

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2401

By: Kannady

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5  
6 AS INTRODUCED

7 An Act relating to public finance; amending 62 O.S.  
8 2011, Section 842, which relates to the Oklahoma  
9 Local Development and Enterprise Zone Incentive  
Leverage Act; modifying reference; and providing an  
effective date.

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

13 SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, is  
14 amended to read as follows:

15 Section 842. A. ~~An~~ Any enterprise which locates its facility  
16 within an enterprise zone or which expands its existing facility  
17 after the designation of an enterprise zone as authorized by law and  
18 which is located in an incentive district as authorized pursuant to  
19 the provisions of the Local Development Act shall be eligible for  
20 the state local enterprise matching payment authorized pursuant to  
21 subsection A of Section 844 of this title.

22 B. 1. A local governmental entity which approves a project  
23 plan pursuant to the provisions of the Local Development Act within  
24 an enterprise zone or in support of a major tourism destination

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

- 7 a. any gambling establishment, or
- 8 b. any development within a project plan that provides  
9 for more than ten percent (10%) of the net leasable  
10 space of such development to be used for retail  
11 purposes.

12 State local government matching payments shall not be used to  
13 supplant local revenue currently being expended within the increment  
14 district boundaries.

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

- 20 a. an estimate of incremental revenues likely to be  
21 derived from the project, and
- 22 b. certification that all projects described within the  
23 related project plan will generate, in the aggregate,  
24 a minimum of either One Million Dollars

1 (\$1,000,000.00) in payroll, exclusive of payroll for  
2 construction, or Five Million Dollars (\$5,000,000.00)  
3 in investment.

4 3. In order to be eligible for state local government matching  
5 payments in support of a major tourism destination project, a local  
6 governmental entity shall provide to the Oklahoma Department of  
7 Commerce as part of the application provided for in subsection J of  
8 this section:

- 9 a. an estimate of incremental revenues new to the state  
10 likely to be derived from the project,  
11 b. certification that the major tourism destination meets  
12 the applicable criteria described in paragraph 12 of  
13 Section 841 of this title, and  
14 c. an agreement to provide payment to the Oklahoma  
15 Department of Commerce to defray the costs of the  
16 study required by paragraph 4 of this subsection.

17 4. To determine if a project qualifies as a major tourism  
18 destination project pursuant to subparagraph b of paragraph 12 of  
19 Section 841 of this title and to assist in other required  
20 determinations, the Oklahoma Department of Commerce shall cause a  
21 market and feasibility study to be conducted by an independent  
22 consultant with experience in the conduct of such studies. Upon  
23 review of the feasibility report, the Oklahoma Department of  
24 Commerce shall make its finding as to the reasonable probability

1 that the proposed project is a major tourism destination project as  
2 provided in subparagraph b of paragraph 12 of Section 841 of this  
3 title.

4 C. For purposes of the Oklahoma Local Development and  
5 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a  
6 retail activity, where otherwise prohibited by the Oklahoma  
7 Enterprise Zone Act for purposes of the benefits and incentives  
8 extended pursuant to the Oklahoma Enterprise Zone Act, shall be  
9 considered an eligible enterprise for purposes of the state local  
10 enterprise matching payment and the income tax credit authorized by  
11 the Oklahoma Local Development and Enterprise Zone Incentive  
12 Leverage Act.

13 D. The combined maximum amount of state local enterprise  
14 matching payments and the amount of income tax credit authorized  
15 pursuant to Section 2357.81 of Title 68 of the Oklahoma Statutes for  
16 an enterprise per fiscal year shall not exceed Two Hundred Thousand  
17 Dollars (\$200,000.00).

18 E. Except as provided in subsection H of this section, for  
19 purposes of the Oklahoma Local Development and Enterprise Zone  
20 Incentive Leverage Act, the maximum amount of aggregate investment  
21 in all qualifying facilities located in any single county which can  
22 qualify for a state local enterprise matching payment pursuant to  
23 subsection A of Section 844 of this title or for an income tax  
24 credit as authorized by Section 2357.81 of Title 68 of the Oklahoma

1 Statutes shall be computed for each county of the state by  
2 multiplying Two Hundred Dollars (\$200.00) times the population of  
3 the county according to the 1999 estimate provided by the United  
4 States Bureau of the Census.

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

9 G. The aggregate investment limit for all facilities located  
10 within a county which may qualify for the state local enterprise  
11 matching payments pursuant to subsection A of Section 844 of this  
12 title or for an income tax credit as authorized by Section 2357.81  
13 of Title 68 of the Oklahoma Statutes shall:

14 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for  
15 counties with a population of less than one hundred thousand  
16 (100,000) persons; and

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

19 H. The aggregate limit for all state local government matching  
20 payments made to any public entity on behalf of any local  
21 governmental entity within a single county pursuant to subsection D  
22 of Section 844 of this title for the duration of the Oklahoma Local  
23 Development and Enterprise Zone Incentive Leverage Act shall be an  
24 amount equal to the net benefit rate multiplied by the taxable gross

1 sales derived from the project over the period of apportionment of  
2 local sales taxes, as certified by the Secretary of Commerce.

3 I. The payments authorized by Section 844 of this title and the  
4 income tax credit authorized by Section 2357.81 of Title 68 of the  
5 Oklahoma Statutes shall be available for business and governmental  
6 entities qualifying pursuant to the Local Development Act for  
7 investments made within an incentive district or for improvements  
8 made within an increment district prior to December 31, 2007, or for  
9 which an incentive district or an increment district has been  
10 created prior to December 31, 2018, if the investments or  
11 improvements are begun not later than December 31, 2019.

12 J. The Oklahoma Department of Commerce shall promulgate rules  
13 to establish a procedure for an enterprise or local governmental  
14 entity to make application for state local enterprise and state  
15 local government matching payments pursuant to this section. Such  
16 rules shall reflect the intent that the Oklahoma Local Development  
17 and Enterprise Zone Incentive Leverage Act be fiscally neutral to  
18 the state.

19 SECTION 2. This act shall become effective November 1, 2019.

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