

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1362

6 By: Rader of the Senate

7 and

8 Fetgatter of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Local Development and
11 Enterprise Zone Incentive Leverage Act; amending 62
12 O.S. 2011, Section 842, as amended by Section 1,
13 Chapter 215, O.S.L. 2019 (62 O.S. Supp. 2019, Section
14 842), which relates to eligibility for state local
15 enterprise and government matching payments;
16 modifying prohibition against state local government
17 matching payments for specified types of projects;
18 providing exclusion from certain prohibition;
19 providing an effective date; and declaring an
20 emergency.

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

22 SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, as
23 amended by Section 1, Chapter 215, O.S.L. 2019 (62 O.S. Supp. 2019,
24 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

1 which is located in an incentive district as authorized pursuant to
2 the provisions of the Local Development Act shall be eligible for
3 the state local enterprise matching payment authorized pursuant to
4 subsection A of Section 844 of this title.

5 B. 1. A local governmental entity which approves a project
6 plan pursuant to the provisions of the Local Development Act within
7 an enterprise zone or in support of a major tourism destination
8 project which the local governmental entity determines is likely to
9 significantly benefit contiguous or nearby enterprise zone census
10 tracts shall be eligible for the state local government matching
11 payment authorized pursuant to subsection D of Section 844 of this
12 title; provided, no state local government matching payment shall be
13 made for project costs in relation to:

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

1 income and low access geographies identified by the
2 United States Department of Agriculture.

3 State local government matching payments shall not be used to
4 supplant local revenue currently being expended within the increment
5 district boundaries.

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

- 11 a. an estimate of incremental revenues likely to be
12 derived from the project, and
- 13 b. certification that all projects described within the
14 related project plan will generate, in the aggregate,
15 a minimum of either One Million Dollars
16 (\$1,000,000.00) in payroll, exclusive of payroll for
17 construction, or Five Million Dollars (\$5,000,000.00)
18 in investment.

19 3. In order to be eligible for state local government matching
20 payments in support of a major tourism destination project, a local
21 governmental entity shall provide to the Oklahoma Department of
22 Commerce as part of the application provided for in subsection J of
23 this section:
24

- 1 a. an estimate of incremental revenues new to the state
- 2 likely to be derived from the project,
- 3 b. certification that the major tourism destination meets
- 4 the applicable criteria described in paragraph 12 of
- 5 Section 841 of this title, and
- 6 c. an agreement to provide payment to the Oklahoma
- 7 Department of Commerce to defray the costs of the
- 8 study required by paragraph 4 of this subsection.

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

20 C. For purposes of the Oklahoma Local Development and
21 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a
22 retail activity, where otherwise prohibited by the Oklahoma
23 Enterprise Zone Act for purposes of the benefits and incentives
24 extended pursuant to the Oklahoma Enterprise Zone Act, shall be

1 considered an eligible enterprise for purposes of the state local
2 enterprise matching payment authorized by the Oklahoma Local
3 Development and Enterprise Zone Incentive Leverage Act.

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

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

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

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

1 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for
2 counties with a population of less than one hundred thousand
3 (100,000) persons; and

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

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

14 I. The payments authorized by Section 844 of this title shall
15 be available for business and governmental entities qualifying
16 pursuant to the Local Development Act for investments made within an
17 incentive district or for improvements made within an increment
18 district prior to December 31, 2007, or for which an incentive
19 district or an increment district has been created prior to December
20 31, 2028, if the investments or improvements are begun not later
21 than December 31, 2029.

22 J. The Oklahoma Department of Commerce shall promulgate rules
23 to establish a procedure for an enterprise or local governmental
24 entity to make application for state local enterprise and state

1 local government matching payments pursuant to this section. Such
2 rules shall reflect the intent that the Oklahoma Local Development
3 and Enterprise Zone Incentive Leverage Act be fiscally neutral to
4 the state.

5 SECTION 2. This act shall become effective July 1, 2020.

6 SECTION 3. It being immediately necessary for the preservation
7 of the public peace, health or safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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