

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

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

By: Boren of the Senate

and

6 Lowe (Dick) of the House

7  
8  
9 COMMITTEE SUBSTITUTE

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

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

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

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

24 B. The governing body may grant incentives or exemptions from  
local taxation only on the new investment made. No ad valorem tax

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

24

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

19 D. A project plan may contain a provision that ad valorem taxes  
20 may be exempted in a commercial historic preservation area that is  
21 adjacent to and serves designated historical residential areas for  
22 neighborhood commercial preservation purposes in order for the  
23 neighborhood to retain its basic character and scale. No ad valorem  
24 tax exemption may be granted on the value of property which has been

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

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

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

23 2. The amount and purpose of expenditures;  
24

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

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

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

10       6. The parties receiving incentives or exemptions;

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

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

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

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

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

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

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

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

19 2. All or any portion of:

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

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

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:  
24

- 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        58-1-8103            LRB            04/08/21