

An Act

ENROLLED SENATE
BILL NO. 71

By: Bergstrom of the Senate

and

McDugle of the House

An Act relating to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; amending 62 O.S. 2011, Sections 842, as last amended by Section 1, Chapter 69, O.S.L. 2020 and 847 (62 O.S. Supp. 2020, Section 842), which relate to program administration; modifying required content of specified rules promulgated by Oklahoma Department of Commerce; deleting obsolete reference; requiring certain information be included in specified Oklahoma Tax Commission report; and providing an effective date.

SUBJECT: Oklahoma Local Development and Enterprise Zone Incentive Leverage Act

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, as last amended by Section 1, Chapter 69, O.S.L. 2020 (62 O.S. Supp. 2020, 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 fifty percent (50%) of the net leasable space of such development to be used for retail purposes except for such portions of a development which includes grocery or specialty food store enterprises defined under NAICS Manual Industry Group No. 4451 or 4452 that provide healthy nutrition options including fresh fruits, vegetables, whole grains, seeds, nuts and healthy protein and that improve access within one-half (1/2) mile of any low income and low access geographies identified by the United States Department of Agriculture.

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 authorized by the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

D. The maximum amount of state local enterprise matching payments 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 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 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 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 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, 2028, if the investments or improvements are begun not later than December 31, 2029.

J. The Oklahoma Department of Commerce shall promulgate rules ~~to establish~~ for administration of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act. Such rules shall:

1. Include 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;~~

2. Reflect the intent that the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act be fiscally neutral to the state; and

3. Establish reporting requirements for successful applicants which allow data collection and analysis by the Department on employment, capital investment, changes in assessed value of a project and other impacts resulting from payments and reporting of such data by the Department to the Oklahoma Tax Commission for the purposes of subsection B of Section 847 of this title.

SECTION 2. AMENDATORY 62 O.S. 2011, Section 847, is amended to read as follows:

Section 847. A. The Oklahoma Tax Commission shall maintain a record of state local enterprise matching payments and state local government matching payments made pursuant to Section 844 of this title ~~and a record of income tax credits claimed pursuant to Section 2357.81 of Title 68 of the Oklahoma Statutes.~~ Local sales taxes apportioned under the applicable project plan shall be reported, collected, remitted, and disbursed in the same manner as other local sales taxes under Title 68 of the Oklahoma Statutes.

B. The Tax Commission shall prepare a report separately identifying the amounts described in subsection A of this section and data collection and analysis prepared by the Oklahoma Department of Commerce pursuant to subsection J of Section 842 of this title. The Commission shall submit the report prior to April 1 each year to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

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

Passed the Senate the 2nd day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2021.

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: _____