

1 ENGROSSED SENATE
2 BILL NO. 500

By: Boren of the Senate

and

Lowe (Dick) of the House

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7 An Act relating to development incentives; amending
8 62 O.S. 2011, Section 861, which relates to the Local
9 Development Act; requiring collaboration with certain
10 Departments; requiring the Oklahoma Tax Commission to
11 publish annual report on tax increment
12 apportionments; specifying content of report; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 62 O.S. 2011, Section 861, is
16 amended to read as follows:

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

1 period shall be tolled for a period of time equal to the pendency of
2 any litigation directly or indirectly challenging the increment
3 district or apportionment or disbursement:

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

14 2. All or any portion of:

- 15 a. ad valorem taxes, in excess of such amount specified
16 in paragraph 1 of this subsection,
- 17 b. the increment of local sales taxes, other local taxes
18 or local fees, or a combination thereof, paid to or
19 for the benefit of the city, town, or county approving
20 the plan, and
- 21 c. with its consent, evidenced by agreement in writing,
22 the increment of local sales tax, other local taxes or
23 local fees, or combination thereof, payable to any
24 other local public taxing entity,

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

21 B. If a project plan contains a provision for apportionment as
22 provided in subsection A of this section, and notwithstanding any
23 other provision of law to the contrary, the governing body shall
24 direct in the resolution or ordinance approving the plan which

1 portion of the increments, including whether any or all, to be paid
2 into the apportionment fund shall constitute a part of the general
3 fund to be appropriated annually by the governing body, and which
4 portion, including whether any or all, shall constitute funds of a
5 public entity authorized to issue tax apportionment bonds or notes
6 or to incur project costs.

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

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

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

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

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

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

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

9 H. The Oklahoma Tax Commission shall, in collaboration with the
10 State Department of Education, State Board of Career and Technology
11 Education and the Oklahoma Department of Commerce, create and
12 publish a report by March 31 of each year documenting the amount of
13 increments of local taxes and fees apportioned pursuant to the
14 provisions of this section in the previous calendar year. The
15 report shall include an estimate of the economic impact and an
16 estimate of the amount funds benefiting public schools were
17 decreased as a result of the apportionments provided pursuant to the
18 provisions of this section.

19 SECTION 2. This act shall become effective November 1, 2021.

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1 Passed the Senate the 8th day of March, 2021.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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9 Presiding Officer of the House
10 of Representatives