

# An Act

ENROLLED SENATE  
BILL NO. 500

By: Boren of the Senate

and

Lowe (Dick) of the House

An Act relating to development incentives; amending 62 O.S. 2011, Sections 860 and 861, which relate to the Local Development Act; requiring the municipalities and counties to publish annual report on tax increment and incentive financing districts; specifying content of report; and providing an effective date.

SUBJECT: Tax incentive finance district

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

SECTION 1. AMENDATORY 62 O.S. 2011, 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 as long as 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 commercial 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. No ad valorem tax exemption shall be granted pursuant to the provisions of this subsection for single-family residences. The governing body may grant the exemption only on the increase in value of the property. The exemptions may be granted for a specific period of time as determined by a written agreement between the property owners of the area and the governing body and may be renewed. Uses of the property eligible for this exemption may include but not be limited to commercial, office or multifamily residential use.

E. The governing body of a city, town or county of this state shall prepare a disclosure report for any tax incentives financing district established by the governing body if the district has been in operation for at least twelve (12) months. Beginning January 1, 2022, and for each year thereafter, the disclosure report shall be published on or before sixty (60) business days, excluding recognized federal holidays, following the end of each fiscal year on the website of the city, town or county if such a website exists. Copies of the report shall be made available to any requesting member of the public. The disclosure report shall include the following information for the prior fiscal year preceding the fiscal year the report is due:

1. The parties receiving incentives or exemptions;

2. A general description of the property and the improvements to be made;

3. The portion and fair market value of the property to be exempted or that portion of the local taxes to be subject to incentives or to be exempted;

4. The duration of the incentives or exemptions;

5. Any additional information necessary to demonstrate compliance with the tax incentives or exemptions;

6. The name of the person who is currently in charge of the implementation of the plan; and

7. The names of the persons who have disclosed an interest as required pursuant to Section 857 of this title and the interest disclosed.

SECTION 2. AMENDATORY 62 O.S. 2011, Section 861, is amended to read as follows:

Section 861. A. A project plan may contain a provision that the increments from certain local taxes or fees may be used to finance project costs in areas qualified under the Local Development Act. The increment from local taxes or fees levied from and after the effective date of the approval of such plan shall be apportioned in the following manner for a period not to exceed twenty-five (25) fiscal years thereafter or the period required for payment of project costs, whichever is less; provided, however, that for any increment district established after November 1, 1992, such time period shall be tolled for a period of time equal to the pendency of any litigation directly or indirectly challenging the increment district or apportionment or disbursement:

1. That portion of the ad valorem 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 increment district determined pursuant to Section 862 of this title and as to an area later added to the increment district, the effective date of the addition to the increment district, shall be paid to each taxing entity and all or any portion of local sales taxes, other local taxes or local fees collected each year which are not subject to apportionment shall be paid or retained as otherwise provided by law; and

2. All or any portion of:

- a. ad valorem taxes, in excess of such amount specified in paragraph 1 of this subsection,
- b. the increment of local sales taxes, other local taxes or local fees, or a combination thereof, paid to or for the benefit of the city, town, or county approving the plan, and

- c. with its consent, evidenced by agreement in writing, the increment of local sales tax, other local taxes or local fees, or combination thereof, payable to any other local public taxing entity,

shall be apportioned to, and when collected, shall be paid into an apportionment fund established for the project pursuant to the project plan. Such revenues shall be used for the payment of the project costs and for the payment of the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred to finance project costs, whether funded, refunded, assumed, or otherwise, for financing, in whole or in part, eligible project costs. For the purposes of this section, "local sales tax" means amounts payable to or for the benefit of a local governmental entity calculated as a percentage of gross sales whether imposed by ordinance, resolution, covenant, or agreement. Nothing shall prohibit the increments from being used to directly pay eligible project costs. When all eligible project costs and such bonds, loans, advances of money or indebtedness, if any, including interest thereon and any premiums due in connection with them, have been paid and the governing body adopts an ordinance or resolution dissolving the tax apportionment financing, all ad valorem taxes upon the taxable property within the boundary of such district shall be paid into the funds of the respective taxing entities.

B. If a project plan contains a provision for apportionment as provided in subsection A of this section, and notwithstanding any other provision of law to the contrary, the governing body shall direct in the resolution or ordinance approving the plan which portion of the increments, including whether any or all, to be paid into the apportionment fund shall constitute a part of the general fund to be appropriated annually by the governing body, and which portion, including whether any or all, shall constitute funds of a public entity authorized to issue tax apportionment bonds or notes or to incur project costs.

C. To the extent that collections exceed project costs and the provisions for payment of principal and interest along with sufficient reserves on any bonds issued pursuant to the provisions of Section 863 of this title, the excess shall be paid into the

funds of the respective taxing entities unless the taxing entity agrees to some other use of such collections.

D. Except as provided in subsection E of this section, for any year in which taxes or fees are apportioned in the manner specified in paragraph 2 of subsection A of this section, any increase in assessed valuation of taxable real property or taxable personal property within the boundaries of such district in excess of the base assessed value shall not be considered by any taxing entity in computing any debt limitation or for any other purpose except for the levy of taxes and in determining the amount to be apportioned.

E. In the event there is a change in the assessment ratio for ad valorem tax property valuations of property within the boundaries of an increment district, the portions of valuations for assessment pursuant to paragraphs 1 and 2 of subsection A of this section shall be proportionately adjusted in accordance with such reassessment.

F. Nothing in this section shall be construed as relieving property in such project area from being assessed as provided in the Ad Valorem Tax Code of the Oklahoma Statutes, or as relieving owners of such property from paying a uniform rate of taxes, as required by Section 5 of Article X of the Oklahoma Constitution.

G. Subject to constitutional exemptions, if property in an increment district is owned by a public entity and is leased to or operated for a private use, including, without limitation, use by a not-for-profit corporation or trust, the portion of the property so leased or operated shall be assessed by the county assessor as if such portion of the property were taxable, and, during the term of the increment district, the public entity owning such property shall pay or require the user thereof to pay ad valorem taxes or an in lieu ad valorem tax payment in an amount not less than the amount that would have resulted if taxes had otherwise been levied on such portion of the property. If property subject to ad valorem tax in an increment district is acquired by a private not-for-profit corporation or public or private trust, it shall continue to be assessed and subject to ad valorem taxes or an in lieu ad valorem payment by the user thereof until termination of the increment district unless and only to the extent of the portion of the property and the use thereof that is:

1. Acquired to implement the project plan;
2. Converted to a new tax-exempt use by a tax-exempt user; or
3. Entitled to claim a constitutional exemption notwithstanding statutory provisions.

During the period of an increment district, such nonexempt uses and interests are severable for purposes of ad valorem and in lieu of ad valorem assessment and payments, notwithstanding any statutory provisions to the contrary.

H. The governing body of a city, town or county of this state shall prepare a disclosure report for any tax increment financing district established by the governing body if the district has been in operation for at least twelve (12) months. Beginning January 1, 2022, and for each year thereafter, the disclosure report shall be published on or before sixty (60) business days, excluding recognized federal holidays, following the end of each fiscal year on the website of the city, town or county if such a website exists. Copies of the report shall be made available to any requesting member of the public. The disclosure report shall include the following information for the prior fiscal year preceding the fiscal year the report is due:

1. The amount and source of revenue captured and apportioned pursuant to the project plan;

2. The amount and purpose of expenditures;

3. The amount of principal and interest due on outstanding bonded indebtedness;

4. The tax increment base and current captured appraised value or the other local tax or fee collections retained by the area;

5. The captured appraised value or the other local tax or fee collections shared by the city, town or county and other taxing entities, the total amount of tax increments received and any additional information necessary to demonstrate compliance with the plan adopted by the city, town or county;

6. The name of the person who is currently in charge of the implementation of the plan; and

7. The names of the persons who have disclosed an interest as required pursuant to Section 857 of this title and the interest disclosed.

SECTION 3. This act shall become effective November 1, 2021.

Passed the Senate the 29th day of April, 2021.

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Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

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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: \_\_\_\_\_