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## **Oklahoma Local Development Act**

### TITLE 62. PUBLIC FINANCE CHAPTER 9. DEVELOPMENT INCENTIVES LOCAL DEVELOPMENT ACT

#### **§ 850. Short title**

Sections 1 through 20 of this act shall be known and may be cited as the "Local Development Act".

#### **§ 851. Purpose of Act**

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

1. Providing for the granting of incentives and exemptions from taxation within certain areas, placing restrictions thereon, and limiting the time period for the exemptions, as authorized by subsection A thereof;
2. Providing for apportionment of an increment of local taxes and fees, placing restrictions thereon, and limiting the time period for the apportionment, as authorized by subsection B thereof; and
3. Providing for the planning, financing, and carrying out of development and redevelopment within certain areas, as authorized by subsection C thereof.

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

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

## **§ 852. Legislative guidelines**

It is the intent of the Legislature that the provisions of this act be used in accordance with the following guidelines:

1. That the tools of this act be used in those cases where investment, development and economic growth is difficult, but is possible if the provisions of this act are available;
2. That the tools of this act not be used in areas where investment, development and economic growth would have occurred anyway and that the governing body take care to exclude areas that do not meet this criteria;
3. That the tools of this act be used to supplement and not supplant or replace normal public functions and services;
4. That the tools of this act work in conjunction with existing programs and efforts such as the Oklahoma Main Street Program, Oklahoma Enterprise Zone Act, historic preservation and other locally implemented economic development efforts;
5. That any proposed districts be delineated with particular emphasis not to have boundaries that dissect a similar area or create unfair competitive advantage;
6. That the governing body recognizes the need for residential and neighborhood treatment, capital improvements to neighborhood public schools, as well as commercial/industrial development;
7. That where possible partial credits or credits that do not utilize the full time frame allowed be pursued;
8. That maximum effort be made to allow full public knowledge and participation in the local use of this act;
9. That conservation, preservation and rehabilitation be emphasized while demolition, clearance and relocation be minimized where possible; and
10. That the governing bodies develop and apply clear standards, criteria and threshold limits that are applicable to all similar property and areas and that the governing bodies enact protection against nearby relocations to utilize incentives.

## **§ 853. Definitions**

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

1. "Apportionment" means the direction by a governing body, authorized by the Legislature pursuant to Section 6C of Article X of the Oklahoma Constitution, to apply all or any portion of an increment of ad valorem taxes and all or any portion of sales taxes, other local taxes or local

fees, or any combination thereof, to financing a plan and project in accordance with this act;

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

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

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

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

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

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

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

9. "Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, which may be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place;

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

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

12. "Project" means all development activities pursuant to the objectives of the project plan;
13. "Project area" means the geographic boundaries within which development activities will occur. The project area may be coextensive or larger than the increment district;
14. "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to planning, approval and implementation of the project plan. Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan may be used to pay project costs. Project costs include, but are not limited to:
  - a. capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public or private buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing public or private buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment for public works, public improvements and public buildings and the actual costs of clearing and grading of such land and environmental remediation related thereto,
  - b. financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity,
  - c. real property assembly costs, including clearance and preparation costs,
  - d. professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services,
  - e. direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,
  - f. organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district,

g. interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized,

h. fees for bond guarantees, letters of credit and bond insurance,

i. the amount of any contributions offset made in connection with the implementation of the project plan,

j. the costs for determining or redetermining the base assessed value of a district,

k. costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems,

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

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

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

o. assistance in development financing to the extent the governing body approves such financing;

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

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

17. "Reinvestment area" means any area located within the limits of a city, town or county requiring public improvements, including but not limited to transportation-related projects identified by any transportation authority pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes, to reverse economic stagnation or decline, to serve as a catalyst for retaining or expanding employment, to attract major investment in the area or to preserve or enhance the tax base or in which fifty percent (50%) or more of the structures in the area have an age of thirty-five (35) years or more. Such an area is detrimental to the public health, safety, morals or welfare. Such an area may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. Such an area includes a blighted area as defined in Section 38-101 of Title 11 of the Oklahoma Statutes at the time of approval of the project plan; and

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

#### **§ 854. Additional powers granted to city, town or county**

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

1. Establish districts and create plans pursuant to the provisions of this act;
2. Cause project plans to be prepared, to approve the plans, and to implement the provisions and effectuate the purposes of the plans;
3. Cause bonds to be issued by public entities as provided for in Section 863 of this title;
4. Apportion local taxes or local fees and direct the use of local taxes and local fees for the purpose provided for in this act. Pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma, a direction of apportionment may be prospective and may continue for one (1) or more years, and apportioned tax increments may be pledged beyond the current fiscal year to the repayment of indebtedness of other public entities, notwithstanding the provisions of Section 26 of Article X of the Constitution of the State of Oklahoma or any other provisions of law;
5. Enter into any contracts or agreements determined by the governing body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans;
6. Receive, from the federal government or the state, loans and grants for, or in aid of a project

and to receive contributions from any other source to defray project costs;

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

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

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

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

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

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

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

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

15. Incur project costs;

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

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

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

**§ 855. Review committees--Recommendations concerning proposed district, plan or projects--Approval by governing body**

A. Prior to the adoption and approval of a project plan and the ordinance or resolution required under Section 856 of this title and prior to the public hearing required under Section 859 of this title, the governing body shall appoint a review committee to review and make a recommendation concerning the proposed district, plan or project. The membership of the review committee shall consist of the following: a representative of the governing body who shall serve as chairperson; a representative of the planning commission having jurisdiction over the proposed district; a representative designated by each taxing jurisdiction within the proposed district whose ad valorem taxes might be impacted according to the plan; and three members representing the public at large and selected by the other committee members from a list of seven names submitted by the chairperson of the review committee.

B. The review committee shall consider and make its findings and recommendations to the governing body with respect to the conditions establishing the eligibility of the proposed district and the appropriateness of the approval of the proposed plan and project. The review committee may recommend that the project plan be approved, denied or approved subject to conditions set forth by the committee.

C. Prior to approval by the governing body, the review committee shall consider and determine whether the proposed plan and project will have a financial impact on any taxing jurisdiction within the proposed district and shall report its findings to the governing body. Such considerations shall be concurrent with or subsequent to the review and consideration of the committee provided for in subsection B of this section. The approval of any district plan or project by the governing body shall address any findings of such impact by the review committee.

D. In the event of any changes in the area to be included in the proposed district or any substantial changes in the proposed plan and project or for any other reason deemed appropriate by the governing body, the review committee shall consider and may modify its findings and recommendations made pursuant to the provisions of subsection B of this section.

E. Approval of the proposed district or the proposed plan or project by the governing body which is in accord with the recommendation of the review committee shall be by a majority vote of the governing body. Such approval which is not in accord with the recommendations and/or conditions set forth by the review committee shall be by a two-thirds ( 2/3 ) majority vote.

F. Meetings of the review committee shall be subject to the Oklahoma Open Meeting Act. Any information relating to the marketing plans, financial statements, trade secrets or any other proprietary information submitted to the review committee by a person or entity seeking adoption and approval of a proposed district, plan or project shall be confidential, except to the extent that the person or entity which provided the information consents to disclosure. Executive sessions may be held to discuss such information if deemed necessary by the review committee.

**§ 856. Proposed boundaries of district or project--Designation and adoption--Content of ordinance or resolution--Legislative intent**

A. The governing body shall designate and adopt the proposed boundaries of any district and

the proposed boundaries of any project area. Except as otherwise provided in this subsection, any districts created by a city or town shall be confined to that territory within the corporate limits of such city or town and any districts created by a county shall be confined to that territory within the unincorporated areas of the county. Any city, town or county may by agreement jointly create a contiguous district with another entity.

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

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

2. Creates the district as of a date provided in it;

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

4. Contains findings that:

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

(1) is a reinvestment area,

(2) is a historic preservation area,

(3) is an enterprise area, or

(4) is a combination of the areas specified in divisions (1), (2) and (3) of this subparagraph,

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

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

d. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section 862 of this title within the city or town shall not exceed twenty-five percent (25%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of fifty thousand

(50,000) or more or shall not exceed thirty-five percent (35%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of less than fifty thousand (50,000),

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

f. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section 862 of this title within the city, the town or the county shall not exceed twenty-five percent (25%) of the total net assessed value of any affected school district located within the city, town or county, and

g. the land area of this district and all other districts within the city, the town or the county shall not exceed twenty-five percent (25%) of the total land area of the city, the town or the county.

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

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

1. Any city, town or county to:

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

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

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

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

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

**§ 857. Conflict of interest--Disclosure**

A. If any member of the governing body of a city, town or county which is in the process of adopting a project plan for a district or which has adopted such a plan pursuant to the provisions of the Local Development Act or if any member of the governing body of a taxing entity within the boundaries of a district or any person who is a member of the immediate family of such member, owns or controls a financial interest, direct or indirect, in any property in any project area to be acquired or developed with public financial assistance, said member shall disclose the same in writing to the clerk of the city, town or county with such disclosure entered into the minutes of the governing body. Any such member with any interest of ten percent (10%) or more or any such member with an immediate family member with any interest of ten percent (10%) or more shall be ineligible to vote on any matter or transaction pertaining to such property, and shall refrain from taking any other official action related to such property. This section shall not preclude acquisition of a residence, acquisition of any property after issuance of a certificate of completion, or agreement to develop in accordance with the objectives of such project plan, provided such member discloses any actual or prospective interest and does not participate in any official action approving such agreement.

B. For purposes of this act and unless otherwise provided therein, any matter requiring a vote by the governing body of a city, town or county or a governing body of a taxing entity within the district shall be by a majority of those eligible to vote.

**§ 858. Project plans--Amendments--Vote on project plan adopted by transportation authority**

A. The governing body shall cause to be prepared a project plan. The appropriate local planning commission shall review the proposed project plan and shall make a recommendation on the plan to the governing body. The project plan shall include the following items, if applicable, according to the type of district being formed:

1. A description of the proposed boundaries of the district and the proposed boundaries of the project area by legal description and by street or other recognizable physical feature accompanied by a sketch clearly delineating the area in detail;

2. A general description of the proposed public works or improvements, the anticipated private investments and the estimated public revenues which should accrue;
3. A list of estimated project costs including administrative expenses;
4. A general description of the methods of financing the estimated project costs, the expected sources of revenue to finance or pay project costs, and the general time when the costs or monetary obligations related thereto are to be incurred;
5. A map showing existing uses and conditions of real property in the district and a map showing proposed improvements to and proposed uses of that property;
6. Proposed changes in zoning;
7. Proposed changes in the master plan and city ordinances if required to implement the project plan;
8. The name of the person who shall be in charge of the implementation of all of the project plans of the district with such name being forwarded to the Department of Commerce; and
9. A designation of any public entity to be authorized to carry out all or any part of the project plan.

B. Before the governing body may approve such project plan, notice must be given and public hearings must be held pursuant to the provisions of Section 859 of this title. The approval by the governing body must be by ordinance if a city or town or by resolution if a county which contains findings that the plan is feasible and conforms to the master plan, if any, of the city, town or county.

C. Except as otherwise provided in this section, the planning commission may recommend an amendment to a project plan, which amendment shall be subject to review by the review committee and approval by the governing body. Prior to the adoption of the amendment, the governing body shall give notice concerning such amendment and hold public hearings on such amendment in the manner prescribed by Section 859 of this title. The approval by the governing body must be by ordinance if a city or town or by resolution of a county which contains findings that the plan is feasible and conforms to the master plan, if any, of the city, town or county.

D. The governing body may grant the department, agency or public entity in charge of the implementation of the project plan the authority to make minor amendments to the plan. An amendment is considered to be minor if such amendment does not change the character or purpose of the plan; does not add more than five percent (5%) to the district's area; or does not add more than five percent (5%) to the public costs of the plan to be financed by apportioned tax increments. All amendments made pursuant to the provisions of this subsection shall be considered on a cumulative basis.

E. Approval by any ad valorem taxing entities, if required pursuant to the provisions of Section 850 et seq. of this title, shall be secured before any plan or amendment thereto goes into effect.

F. Any project plan adopted by a transportation authority pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes, after having met the provisions of this section, shall be submitted to a vote of the people within the boundaries of the authority, pursuant to the provisions of subsections D through H of Section 868 of this title.

### **§ 859. Public hearings--Notice**

A. Before the adoption of a project plan or subsequent amendments thereto, the governing body must hold two public hearings. The primary purpose of the first hearing will be to provide information and to answer questions. A representative of the city, town or county shall present the city, town or county's proposed plan or amendment thereto. The date of the second public hearing shall be announced in the presence of the persons in attendance at the hearing, but such date shall be more than seven (7) days after the date of the first public hearing. The purpose of the second public hearing shall be to give any interested persons the opportunity to express their views on the proposed plan or amendment thereto.

B. Notice of the first public hearing shall be given once by publication in a newspaper with circulation in the city, town or county. Such notice must be published no later than fourteen (14) days before the date of the public hearing. The notice shall include the following:

1. The time and place of the public hearing;
2. The boundaries of the proposed districts and proposed project areas by legal description and by street location, if possible, accompanied by a sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included;
3. A statement that the first public hearing shall be for information and questions purposes only with persons being given the opportunity to be heard at the second public hearing before any votes are taken;
4. A description of the project plan or amendment thereto and a location and time where the entire plan may be reviewed by any interested party; and
5. Such other matters as the city, town or county may deem appropriate.

C. Notice of the second public hearing may be included in the publication notice provided for in subsection B of this section. Notice of the second public hearing shall be published in the same manner as the notice provided for in subsection B of this section if:

1. Notice for both public hearings is not included in the notice of the first public hearing;
2. The location, date or time of the second public hearing is changed after the notice of the first hearing has been published; or

3. The second public hearing is held more than fourteen (14) days after the first public hearing.

D. The provisions of this section shall not apply to the adoption of minor amendments as provided for in Section 858 of this title.

E. Technical irregularities in the form of the notice required by this section shall not result in the invalidation of any ordinance enacted or amended subsequent thereto, so long as the notice, as published, reasonably apprises interested parties as to the subject matter of the hearings and correctly describes the date, time and place of such hearings.

### **§ 860. Incentives or exemptions from local taxation**

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

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

C. No incentives or exemptions may be granted to any business or firm that is relocating from within the state and is subject to or in the process of recruitment by two or more governmental entities within the state unless the governmental entity in which the business or firm does not locate adopts a resolution giving their approval to the granting of incentives or exemptions to the business or firm locating in the competing governmental entity. No incentives or exemptions may be granted to an out-of-state business or firm that is subject to or in the process of recruitment by two or more governmental entities within the state except as otherwise provided for in this subsection. The prohibition against incentives or exemptions to a business or firm relocating within the state may be waived upon application by the governing body to, and approval of, the Director of the Oklahoma Department of Commerce. In order for the Director to approve the waiver, the Director must find that the incentives or exemptions are necessary and

sufficient to attract the business or firm and that the benefits generated by the business location outweigh the costs of the business location.

D. A project plan may contain a provision that ad valorem taxes may be exempted in a commercial historic preservation area that is adjacent to and serves designated historical residential areas for neighborhood commercial preservation purposes in order for the neighborhood to retain its basic character and scale. No ad valorem tax exemption may be granted on the value of property which has been assessed or which is subject to assessment prior to the adoption of the project plan. No ad valorem tax exemption shall be granted pursuant to the provisions of this subsection for single-family residences. The governing body may grant the exemption only on the increase in value of the property. The exemptions may be granted for a specific period of time as determined by a written agreement between the property owners of the area and the governing body and may be renewed. Uses of the property eligible for this exemption may include but not be limited to commercial, office or multifamily residential use.

### **§ 861. Tax increment financing--Apportionment--Adjustment**

A. A project plan may contain a provision that the increments from certain local taxes or fees may be used to finance project costs in areas qualified under the Local Development Act. The increment from local taxes or fees levied from and after the effective date of the approval of such plan shall be apportioned in the following manner for a period not to exceed twenty-five (25) fiscal years thereafter or the period required for payment of project costs, whichever is less; provided, however, that for any increment district established after November 1, 1992, such time period shall be tolled for a period of time equal to the pendency of any litigation directly or indirectly challenging the increment district or apportionment or disbursement:

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

2. All or any portion of:

- a. ad valorem taxes, in excess of such amount specified in paragraph 1 of this subsection,
- b. the increment of local sales taxes, other local taxes or local fees, or a combination thereof, paid to or for the benefit of the city, town, or county approving the plan, and
- c. with its consent, evidenced by agreement in writing, the increment of local sales tax, other local taxes or local fees, or combination thereof, payable to any other local public taxing entity, shall be apportioned to, and when collected, shall be paid into an apportionment fund established for the project pursuant to the project plan. Such revenues shall be used for the payment of the project costs and for the payment of the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred to finance project costs, whether funded, refunded, assumed, or otherwise, for financing, in whole or in part, eligible project costs. For the purposes of this section, "local

sales tax” means amounts payable to or for the benefit of a local governmental entity calculated as a percentage of gross sales whether imposed by ordinance, resolution, covenant, or agreement. Nothing shall prohibit the increments from being used to directly pay eligible project costs. When all eligible project costs and such bonds, loans, advances of money or indebtedness, if any, including interest thereon and any premiums due in connection with them, have been paid and the governing body adopts an ordinance or resolution dissolving the tax apportionment financing, all ad valorem taxes upon the taxable property within the boundary of such district shall be paid into the funds of the respective taxing entities.

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

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

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

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

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

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

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

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

#### **§ 862. Base assessed value--Computation of tax levy**

A. Upon approval of a project plan containing apportionment financing as provided in Section 861 of this title, the county assessor shall, within ninety (90) days, determine the total assessed value of all taxable real property and all taxable personal property within the boundaries of an increment district which shall be certified by the assessor as the "base assessed value".

B. Any school district located within the boundaries of an increment district may file a protest with the governing body of the city, town or county as to the amount certified by the county assessor as the "base assessed value" of the increment district. Such protest shall be filed within thirty (30) days after the "base assessed value" is certified by the county assessor. The governing body of the city, town or county shall notify the county assessor of the protest. Within thirty days after being notified of the protest, the county assessor shall redetermine the total assessed value of all taxable real property and all taxable personal property within the boundaries of the increment district and shall certify to the governing body of the city, town or county the redetermined amount as the "base assessed value" of that district.

C. After the county assessor has certified the "base assessed value" of the taxable real property and the taxable personal property in such increment district, then in respect to every taxing jurisdiction receiving taxes levied in the increment district, the county assessor or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within such increment district for the purpose of computing the tax levy to be extended upon taxable property within such increment district, for the purpose of calculating the general state school aid formula, or for the purpose of computing any debt limitation, shall in every year that the tax apportionment is in effect ascertain the amount of value of taxable property in such increment district by including in such amount the certified "base assessed value" of all taxable real property and all taxable personal property in such increment district in lieu of the equalized assessed value of all taxable real property and all taxable personal property in such increment district. The tax levy determined shall be extended to the current equalized assessed value of all property in the increment district in the same manner as the tax levy is extended to all other taxable property in the increment district. The method of extending taxes established under the provisions of this section shall terminate when the governing body adopts an ordinance or resolution dissolving the tax apportionment financing. The provisions of this act shall not be construed as relieving property owners within an increment district from paying a uniform rate of taxes upon the current equalized assessed value of their taxable property as required by Section 5 of Article X of the Oklahoma Constitution.

#### **§ 863. Tax apportionment bonds or notes**

A. With the approval of the governing body, a public entity, other than a city, town or county, may issue tax apportionment bonds or notes, other bonds or notes, or both, the proceeds of which may be used to pay project costs pursuant to the plan notwithstanding any other statutory provision to the contrary. Subject to the approval of the governing body, such public entity may issue refunding bonds or notes for the payment or retirement of bonds or notes previously issued by the public entity to pay project costs pursuant to the plan.

B. The public entity issuing tax apportionment bonds or notes may, as authorized by the governing body pursuant to Section 6C of Article X of the Constitution of the State of Oklahoma, irrevocably pledge all or part of the apportioned increments and other revenue for payment of the tax apportionment bonds or notes. The part of the apportioned increments pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien to the extent authorized by the pledge against the apportionment fund and the future increments for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

C. The issuing public entity may provide in the contract with the owners or holders of tax apportionment bonds that they will pay into the apportionment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the bonds. If the public entity agrees, the owners or holders of these bonds may have a lien or mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

D. Tax apportionment bonds may be issued to mature in a period not to exceed twenty-five (25) years in one or more series; provided, however, that for any increment district established after November 1, 1992, such time period shall be tolled for a period of time equal to the pendency of any litigation directly or indirectly challenging the increment district or apportionment or disbursement. The trust indenture, ordinance, or resolution approved, issued in connection with such bond or note, shall provide:

1. The date that the bond or note bears;
2. That the bond or note is payable on demand or at a specified time;
3. The interest rate that the bond or note bears;
4. The denomination of the bond or note;
5. Whether the bond or note is in coupon or registered form;
6. The conversion or registration privileges of the bond or note;
7. The manner of execution of the bond or note;
8. The medium of payment in which and the place or places at which the bond or note is

payable;

9. The terms of redemption, with or without premium, to which the bond or note is subject;

10. The manner in which the bond or note is secured; and

11. Any other characteristic of the bond or note.

E. A bond or note issued pursuant to the provisions of the Local Development Act is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued pursuant to the provisions of the Local Development Act or the security of a bond or note issued pursuant to the provisions of the Local Development Act, if the bond or note recites in substance that it was issued by the public entity pursuant to the Local Development Act, the bond or note is deemed to have been issued for that purpose, and the recital shall be conclusive of its validity and the regularity of its issuance.

F. A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax apportionment bonds or notes issued under the Local Development Act. This act does not relieve any person of the duty to exercise reasonable care in selecting securities or of complying with other applicable laws.

G. A tax apportionment bond or note issued pursuant to the provisions of this section is not a debt, liability, or obligation of the city, town or county creating or approving the plan, project or increment district. The bond or note does not give rise to a charge against the general credit or taxing powers of such city, town or county and is not payable except as provided by the Local Development Act. Bonds or notes issued pursuant to the provisions of this section are not general obligations of the state and have no claim on the revenues or resources of the state. A bond or note issued pursuant to the provisions of this section must state the restrictions of this subsection on its face.

H. A tax apportionment bond or note issued pursuant to the provisions of this section may not be included in any computation of the general obligation debt of the city, town or county creating or approving the plan, project or increment district.

I. A public entity may not issue bonds or notes, pursuant to the provisions of this section, providing for repayment of any portion of the principal from apportioned tax increments in an amount that exceeds the total cost of implementing the project plan for which the bonds or notes are issued except to the extent that bond or notes issues may be sized to include costs of issuance, credit enhancement fees or premiums, and reasonably required reserves or amounts to be repaid from sources other than apportioned tax increments.

J. All bonds issued pursuant to the provisions of this section shall be reviewed by the

Oklahoma State Bond Advisor who will give a recommendation on such bonds to the issuing entity.

#### **§ 864. Adjustment in school state aid**

In those cases where the net assessed valuation of the real property within a school district increases as a result of the provisions of Sections 860 and 861 of this title, the school district's State Aid shall be determined by subtracting such increase in the net assessed valuation from the assessed valuation of the school district and the state. Such increase shall be subtracted for each fiscal year during which the incentives or exemptions are granted in the case of property within an incentive district or such increase shall be subtracted for each fiscal year the increment is captured in the case of property within an increment district. The increase in net assessed valuation subtracted, in the case of property within an increment district, shall be the amount that represents that portion of the increment which is captured and which is actually used for the purposes of this act.

#### **§ 865. Agreement between other local taxing entity and governing body**

A. In accordance with the requirements of Section 6C of Article X of the Oklahoma Constitution, the tax incentives or exemptions granted pursuant to the provisions of Section 860 of this title shall only be allowed for that portion of the tax under jurisdiction of another local taxing entity by written agreement between said other local taxing entity and the governing body of the city, town or county.

B. In order for the tax incentives or exemptions to be granted for that portion of the tax under the jurisdiction of each taxing entity within the district, the governing body of the taxing entity must adopt the agreement provided for in subsection A of this section upon a majority vote of those members eligible to vote as determined by Section 857 of this title. Action on the agreement by these governing bodies must occur within sixty (60) days after the governing body of the city, town or county submits the proposed agreement to the governing bodies of such taxing entities.

#### **§ 866. Agreements between governing body and property owners**

A. There shall be a written agreement between the governing body and the property owners who are granted tax incentives or exemptions pursuant to Section 860 of this title. The written agreement may include, but shall not be limited to, the following:

1. List the kind, number, and location of all proposed improvements to the property;
2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;
3. Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period that the tax incentives or exemptions

or the increment financing are in effect;

4. Provide for recapturing the local tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement; and

5. Include any other requirement deemed by the governing body necessary to carry out the agreement.

B. There shall be a written agreement between the governing body and the property owners in historic preservation areas who are granted ad valorem tax exemptions pursuant to subsection D of Section 860 of this title. The written agreement shall include the following:

1. List the location of the property;

2. Provide access to and authorize inspection of the property by city, town or county employees to ensure that the property is being maintained according to the specifications and conditions of the agreement;

3. Limit the uses of the property consistent with the general purpose of encouraging neighborhood commercial preservation of the area during the period that the ad valorem tax exemptions are in effect;

4. Provide for recapturing the ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to maintain the property as provided by the agreement;

5. Specify the time frame of the agreement including whether renewals can occur, at what time such renewals can occur and under what conditions renewals can occur;

6. Specify rehabilitations, preservation efforts and other specific actions that should be taken by the property owners on an individual or collective basis;

7. Provide for reciprocal actions by public entities to protect, enhance and improve the commercial historic preservation area and the surrounding residential areas served by such districts;

8. Provide review and approval procedures that may be used when usage or ownership of the property changes; and

9. Include any other requirement deemed by the governing body necessary to carry out the agreement.

C. The governing body shall enter into written agreements with active project participants of increment projects. The written agreement may include, but shall not be limited to, the provisions specified in paragraphs 1 through 5 of subsection A of this section.

## **§ 867. Report to taxing entity**

A. For those increment districts in operation for nine (9) months or more, on or before the ninetieth day following the end of each fiscal year, the governing body of a city, town or county shall submit a report to the chief executive officer of each taxing entity that levies ad valorem taxes on property in an increment district. The report shall include:

1. The amount and source of revenue captured and apportioned pursuant to the project plan;
2. The amount and purpose of expenditures;
3. The amount of principal and interest due on outstanding bonded indebtedness;
4. The tax increment base and current captured appraised value or the other local tax or fees collections retained by the area;
5. The captured appraised value or the other local tax or fee collections shared by the city, town or county and other taxing entities, the total amount of tax increments received and any additional information necessary to demonstrate compliance with the plan adopted by the city, town or county;
6. The name of the person who is currently in charge of the implementation of the plan; and
7. The names of the persons who have disclosed an interest as required pursuant to Section 857 of this title and the interest disclosed.

B. For those incentive districts in operation for nine (9) months or more, on or before the ninetieth day following the end of each fiscal year, the governing body of a city, town or county shall submit to the chief executive officer of each taxing entity that levies property taxes on real property in an incentive district. The report shall include:

1. The parties receiving incentives or exemptions;
2. A general description of the property and the improvements to be made;
3. The portion and fair market value of the property to be exempted or that portion of the local taxes to be subject to incentives or to be exempted;
4. The duration of the incentives or exemptions;
5. Any additional information necessary to demonstrate compliance with the tax incentives or exemptions;
6. The name of the person who is currently in charge of the implementation of the plan; and
7. The names of the persons who have disclosed an interest as required pursuant to Section 857 of this title and the interest disclosed.

C. At the time of submitting the reports as required by subsections A and B of this section, the governing body shall publish in a newspaper of general circulation in the city, town or county, a summary of the relevant financial information along with a notice to the effect that such report has been prepared and that the report is available for inspection during business hours in the office of the municipal or county clerk.

### **§62-867.1. Incentive or increment district creation – Dissolution – Annual revenue loss.**

A. Within thirty (30) days after the creation of either an incentive district or an increment district, the sponsoring governmental entity shall notify the Oklahoma Tax Commission, upon such form as the Commission shall prescribe, of the geographic area where the district is located, a description of any locally authorized tax incentives, such as property tax exemptions, sales tax exemptions or for purposes of an increment district, whether there is or will be indebtedness

incurred the repayment of which will partially or entirely be paid from incremental tax revenues apportioned for such purpose.

B. If an incentive district or increment district is dissolved or for any reason ceases to be operative, the sponsoring entity shall notify the Oklahoma Tax Commission within thirty (30) days of such dissolution or termination upon a form to be prescribed by the Commission for such purpose.

C. The Oklahoma Tax Commission, in conjunction with the Oklahoma Department of Commerce, shall make an estimate of the annual revenue loss resulting from all matching payments to be made pursuant to Section 844 of Title 62 of the Oklahoma Statutes.

### **§ 868. Initiative and referendum**

A. The powers of initiative and referendum, reserved by the Oklahoma Constitution to the people, are reserved to the people of every city, town or county with reference to the tax relief or incentives or exemptions or increment captured as authorized by Section 6C of Article X of the Oklahoma Constitution and as provided for in this act.

B. 1. For purposes of this section, the form of the petition for either initiative or referendum shall be substantially as provided in Sections 1 and 2 of Title 34 of the Oklahoma Statutes. A true copy of each measure proposed by initiative and referendum shall be filed with the clerk of the city or town or with the secretary of the county election board before it is circulated and signed by the registered voters.

2. Every petition for either the initiative or referendum shall be signed by a number of the registered voters residing in the city or town equal to at least twenty-five percent (25%) of the total number of votes cast at the preceding general municipal election or for counties, equal to at least ten percent (10%) of the registered voters residing in the county. The signatures to each petition shall be verified in the manner provided by law.

3. Signed copies of an initiative petition shall be submitted to the clerk or secretary within ninety (90) days after the initial filing of the measure with the clerk or secretary. Signed copies of a petition invoking a referendum upon any ordinance or resolution shall be submitted to the clerk or secretary within thirty (30) days after the passage or adoption of the ordinance or resolution.

C. When signed copies of a petition are timely filed with the clerk or secretary, the clerk or secretary shall make a physical count of the number of signatures appearing on the petitions. He shall then publish, in at least one newspaper of general circulation in the municipality or the county, a notice of the filing and the apparent sufficiency or insufficiency of the petition. The notice shall also state that any qualified elector of the municipality or the county may file a protest to the petition or an objection to the count made by the clerk or secretary.

A protest to the petition or the count of signatures shall be filed in the district court in the county in which the situs of the city, town or county is located within ten (10) days after the

publication. Written notice of the protest shall be served upon the clerk or secretary and the parties who filed the petition. In the case of the filing of an objection to the count, notice shall also be served upon any party filing a protest. The district court shall fix a day, not less than ten (10) days after the filing of a protest, to hear testimony and arguments for and against the sufficiency of the petition. A protest filed by anyone, if abandoned by the party filing it, may be revived within five (5) days by any other qualified elector. After the hearing, the district court shall decide whether such petition is in form required by law.

D. 1. The parties submitting a petition for either initiative or referendum shall also prepare and file a ballot title for the measure. The ballot title may be filed with the clerk or secretary prior to circulating the petition, but it must be submitted no later than the time that the signed copies of the petition are filed with the clerk or secretary. The ballot title shall contain the gist of the proposition couched in language that may be readily understood by persons not engaged in the practice of law. The ballot title shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition, and a "no" vote is a vote against the proposition. The ballot title may not:

- a. exceed one hundred fifty words,
- b. reflect partiality in its composition or contain any argument for or against the measure, or
- c. contain language whereby a "yes" vote is, in fact, a vote against the proposition and a "no" vote is, in fact, a vote in favor of the proposition.

2. The clerk or secretary shall immediately forward a copy of the proposition and ballot title to the municipal attorney or district attorney. Within three (3) days after the filing of the ballot title, the attorney shall notify the clerk or secretary in writing whether or not the proposed ballot title is in legal form and in harmony with the law. If the ballot title is not in proper form, in the opinion of the attorney, he shall prepare and file a ballot title which does conform to the law within the three-day period.

E. A qualified elector who is dissatisfied with the wording of a ballot title may appeal, within ten (10) days after the ballot title is filed with the clerk or secretary, to the district court in the county in which the situs of the city, town or county is located. The petition for appeal shall offer a substitute ballot title for the one from which the appeal is taken. Written notice of the appeal shall be served upon the clerk or secretary and upon the parties who filed the ballot title at least five (5) days before such appeal is heard by the court. The municipal attorney or the district attorney shall, and any interested citizen may, defend the ballot title from which the appeal is taken. After the hearing of the appeal, the district court may correct or amend the ballot title, or accept the substitute suggested, or may draft a new one which will conform with the law.

F. When a ballot title has been decided upon, either as approved by the municipal attorney or district attorney or by the district court, the clerk or secretary shall notify the mayor or the chairman of the board of county commissioners in writing, and attach a copy of the petition and

ballot title.

G. When an initiative petition demands the enactment of an ordinance or resolution, the mayor or the chairman of the board of county commissioners shall present the petition to the governing body at its next meeting. If the petition is not granted more than thirty (30) days before the next general municipal or county election, the mayor or the board of county commissioners shall submit the ordinance or act so petitioned to the registered voters of the city, town or county at the next general municipal or county election.

H. Whenever a referendum is demanded against any measure passed by the city, town or county governing body, or whenever an initiative petition is demanded, the question shall be submitted to the registered voters of the city, town or county for their approval or rejection at the next general municipal or county election.

**§ 869. Powers conferred by Act**

The powers conferred by this act shall be in addition and supplemental to the power conferred by any other law.