

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 574

By: Holt

4
5
6 AS INTRODUCED

7 An Act relating to the Local Development Act;
8 amending 62 O.S. 2011, Sections 851, 852, 853, 854
9 and 856, which relate to the Local Development Act;
10 making certain finding; authorizing certain increment
11 revenue for certain purpose; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 62 O.S. 2011, Section 851, is
15 amended to read as follows:

16 Section 851. The Local Development Act shall serve to implement
17 and execute Section 6C of Article X of the Oklahoma Constitution as
18 approved by the voters of the State of Oklahoma on November 6, 1990,
19 by:

20 1. Providing for the granting of incentives and exemptions from
21 taxation within certain areas, placing restrictions thereon, and
22 limiting the time period for the exemptions, as authorized by
23 subsection A thereof;
24

1 2. Providing for apportionment of an increment of local taxes
2 and fees, placing restrictions thereon, and limiting the time period
3 for the apportionment, as authorized by subsection B thereof; and

4 3. Providing for the planning, financing, and carrying out of
5 development and redevelopment within certain areas, as authorized by
6 subsection C thereof.

7 Nothing in the Local Development Act shall be construed in a
8 manner contrary to or inconsistent with the provisions of said
9 constitutional provision.

10 The Legislature hereby finds that historic preservation,
11 reinvestment or enterprise areas as defined under this act are
12 unproductive, undeveloped, underdeveloped or blighted areas pursuant
13 to subsection C of Section 6 of Article X of the Oklahoma
14 Constitution.

15 The Legislature further finds that the use of increments to
16 provide a specific revenue source to public entities in the
17 jurisdictional area of the governing body adopting a project plan is
18 valuable in support of both economic development and education
19 enhancement.

20 SECTION 2. AMENDATORY 62 O.S. 2011, Section 852, is
21 amended to read as follows:

22 Section 852. It is the intent of the Legislature that the
23 provisions of this act be used in accordance with the following
24 guidelines:

1 1. That the tools of this act be used in those cases where
2 investment, development and economic growth is difficult, but is
3 possible if the provisions of this act are available;

4 2. That the tools of this act not be used in areas where
5 investment, development and economic growth would have occurred
6 anyway and that the governing body take care to exclude areas that
7 do not meet this criteria;

8 3. That the tools of this act be used to supplement and not
9 supplant or replace normal public functions and services;

10 4. That the tools of this act work in conjunction with existing
11 programs and efforts such as the Oklahoma Main Street Program,
12 Oklahoma Enterprise Zone Act, historic preservation and other
13 locally implemented economic development efforts;

14 5. That any proposed districts be delineated with particular
15 emphasis not to have boundaries that dissect a similar area or
16 create unfair competitive advantage;

17 6. That the governing body recognizes the need for residential
18 and neighborhood treatment, capital improvements to neighborhood
19 public schools, as well as commercial/industrial development;

20 7. That where possible partial credits or credits that do not
21 utilize the full time frame allowed be pursued;

22 8. That maximum effort be made to allow full public knowledge
23 and participation in the local use of this act;

24

1 9. That conservation, preservation and rehabilitation be
2 emphasized while demolition, clearance and relocation be minimized
3 where possible; ~~and~~

4 10. That the governing bodies develop and apply clear
5 standards, criteria and threshold limits that are applicable to all
6 similar property and areas and that the governing bodies enact
7 protection against nearby relocations to utilize incentives;

8 11. That, where possible and practicable, the tools of the
9 Local Development Act should be used to supplement and enhance local
10 education efforts;

11 12. That, where feasible, and to the greatest extent possible,
12 specific revenue sources authorized for distribution to other public
13 entities in the area shall be structured to facilitate financing of
14 capital costs and provide reliability for operating costs pursuant
15 to project authorizations; and

16 13. That, to the extent feasible and practicable, project plans
17 shall be structured to generate financial benefit to affected taxing
18 jurisdictions and especially school districts by emphasis on either:

19 a. projects creating new employment, with maximum induced
20 benefit for local, regional, and state areas, or

21 b. projects requiring intensive capital investment, with
22 attendant opportunity to provide direct distributions
23 to enhance local education.
24

1 SECTION 3. AMENDATORY 62 O.S. 2011, Section 853, is
2 amended to read as follows:

3 Section 853. As used in Section 850 et seq. of this title:

4 1. "Apportionment" means the direction by a governing body,
5 authorized by the Legislature pursuant to Section 6C of Article X of
6 the Oklahoma Constitution, to apply all or any portion of an
7 increment of ad valorem taxes and all or any portion of sales taxes,
8 other local taxes or local fees, or any combination thereof, to
9 financing a plan and project in accordance with this act;

10 2. "Apportionment area" means the same as an increment district
11 as defined under this act;

12 3. "Bonds" means evidences of indebtedness, tax apportionment
13 bonds or other obligations issued by a public entity pursuant to the
14 provisions of Section 863 of this title to finance project costs,
15 pursuant to a project plan, which are to be repaid in whole or part
16 with apportioned increments;

17 4. "District" means either an incentive district as authorized
18 by Section 860 of this title or an increment district as authorized
19 by Section 861 of this title. A district may consist of all or a
20 portion of a project area;

21 5. "Enterprise area" means any area within a designated state
22 or federal enterprise zone;

23

24

1 6. "Enterprise zone" means an enterprise zone as designated by
2 the Department of Commerce pursuant to the provisions of Section
3 690.3 of this title or as designated by the federal government;

4 7. "Governing body" means the city council of a city, the board
5 of trustees of a town or the board of county commissioners;

6 8. "Historic preservation area" means a geographic area listed
7 in or nominated by the State Historic Preservation Officer to the
8 National Register of Historic Places, an historic structure or
9 structures listed individually in or nominated by the State Historic
10 Preservation Officer to the National Register of Historic Places,
11 with such area or structure being subject to historic preservation
12 zoning, or for purposes of ad valorem tax exemptions provided for in
13 subsection D of Section 860 of this title, a structure subject to
14 historic preservation zoning. Rehabilitation undertaken in an
15 historic preservation area shall meet the Secretary of the
16 Interior's Standards for Rehabilitation, latest revision, in order
17 to be eligible for the incentives or exemptions granted pursuant to
18 Section 860 of this title;

19 9. "Increment" means that portion of ad valorem taxes in excess
20 of the amount of that portion of the taxes which are produced by the
21 levy at the rate fixed each year by or for each such ad valorem
22 taxing entity upon the base assessed value of the district or as to
23 an area later added to the district, the effective date of the
24 modification of the plan, or that portion of sales taxes, other

1 local taxes or local fees collected each year reasonably determined
2 by a formula approved by the governing body to be generated by the
3 project, regardless of taxable location or recipient local public
4 taxing entity, which may be apportioned for specific project costs
5 or as a specific revenue source for other public entities in the
6 area in which the project costs take place;

7 10. "Local taxes" means ad valorem taxes, sales taxes and other
8 local taxes which are levied by or on the behalf of a taxing entity;

9 11. "Planning commission" means an organization established for
10 local planning by local government or governments in accordance with
11 the laws of this state;

12 12. "Project" means all development activities pursuant to the
13 objectives of the project plan;

14 13. "Project area" means the geographic boundaries within which
15 development activities will occur. The project area may be
16 coextensive or larger than the increment district;

17 14. "Project costs" means the expenditures made or estimated to
18 be made and monetary obligations incurred or estimated to be
19 incurred which are listed in the project plan as costs of and
20 incidental to planning, approval and implementation of the project
21 plan. Any income, special assessments, or other revenues received,
22 or reasonably expected to be received, by the city, town or county
23 in connection with the implementation of the project plan may be
24

1 used to pay project costs. Project costs include, but are not
2 limited to:

- 3 a. capital costs, including the actual costs of the
4 acquisition and construction of public works, public
5 improvements, new public or private buildings,
6 structures, and fixtures; the actual costs of the
7 acquisition, demolition, alteration, remodeling,
8 repair, or reconstruction of existing public or
9 private buildings, structures, and fixtures; and the
10 actual costs of the acquisition of land and equipment
11 for public works, public improvements and public
12 buildings and the actual costs of clearing and grading
13 of such land and environmental remediation related
14 thereto,
- 15 b. financing costs, including interest paid to holders of
16 evidences of indebtedness or other obligations issued
17 to pay for project costs and premium paid over the
18 principal amount of the obligations because of the
19 redemption of the obligations before maturity,
- 20 c. real property assembly costs, including clearance and
21 preparation costs,
- 22 d. professional service costs, including those incurred
23 for architectural, planning, engineering, legal and
24 financial advice and services,

- 1 e. direct administrative costs, including reasonable
2 charges for the time spent by employees of the city,
3 town or county in connection with the implementation
4 of a project plan or employees of private entities
5 under contract with a public entity for project
6 planning or implementation,
- 7 f. organizational costs, including the costs of
8 conducting environmental impact studies or other
9 impact studies, the cost of publicizing the
10 consideration of the project plan, costs incidental to
11 creation of the district, and the cost of implementing
12 the project plan for the district,
- 13 g. interest, before and during construction and for two
14 (2) years after completion of construction, whether or
15 not capitalized,
- 16 h. fees for bond guarantees, letters of credit and bond
17 insurance,
- 18 i. the amount of any contributions offset made in
19 connection with the implementation of the project
20 plan,
- 21 j. the costs for determining or redetermining the base
22 assessed value of a district,
- 23 k. costs of construction of public works or improvements,
24 including but not limited to highways, roads, streets,

1 bridges, sewers, traffic control systems and devices,
2 telecommunications systems, parks, water distribution
3 and supply systems, curbing, sidewalks and any similar
4 public improvements, common utility or service
5 facilities, landscaping, parking, and water
6 detention/retention systems,

7 l. all or a portion of another taxing jurisdiction's
8 capital costs resulting from the development or
9 redevelopment project necessarily incurred or to be
10 incurred in furtherance of the objectives of the plan
11 and project, to the extent the governing body by
12 written agreement accepts and approves such costs,

13 m. relocation costs to the extent that a governing body
14 determines that relocation costs shall be paid or are
15 required to be paid by federal or state law,

16 n. all costs incurred in the maintenance, management,
17 marketing and other services provided through an
18 active Main Street Program recognized as such by the
19 Oklahoma Department of Commerce, ~~and~~

20 o. assistance in development financing to the extent the
21 governing body approves such financing, and

22 p. operational costs to support project objectives and
23 for education and training costs for enhancing
24 education, focusing programs on courses supporting

1 economic development activities, and providing skills
2 training related to economic development objectives;

3 15. "Project plan" means the approved plans of a city, town or
4 county which may include a designated district or districts under
5 this act in conformance with its comprehensive plan, which is
6 intended by the payment of costs through apportionment of the
7 increment or by the granting of incentives or exemptions to reduce
8 or eliminate those conditions, the existence of which qualified the
9 district, and to thereby enhance private investment of the tax bases
10 of the taxing entities which extend into the district. Project
11 plans may be a part of and incorporate existing neighborhood,
12 renewal, economic development, public school and other such plans.
13 Each project plan shall conform to the requirements specified by
14 this act;

15 16. "Public entity" means any city, town, county, board,
16 commission, authority, district, urban renewal authority or public
17 trust;

18 17. "Reinvestment area" means any area located within the
19 limits of a city, town or county requiring public improvements,
20 including but not limited to transportation-related projects
21 identified by any transportation authority pursuant to Section
22 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic
23 stagnation or decline, to serve as a catalyst for retaining or
24 expanding employment, to attract major investment in the area or to

1 preserve or enhance the tax base or in which fifty percent (50%) or
2 more of the structures in the area have an age of thirty-five (35)
3 years or more. Such an area is detrimental to the public health,
4 safety, morals or welfare. Such an area may become a blighted area
5 because of any one or more of the following factors: dilapidation;
6 obsolescence; deterioration; illegal use of individual structures;
7 presence of structures below minimum code standards; abandonment;
8 excessive vacancies; overcrowding of structures and community
9 facilities; lack of ventilation, light or sanitary facilities;
10 inadequate utilities; excessive land coverage; deleterious land use
11 or layout; depreciation of physical maintenance; and lack of
12 community planning. Such an area includes a blighted area as
13 defined in Section 38-101 of Title 11 of the Oklahoma Statutes at
14 the time of approval of the project plan; and

15 18. "Taxing entity" or "taxing jurisdiction" means a city,
16 town, county, school district, political subdivision or other local
17 entity in which local taxes or fees are levied by or on its behalf.

18 SECTION 4. AMENDATORY 62 O.S. 2011, Section 854, is
19 amended to read as follows:

20 Section 854. In addition to any other powers conferred by law,
21 a city, town or county may exercise any powers necessary to carry
22 out the purpose of this act, including power to:

23 1. Establish districts and create plans pursuant to the
24 provisions of this act;

1 2. Cause project plans to be prepared, to approve the plans,
2 and to implement the provisions and effectuate the purposes of the
3 plans;

4 3. Cause bonds to be issued by public entities as provided for
5 in Section 863 of this title;

6 4. Apportion local taxes or local fees and direct the use of
7 local taxes and local fees for the purpose provided for in this act.
8 Pursuant to Section 6C of Article X of the Constitution of the State
9 of Oklahoma, a direction of apportionment may be prospective and may
10 continue for one (1) or more years, and apportioned tax increments
11 may be pledged beyond the current fiscal year to the repayment of
12 indebtedness of other public entities, notwithstanding the
13 provisions of Section 26 of Article X of the Constitution of the
14 State of Oklahoma or any other provisions of law;

15 5. Enter into any contracts or agreements determined by the
16 governing body to be necessary or convenient to implement the
17 provisions and effectuate the purposes of project plans;

18 6. Receive, from the federal government or the state, loans and
19 grants for, or in aid of a project and to receive contributions from
20 any other source to defray project costs;

21 7. Grant tax incentives or exemptions in the manner provided
22 for in this act;

23

24

1 8. Acquire by purchase, donation or lease, and own, convey,
2 lease, mortgage, or dispose of land and other property, real or
3 personal, or rights or interests therein;

4 9. Clear and improve property acquired by it pursuant to the
5 project plan and construct public facilities on it or contract for
6 the construction, development, redevelopment, rehabilitation,
7 remodeling, alteration, or repair of the property;

8 10. Cause parks, playgrounds, or schools, including capital
9 improvements to public schools, or water, sewer, or drainage
10 facilities or any other public improvements which it is otherwise
11 authorized to undertake, to be laid out, constructed, or furnished
12 in connection with the project;

13 11. Lay out and construct, alter, relocate, change the grade
14 of, make specific repairs upon, or discontinue public ways and
15 construct sidewalks in, or adjacent to, the project area;

16 12. Cause sidewalks, ways for vehicular travel, playgrounds, or
17 water, sewer, or drainage facilities and similar improvements to be
18 constructed within the project area for the particular benefit of
19 the project area or those dwelling or working in it;

20 13. Adopt ordinances or resolutions or repeal or modify such
21 ordinances or resolutions or establish exceptions to existing
22 ordinances and resolutions regulating the design, construction, and
23 use of buildings;

24

1 14. Sell, mortgage, lease, transfer, or dispose of any
2 property, or interest therein, acquired by it pursuant to the
3 project plan for development, redevelopment, or rehabilitation in
4 accordance with the plan, upon such terms and conditions determined
5 by the governing body to be appropriate for achieving the objectives
6 of the project plan; provided, in the event of disposition by lease
7 or sublease to a lessee not entitled to a tax exemption, the
8 improvements placed thereon shall not be entitled to a tax
9 exemption;

10 15. Incur project costs;

11 16. Designate a public entity to exercise the powers enumerated
12 in this section, except paragraphs 1, 4 and 7 of this section;

13 17. Invest project revenues as provided in this act; ~~and~~

14 18. Pursuant to the authorization in Article X, Section 6C of
15 the Oklahoma Constitution, portions of increments may be directed as
16 a revenue source for any other public entities operating within the
17 jurisdictional area of the governing body approving the project plan
18 or increment district and may be used to pay capital costs and
19 operating costs as authorized by the project plan;

20 19. A city, town or county may adopt a jurisdiction-wide policy
21 for using the tools of the Local Development Act and specifically
22 contemplating benefits to any or all public schools operating within
23 its jurisdiction; and

24

1 20. Do all things necessary or convenient to carry out the
2 powers granted in this act and otherwise authorized by the laws of
3 this state.

4 SECTION 5. AMENDATORY 62 O.S. 2011, Section 856, is
5 amended to read as follows:

6 Section 856. A. The governing body shall designate and adopt
7 the proposed boundaries of any district and the proposed boundaries
8 of any project area. A project plan and any project area may cover
9 all or a portion of the jurisdictional area of the governing body.

10 Except as otherwise provided in this subsection, any districts
11 created by a city or town shall be confined to that territory within
12 the corporate limits of such city or town and any districts created
13 by a county shall be confined to that territory within the
14 unincorporated areas of the county. Any city, town or county may by
15 agreement jointly create a district with another entity.

16 B. Upon the adoption and approval of the project plan, the
17 governing body shall adopt an ordinance or resolution, whichever is
18 applicable, which:

19 1. Describes the boundaries of districts and project areas
20 sufficiently definite to identify with ordinary and reasonable
21 certainty the territory included in them;

22 2. Creates the district as of a date provided in it or defers
23 determination of such date, provided such date must be no more than
24 ten (10) years after the date of approval of the project plan;

1 3. Assigns a name to the district for identification purposes.
2 The first district created shall be known as either an Incentive
3 District or Increment District Number One, City, Town or County of
4 _____, whichever is applicable. Each subsequently created
5 district shall be appropriately named and shall be assigned the next
6 consecutive number; and

7 4. Contains findings that:

8 a. the project area or district meets at least one of the
9 following criteria:

- 10 (1) is a reinvestment area,
- 11 (2) is a historic preservation area,
- 12 (3) is an enterprise area, or
- 13 (4) is a combination of the areas specified in
14 divisions (1), (2) and (3) of this subparagraph,

15 b. the improvement of the area is likely to enhance the
16 value of other real property in the area and to
17 promote the general public interest. It shall not be
18 necessary to identify the specific parcels meeting the
19 criteria,

20 c. the guidelines specified in paragraphs 1 and 2 of
21 Section 852 of this title shall be followed,

22 d. the aggregate net assessed value of the taxable
23 property in all districts as determined pursuant to
24 Section 862 of this title within the city or town

1 shall not exceed twenty-five percent (25%) of the
2 total net assessed value of taxable property within
3 the city or town for cities or towns having a
4 population of fifty thousand (50,000) or more or shall
5 not exceed thirty-five percent (35%) of the total net
6 assessed value of taxable property within the city or
7 town for cities or towns having a population of less
8 than fifty thousand (50,000),

9 e. for projects approved by a county, the aggregate net
10 assessed value of the taxable property in all
11 districts as determined pursuant to Section 862 of
12 this title within the county shall not exceed fifteen
13 percent (15%) of the total net assessed value of the
14 taxable property within the county,

15 f. the aggregate net assessed value of the taxable
16 property in all districts as determined pursuant to
17 Section 862 of this title within the city, the town or
18 the county shall not exceed twenty-five percent (25%)
19 of the total net assessed value of any affected school
20 district located within the city, town or county,
21 unless waived by agreement of the affected school
22 district, and

23 g. the land area of this district and all other districts
24 within the city, the town or the county shall not

1 exceed twenty-five percent (25%) of the total land
2 area of the city, the town or the county.

3 C. It is the intention of the Legislature in adopting the Local
4 Development Act that no long-term contractual obligation be created
5 by the mere adoption of an ordinance or resolution establishing an
6 increment district. Notwithstanding any provision contained in an
7 ordinance, resolution or project plan, an ordinance or resolution
8 establishing an increment district shall constitute a legislative
9 act and may be repealed, modified or amended at any time during the
10 term of the increment district, by subsequent action of the
11 governing body except as otherwise authorized pursuant to Sections
12 854 and 863 of this title; provided, however, that no such ordinance
13 shall be repealed, modified or amended during the time that any
14 bonds payable from incremental revenues are outstanding without the
15 consent of the bondholders, if such bonds are issued pursuant to the
16 provisions of Article X, Section 35 of the Oklahoma Constitution
17 following its amendment by State Question No. 693.

18 D. However, nothing in the Local Development Act shall restrict
19 the ability of:

20 1. Any city, town or county to:

21 a. issue debt in accordance with the applicable
22 provisions of Article X of the Oklahoma Constitution,
23 and any statutes enacted in connection therewith, and
24

1 b. use incremental revenues derived from an increment
2 district to pay principal, interest or premium
3 associated with such indebtedness; or

4 2. Any public entity, other than a city, town or county, to:

5 a. issue tax apportionment bonds or notes in accordance
6 with Section 863 of this title or to issue other types
7 of revenue bonds or notes in accordance with other
8 applicable provisions of Oklahoma law, and

9 b. use incremental revenues derived from an increment
10 district to pay principal, interest or premium
11 associated with such indebtedness.

12 SECTION 6. This act shall become effective November 1, 2017.

13
14 56-1-1331 NP 1/19/2017 6:11:09 PM