

and

Williams of the Senate

An Act relating to public finance; amending Section 4, Chapter 342, O.S.L. 1992, as last amended by Section 2, Chapter 412, O.S.L. 1998, Section 11, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 183, O.S.L. 1994, Section 16, Chapter 342, O.S.L. 1992, and Section 17, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Sections 853, 860, 865 and 866), which relate to the Local Development Act; modifying definition; allowing project plan to contain provision to exempt ad valorem taxes in certain areas; providing restrictions and requirements for exemption; clarifying statutory cite; adding requirements for a certain written agreement under certain circumstances; creating income tax credit for qualified rehabilitation expenditures incurred in connection with certain certified historic hotels; providing amount of credit; allowing carry forward of unused credit; requiring approval of rehabilitation work eligible for the credit; allowing rehabilitated hotel to be used for mixed uses; defining terms; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 342, O.S.L. 1992, as last amended by Section 2, Chapter 412, O.S.L. 1998 (62 O.S. Supp. 1999, Section 853), is amended to read as follows:

Section 853. As used in Section 850 et seq. of this title:

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

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

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

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

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

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

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

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

9. "Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem

taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, which may be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place;

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

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

12. "Project" means any public project in furtherance of the objectives of the project plan;

13. "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to public works or improvements and public buildings, including public school buildings, within a designated district. Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan shall be used to pay project costs. Project costs include, but are not limited to:

- a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; and the actual costs of the acquisition of

land and equipment for public works, public improvements and public buildings and the clearing and grading of such land and environmental remediation related thereto,

- b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,
- c. real property assembly costs, including clearance and preparation costs,
- d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,
- e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,
- f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,
- g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,
- h. fees for bond guarantees, letters of credit and bond insurance,

- i. the amount of any contributions offset made in connection with the implementation of the plan,
- j. the costs for determining or redetermining the base assessed value of a district,
- k. costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,
- l. all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs,
- m. relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law, and
- n. all costs incurred in the maintenance, management, marketing and other services provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce;

14. "Project plan" means the approved plans of a city, town or county which may include a designated district or districts under this act in conformance with its comprehensive plan, which is intended by the payment of costs through apportionment of the increment or by the granting of incentives or exemptions to reduce or eliminate those conditions, the existence of which qualified the district, and to thereby enhance private investment of the tax bases

of the taxing entities which extend into the district. Project plans may be a part of and incorporate existing neighborhood, renewal, economic development, public school and other such plans. Each project plan shall conform to the requirements specified by this act;

15. "Public entity" means any city, town, county, board, commission, authority, district or public trust;

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

17. "Taxing entity" means a city, town, county, school district, political subdivision or other local entity in which local taxes or fees are levied by or on its behalf.

SECTION 2. AMENDATORY Section 11, Chapter 342, O.S.L. 1992, as amended by Section 2, Chapter 183, O.S.L. 1994 (62 O.S. Supp. 1999, Section 860), is amended to read as follows:

Section 860. A. A project plan may contain a provision that certain local taxes may be subject to incentives or may be exempted in reinvestment areas, historic preservation areas or enterprise areas.

B. The governing body may grant incentives or exemptions from local taxation only on the new investment made. No ad valorem tax incentives or exemptions may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. No ad valorem tax incentives or exemptions authorized in this section may be granted for retail establishments. If a retail establishment is located in property which otherwise qualifies for an incentive or exemption pursuant to this section, the incentive or exemption shall not be allowed for that portion of the property used for such retail establishment. As used in this subsection, "retail establishment" shall not include an establishment that provides lodging, including but not limited to a hotel, apartment hotel, public rooming house or motel. No ad valorem tax incentives or exemptions authorized in this section may be granted if the property is located in an increment district or if the property is subject to the ad valorem tax exemption for new or expanding manufacturing facilities as authorized by Section 6B of Article X of the Oklahoma Constitution. In the event of disposition by lease or sublease to a lessee not entitled to an ad valorem tax exemption, the improvements placed thereon shall not be entitled to an ad valorem tax exemption provided for in Section 850 et seq. of this title. The incentives or exemptions, which may be full or partial, may be granted for a period not to exceed five (5) years; however, in enterprise zones incentives or exemptions may be granted for a period not to exceed six (6) years.

C. No incentives or exemptions may be granted to any business or firm that is relocating from within the state and is subject to or in the process of recruitment by two or more governmental entities within the state unless the governmental entity in which the business or firm does not locate adopts a resolution giving their approval to the granting of incentives or exemptions to the business or firm locating in the competing governmental entity. No incentives or exemptions may be granted to an out-of-state business or firm that is subject to or in the process of recruitment by two or more governmental entities within the state except as otherwise provided for in this subsection. The prohibition against incentives or exemptions to a business or firm relocating within the state may be waived upon application by the governing body to, and approval of, the Director of the Oklahoma Department of Commerce. In order for the Director to approve the waiver, the Director must find that the incentives or exemptions are necessary and sufficient to attract the business or firm and that the benefits generated by the business location outweigh the costs of the business location.

D. A project plan may contain a provision that ad valorem taxes may be exempted in a historic preservation area that is adjacent to and serves designated historical residential areas for neighborhood commercial preservation purposes in order for the neighborhood to retain its basic character and scale. No ad valorem tax exemption may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. The governing body may grant the exemption only on the increase in value of the property. Property eligible for this exemption must be owner-occupied or investor-occupied. The exemptions may be granted for a specific period of time as determined by the agreement and may be renewed.

SECTION 3. AMENDATORY Section 16, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 865), is amended to read as follows:

A. In accordance with the requirements of Section 6C of Article X of the Oklahoma Constitution, the tax incentives or exemptions granted pursuant to the provisions of Section ~~11~~ 860 of this ~~act~~ title shall only be allowed for that portion of the tax under jurisdiction of another local taxing entity by written agreement between said other local taxing entity and the governing body of the city, town or county.

B. In order for the tax incentives or exemptions to be granted for that portion of the tax under the jurisdiction of each taxing entity within the district, the governing body of the taxing entity must adopt the agreement provided for in subsection A of this section upon a majority vote of those members eligible to vote as determined by Section ~~8~~ 857 of this ~~act~~ title. Action on the agreement by these governing bodies must occur within sixty (60) days after the governing body of the city, town or county submits the proposed agreement to the governing bodies of such taxing entities.

SECTION 4. AMENDATORY Section 17, Chapter 342, O.S.L. 1992 (62 O.S. Supp. 1999, Section 866), is amended to read as follows:

Section 866. A. There shall be a written agreement between the governing body and the property owners who are granted tax incentives or exemptions pursuant to Section ~~11~~ 860 of this ~~act~~ title. The written agreement may include, but shall not be limited to, the following:

1. List the kind, number, and location of all proposed improvements to the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the improvements or

repairs are made according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period that the tax incentives or exemptions or the increment financing are in effect;

4. Provide for recapturing the local tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement; and

5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

B. There shall be a written agreement between the governing body and the property owners in historic preservation areas who are granted ad valorem tax exemptions pursuant to subsection D of Section 860 of this title. The written agreement shall include the following:

1. List the location of the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the property is being maintained according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging neighborhood commercial preservation of the area during the period that the ad valorem tax exemptions are in effect;

4. Provide for recapturing the ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to maintain the property as provided by the agreement; and

5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

C. The governing body shall enter into written agreements with active project participants of increment projects. The written

agreement may include, but shall not be limited to, the provisions specified in paragraphs 1 through 5 of subsection A of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.34 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for qualified rehabilitation expenditures incurred in connection with any certified historic hotel located in an increment district created pursuant to the Local Development Act. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

B. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding five (5) years following the qualified expenditures.

C. All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building. In addition to being restored to its original use, a certified historic hotel may be rehabilitated for mixed uses and still retain eligibility for the credit provided for in this section.

D. As used in this section:

1. "Certified historic hotel" means a hotel that is listed on the National Register of Historic Places within three (3) years of taking the credit pursuant to this section; and

2. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitated expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that related to historic preservation, safety, or accessibility. In addition qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 6. This act shall become effective November 1, 2000.

Passed the House of Representatives the 6th day of March, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate