

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 500

By: Boren of the Senate

and

7 Lowe (Dick) of the House

8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to development incentives; amending
12 62 O.S. 2011, Sections 860 and 861, which relate to
13 the Local Development Act; requiring the
14 municipalities and counties to publish annual report
15 on tax increment and incentive financing districts;
16 specifying content of report; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 62 O.S. 2011, Section 860, is
20 amended to read as follows:

21 Section 860. A. A project plan may contain a provision that
22 certain local taxes may be subject to incentives or may be exempted
23 in reinvestment areas, historic preservation areas or enterprise
24 areas.

1 B. The governing body may grant incentives or exemptions from
2 local taxation only on the new investment made. No ad valorem tax
3 incentives or exemptions may be granted on the value of property
4 which has been assessed or which is subject to assessment prior to
5 the adoption of the project plan. No ad valorem tax incentives or
6 exemptions authorized in this section may be granted for retail
7 establishments. If a retail establishment is located in property
8 which otherwise qualifies for an incentive or exemption pursuant to
9 this section, the incentive or exemption shall not be allowed for
10 that portion of the property used for such retail establishment. As
11 used in this subsection, "retail establishment" shall not include an
12 establishment that provides lodging, including but not limited to a
13 hotel, apartment hotel, public rooming house or motel. No ad
14 valorem tax incentives or exemptions authorized in this section may
15 be granted if the property is located in an increment district or as
16 long as the property is subject to the ad valorem tax exemption for
17 new or expanding manufacturing facilities as authorized by Section
18 6B of Article X of the Oklahoma Constitution. In the event of
19 disposition by lease or sublease to a lessee not entitled to an ad
20 valorem tax exemption, the improvements placed thereon shall not be
21 entitled to an ad valorem tax exemption provided for in Section 850
22 et seq. of this title. The incentives or exemptions, which may be
23 full or partial, may be granted for a period not to exceed five (5)
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1 years; however, in enterprise zones incentives or exemptions may be
2 granted for a period not to exceed six (6) years.

3 C. No incentives or exemptions may be granted to any business
4 or firm that is relocating from within the state and is subject to
5 or in the process of recruitment by two or more governmental
6 entities within the state unless the governmental entity in which
7 the business or firm does not locate adopts a resolution giving
8 their approval to the granting of incentives or exemptions to the
9 business or firm locating in the competing governmental entity. No
10 incentives or exemptions may be granted to an out-of-state business
11 or firm that is subject to or in the process of recruitment by two
12 or more governmental entities within the state except as otherwise
13 provided for in this subsection. The prohibition against incentives
14 or exemptions to a business or firm relocating within the state may
15 be waived upon application by the governing body to, and approval
16 of, the Director of the Oklahoma Department of Commerce. In order
17 for the Director to approve the waiver, the Director must find that
18 the incentives or exemptions are necessary and sufficient to attract
19 the business or firm and that the benefits generated by the business
20 location outweigh the costs of the business location.

21 D. A project plan may contain a provision that ad valorem taxes
22 may be exempted in a commercial historic preservation area that is
23 adjacent to and serves designated historical residential areas for
24 neighborhood commercial preservation purposes in order for the

1 neighborhood to retain its basic character and scale. No ad valorem
2 tax exemption may be granted on the value of property which has been
3 assessed or which is subject to assessment prior to the adoption of
4 the project plan. No ad valorem tax exemption shall be granted
5 pursuant to the provisions of this subsection for single-family
6 residences. The governing body may grant the exemption only on the
7 increase in value of the property. The exemptions may be granted
8 for a specific period of time as determined by a written agreement
9 between the property owners of the area and the governing body and
10 may be renewed. Uses of the property eligible for this exemption
11 may include but not be limited to commercial, office or multifamily
12 residential use.

13 E. The governing body of a city, town or county of this state
14 shall prepare a disclosure report for any tax incentives financing
15 district established by the governing body if the district has been
16 in operation for at least twelve (12) months. Beginning January 1,
17 2022, and for each year thereafter, the disclosure report shall be
18 published by June 30 of each year on the website of the city, town
19 or county if such a website exists. Copies of the report shall be
20 made available to any requesting member of the public. The
21 disclosure report shall include the following information for the
22 prior fiscal year preceding the fiscal year the report is due:

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

1 2. The amount and purpose of expenditures;

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

4 4. The tax incentive base and current captured appraised value
5 or the other local tax or fee collections retained by the district;

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

11 6. The parties receiving incentives or exemptions;

12 7. A general description of the property and the improvements
13 to be made;

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

17 9. The duration of the incentives or exemptions; and

18 10. Any additional information necessary to demonstrate
19 compliance with the tax incentives or exemptions.

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

22 Section 861. A. A project plan may contain a provision that
23 the increments from certain local taxes or fees may be used to
24 finance project costs in areas qualified under the Local Development

1 Act. The increment from local taxes or fees levied from and after
2 the effective date of the approval of such plan shall be apportioned
3 in the following manner for a period not to exceed twenty-five (25)
4 fiscal years thereafter or the period required for payment of
5 project costs, whichever is less; provided, however, that for any
6 increment district established after November 1, 1992, such time
7 period shall be tolled for a period of time equal to the pendency of
8 any litigation directly or indirectly challenging the increment
9 district or apportionment or disbursement:

10 1. That portion of the ad valorem taxes which are produced by
11 the levy at the rate fixed each year by or for each such ad valorem
12 taxing entity upon the base assessed value of the increment district
13 determined pursuant to Section 862 of this title and as to an area
14 later added to the increment district, the effective date of the
15 addition to the increment district, shall be paid to each taxing
16 entity and all or any portion of local sales taxes, other local
17 taxes or local fees collected each year which are not subject to
18 apportionment shall be paid or retained as otherwise provided by
19 law; and

20 2. All or any portion of:

21 a. ad valorem taxes, in excess of such amount specified
22 in paragraph 1 of this subsection,

23 b. the increment of local sales taxes, other local taxes
24 or local fees, or a combination thereof, paid to or

1 for the benefit of the city, town, or county approving
2 the plan, and
3 c. with its consent, evidenced by agreement in writing,
4 the increment of local sales tax, other local taxes or
5 local fees, or combination thereof, payable to any
6 other local public taxing entity,
7 shall be apportioned to, and when collected, shall be paid into an
8 apportionment fund established for the project pursuant to the
9 project plan. Such revenues shall be used for the payment of the
10 project costs and for the payment of the principal of, the interest
11 on, and any premiums due in connection with the bonds of, loans,
12 notes, or advances of money to, or indebtedness incurred to finance
13 project costs, whether funded, refunded, assumed, or otherwise, for
14 financing, in whole or in part, eligible project costs. For the
15 purposes of this section, "local sales tax" means amounts payable to
16 or for the benefit of a local governmental entity calculated as a
17 percentage of gross sales whether imposed by ordinance, resolution,
18 covenant, or agreement. Nothing shall prohibit the increments from
19 being used to directly pay eligible project costs. When all
20 eligible project costs and such bonds, loans, advances of money or
21 indebtedness, if any, including interest thereon and any premiums
22 due in connection with them, have been paid and the governing body
23 adopts an ordinance or resolution dissolving the tax apportionment
24 financing, all ad valorem taxes upon the taxable property within the

1 boundary of such district shall be paid into the funds of the
2 respective taxing entities.

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

13 C. To the extent that collections exceed project costs and the
14 provisions for payment of principal and interest along with
15 sufficient reserves on any bonds issued pursuant to the provisions
16 of Section 863 of this title, the excess shall be paid into the
17 funds of the respective taxing entities unless the taxing entity
18 agrees to some other use of such collections.

19 D. Except as provided in subsection E of this section, for any
20 year in which taxes or fees are apportioned in the manner specified
21 in paragraph 2 of subsection A of this section, any increase in
22 assessed valuation of taxable real property or taxable personal
23 property within the boundaries of such district in excess of the
24 base assessed value shall not be considered by any taxing entity in

1 computing any debt limitation or for any other purpose except for
2 the levy of taxes and in determining the amount to be apportioned.

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

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

13 G. Subject to constitutional exemptions, if property in an
14 increment district is owned by a public entity and is leased to or
15 operated for a private use, including, without limitation, use by a
16 not-for-profit corporation or trust, the portion of the property so
17 leased or operated shall be assessed by the county assessor as if
18 such portion of the property were taxable, and, during the term of
19 the increment district, the public entity owning such property shall
20 pay or require the user thereof to pay ad valorem taxes or an in
21 lieu ad valorem tax payment in an amount not less than the amount
22 that would have resulted if taxes had otherwise been levied on such
23 portion of the property. If property subject to ad valorem tax in
24 an increment district is acquired by a private not-for-profit

1 corporation or public or private trust, it shall continue to be
2 assessed and subject to ad valorem taxes or an in lieu ad valorem
3 payment by the user thereof until termination of the increment
4 district unless and only to the extent of the portion of the
5 property and the use thereof that is:

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

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

14 H. The governing body of a city, town or county of this state
15 shall prepare a disclosure report for any tax increment financing
16 district established by the governing body if the district has been
17 in operation for at least twelve (12) months. Beginning January 1,
18 2022, and for each year thereafter, the disclosure report shall be
19 published by June 30 of each year on the website of the city, town
20 or county if such a website exists. Copies of the report shall be
21 made available to any requesting member of the public. The
22 disclosure report shall include the following information for the
23 prior fiscal year preceding the fiscal year the report is due:
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- 1 1. The amount and source of revenue captured and apportioned
2 pursuant to the project plan;
- 3 2. The amount and purpose of expenditures;
- 4 3. The amount of principal and interest due on outstanding
5 bonded indebtedness;
- 6 4. The tax increment base and current captured appraised value
7 or the other local tax or fee collections retained by the district;
- 8 5. The captured appraised value or the other local tax or fee
9 collections shared by the city, town or county and other taxing
10 entities, the total amount of tax increments received and any
11 additional information necessary to demonstrate compliance with the
12 plan adopted by the city, town or county;
- 13 6. The parties receiving incentives or exemptions;
- 14 7. A general description of the property and the improvements
15 to be made;
- 16 8. The portion and fair market value of the property to be
17 exempted or that portion of the local taxes to be subject to
18 increments or to be exempted;
- 19 9. The duration of the increments or exemptions; and
- 20 10. Any additional information necessary to demonstrate
21 compliance with the tax increments or exemptions.

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

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24 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
04/08/2021 - DO PASS, As Amended.