by the United States Bureau of the Census prior to  
13 the date an application is made.

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

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

22 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for  
23 counties with a population of less than one hundred thousand  
24 (100,000) persons; and

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

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

11        I. The payments authorized by Section 844 of this title shall  
12 be available for business and governmental entities qualifying  
13 pursuant to the Local Development Act for investments made within an  
14 incentive district or for improvements made within an increment  
15 district prior to December 31, 2007, or for which an incentive  
16 district or an increment district has been created prior to December  
17 31, 2028, if the investments or improvements are begun not later  
18 than December 31, 2029.

19        J. The Oklahoma Department of Commerce shall promulgate rules  
20 for administration of the Oklahoma Local Development and Enterprise  
21 Zone Incentive Leverage Act. Such rules shall:

22        1. Include a procedure for an enterprise or local governmental  
23 entity to make application for state local enterprise and state  
24 local government matching payments pursuant to this section;

1       2. Reflect the intent that the Oklahoma Local Development and  
2 Enterprise Zone Incentive Leverage Act be fiscally neutral to the  
3 state; ~~and~~

4       3. Establish reporting requirements for successful applicants  
5 which allow data collection and analysis by the Department on  
6 employment, capital investment, changes in assessed value of a  
7 project and other impacts resulting from payments and reporting of  
8 such data by the Department to the Oklahoma Tax Commission for the  
9 purposes of subsection B of Section 847 of this title; and

10       4. Establish reporting requirements for local governmental  
11 entities that approve a project plan pursuant to the provisions of  
12 the Local Development Act within an enterprise zone or in support of  
13 a major tourism destination project which shall include:

14           a. the name of the increment or incentive district,

15           b. whether the increment or incentive district was  
16 created by a municipality or county government,

17           c. a map with a defined boundary of the increment or  
18 incentive district,

19           d. the length of the project and its date of expiration,

20           e. the base assessed value, as certified by the county  
21 assessor, if required pursuant to Section 862 of this  
22 title,

23           f. the total annual value of the increment, as defined in  
24 Section 853 of this title, and

1           g. a list of the taxing jurisdictions affected and their  
2           respective total millage levies.

3 The report developed pursuant to the requirements of this paragraph  
4 shall be provided to each taxing jurisdiction affected by the  
5 increment or incentive district.

6           SECTION 2. This act shall become effective November 1, 2023.

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