

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 473

6 By: Rader

7 COMMITTEE SUBSTITUTE

8 An Act relating to public finance; amending 62 O.S.
9 2011, Sections 842 and 843, which relate to the
10 Oklahoma Local Development and Enterprise Zone
11 Incentive Leverage Act; deleting obsolete language
12 due to previously repealed statute; modifying data
13 used to calculate certain maximum investment amount;
14 modifying qualifying dates for an incentive or
15 increment district; modifying date by which specified
16 investment or development must be completed for
17 certain certification purposes; and declaring an
18 emergency.

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

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

22 Section 842. A. An enterprise which locates its facility
23 within an enterprise zone or which expands its existing facility
24 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

1 the state local enterprise matching payment authorized pursuant to
2 subsection A of Section 844 of this title.

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

- 12 a. any gambling establishment, or
- 13 b. any development within a project plan that provides
14 for more than ten percent (10%) of the net leasable
15 space of such development to be used for retail
16 purposes.

17 State local government matching payments shall not be used to
18 supplant local revenue currently being expended within the increment
19 district boundaries.

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

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

9 3. In order to be eligible for state local government matching
10 payments in support of a major tourism destination project, a local
11 governmental entity shall provide to the Oklahoma Department of
12 Commerce as part of the application provided for in subsection J of
13 this section:

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

22 4. To determine if a project qualifies as a major tourism
23 destination project pursuant to subparagraph b of paragraph 12 of
24 Section 841 of this title and to assist in other required

1 determinations, the Oklahoma Department of Commerce shall cause a
2 market and feasibility study to be conducted by an independent
3 consultant with experience in the conduct of such studies. Upon
4 review of the feasibility report, the Oklahoma Department of
5 Commerce shall make its finding as to the reasonable probability
6 that the proposed project is a major tourism destination project as
7 provided in subparagraph b of paragraph 12 of Section 841 of this
8 title.

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

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

23 E. Except as provided in subsection H of this section, for
24 purposes of the Oklahoma Local Development and Enterprise Zone

1 Incentive Leverage Act, the maximum amount of aggregate investment
2 in all qualifying facilities located in any single county which can
3 qualify for a state local enterprise matching payment pursuant to
4 subsection A of Section 844 of this title ~~or for an income tax~~
5 ~~credit as authorized by Section 2357.81 of Title 68 of the Oklahoma~~
6 ~~Statutes~~ shall be computed for each county of the state by
7 multiplying Two Hundred Dollars (\$200.00) times the population of
8 the county according to the ~~1999~~ most recent estimate provided by
9 the United States Bureau of the Census prior to the date an
10 application is made.

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

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

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

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

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

9 I. The payments authorized by Section 844 of this title ~~and the~~
10 ~~income tax credit authorized by Section 2357.81 of Title 68 of the~~
11 ~~Oklahoma Statutes~~ shall be available for business and governmental
12 entities qualifying pursuant to the Local Development Act for
13 investments made within an incentive district or for improvements
14 made within an increment district prior to December 31, 2007, or for
15 which an incentive district or an increment district has been
16 created prior to ~~December 31, 2018~~ December 31, 2028, if the
17 investments or improvements are begun not later than ~~December 31,~~
18 ~~2019~~ December 31, 2029.

19 J. The Oklahoma Department of Commerce shall promulgate rules
20 to establish a procedure for an enterprise or local governmental
21 entity to make application for state local enterprise and state
22 local government matching payments pursuant to this section. Such
23 rules shall reflect the intent that the Oklahoma Local Development
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1 and Enterprise Zone Incentive Leverage Act be fiscally neutral to
2 the state.

3 SECTION 2. AMENDATORY 62 O.S. 2011, Section 843, is
4 amended to read as follows:

5 Section 843. A. In order to receive the state local enterprise
6 matching payment pursuant to the provisions of subsection A of
7 Section 844 of this title, the enterprise shall obtain a
8 certification, provided by the governing body of the local
9 governmental entity creating the incentive district, acknowledged by
10 the chief elected official of the local governing body that the
11 enterprise has qualified pursuant to the Local Development Act for
12 sales tax exemption. The certification document shall include:

- 13 1. The beginning date of the exemption;
- 14 2. The ending date of the exemption;
- 15 3. The total amount of projected investment to construct or
16 expand the facility during the period for which the incentives
17 available pursuant to the Local Development Act will be in force and
18 effect together with a certification by the Oklahoma Department of
19 Commerce that the facility is located in an enterprise zone; and
- 20 4. The legal name and business entity classification of the
21 entity to which exemption is afforded or to which sales tax payment
22 is made by the local governmental entity or entities pursuant to the
23 provisions of the Local Development Act.

24

1 B. The local governing body shall provide a copy of the
2 certification document to the Oklahoma Tax Commission.

3 C. After the enterprise provides a certification from the local
4 governing body, the Tax Commission shall make payment to the
5 enterprise identified in the certification document equal to the
6 amount of the sales tax from which the enterprise is certified as
7 exempt as identified in the certification in the manner prescribed
8 by subsection A of Section 844 of this title.

9 D. The state local enterprise matching payment shall be made
10 only for sales tax foregone by local governmental entities or
11 rebated to the business enterprise by local entities for purchases
12 made by the business enterprise and not on the basis of any sales
13 tax collected by the business enterprise from consumers or users on
14 taxable sales made by the enterprise.

15 E. In order to receive the state local governmental matching
16 payment pursuant to the provisions of subsection D of Section 844 of
17 this title, the local governmental entity shall provide to the Tax
18 Commission a certification, acknowledged by its mayor or
19 chairperson, that such local governmental entity has created an
20 increment district pursuant to the Local Development Act which
21 qualifies for a state local government matching payment. The
22 certification document shall include:

- 23 1. The beginning date of the increment district;
- 24 2. The ending date of the increment district;

1 3. A description of the project costs authorized by the project
2 plan for which the state local government matching payments will be
3 used and the estimated date for substantial completion of the
4 project being assisted as described in the application;

5 4. A certification by the Oklahoma Department of Commerce that
6 the project plan is located in an enterprise zone or supports a
7 qualifying major tourism destination project, and that the
8 qualifying investment and development has been or will be
9 substantially completed no later than ~~December 31, 2024~~ December 31,
10 2034;

11 5. The amount of the local sales taxes which have been
12 apportioned during the previous six-month period by the local
13 governmental entity for the payment of project costs pursuant to the
14 provisions of the Local Development Act; and

15 6. The name of the public entity identified in the project plan
16 pursuant to Section 858 of this title as the entity authorized to
17 carry out activities pursuant to the project plan.

18 After the local governmental entity provides such certification,
19 the Tax Commission shall make payment to the designated public
20 entity in an amount equal to the lesser of the certified amount of
21 the local sales taxes apportioned during the previous six (6) months
22 or the estimated net direct state benefits as prescribed by
23 subsection D of Section 844 of this title.

24

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

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