

An Act

ENROLLED SENATE
BILL NO. 473

By: Rader of the Senate

and

Fetgatter of the House

An Act relating to public finance; amending 62 O.S. 2011, Sections 842 and 843, which relate to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; deleting obsolete language due to previously repealed statute; modifying data used to calculate certain maximum investment amount; modifying qualifying dates for an incentive or increment district; modifying qualifying dates for investment and development for certain certification by Oklahoma Department of Commerce; and declaring an emergency.

SUBJECT: Public finance

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

SECTION 1. AMENDATORY 62 O.S. 2011, 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 an enterprise zone or in support of a major tourism destination project which the local governmental entity determines is likely to significantly benefit contiguous or nearby enterprise zone census tracts shall be eligible for the state local government matching payment authorized pursuant to subsection D of Section 844 of this title; provided, no state local government matching payment shall be made for project costs in relation to:

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

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

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

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

3. In order to be eligible for state local government matching payments in support of a major tourism destination project, a local governmental entity shall provide to the Oklahoma Department of

Commerce as part of the application provided for in subsection J of this section:

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

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

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

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

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

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

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

1. Not be less than Twenty Million Dollars (\$20,000,000.00) for counties with a population of less than one hundred thousand (100,000) persons; and
2. Not be greater than Forty Million Dollars (\$40,000,000.00) for all other counties of the state.

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

I. The payments authorized by Section 844 of this title ~~and the income tax credit authorized by Section 2357.81 of Title 68 of the~~

~~Oklahoma Statutes~~ shall be available for business and governmental entities qualifying pursuant to the Local Development Act for investments made within an incentive district or for improvements made within an increment district prior to December 31, 2007, or for which an incentive district or an increment district has been created prior to ~~December 31, 2018~~ December 31, 2028, if the investments or improvements are begun not later than ~~December 31, 2019~~ December 31, 2029.

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

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

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

1. The beginning date of the exemption;
2. The ending date of the exemption;
3. The total amount of projected investment to construct or expand the facility during the period for which the incentives available pursuant to the Local Development Act will be in force and effect together with a certification by the Oklahoma Department of Commerce that the facility is located in an enterprise zone; and
4. The legal name and business entity classification of the entity to which exemption is afforded or to which sales tax payment

is made by the local governmental entity or entities pursuant to the provisions of the Local Development Act.

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

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

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

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

1. The beginning date of the increment district;
2. The ending date of the increment district;
3. A description of the project costs authorized by the project plan for which the state local government matching payments will be used and the estimated date for substantial completion of the project being assisted as described in the application;
4. A certification by the Oklahoma Department of Commerce that the project plan is located in an enterprise zone or supports a qualifying major tourism destination project, and that the qualifying investment and development has been or will be

substantially completed no later than ~~December 31, 2024~~ December 31, 2034;

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

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

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

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

Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____