

1 ENGROSSED HOUSE
2 BILL NO. 1853

By: Fetgatter of the House

3 and

4 Bice of the Senate
5
6

7 An Act relating to public finance; amending 62 O.S.
8 2011, Section 842, which relates to the Oklahoma
9 Local Development and Enterprise Zone Incentive
10 Leverage Act; modifying dates for purposes of
11 creation of certain districts and authorization
12 related to payments or tax credits; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 62 O.S. 2011, Section 842, is
16 amended to read as follows:

17 Section 842. A. An enterprise which locates its facility
18 within an enterprise zone or which expands its existing facility
19 after the designation of an enterprise zone as authorized by law and
20 which is located in an incentive district as authorized pursuant to
21 the provisions of the Local Development Act shall be eligible for
22 the state local enterprise matching payment authorized pursuant to
23 subsection A of Section 844 of this title.

24 B. 1. A local governmental entity which approves a project
plan pursuant to the provisions of the Local Development Act within

1 an enterprise zone or in support of a major tourism destination
2 project which the local governmental entity determines is likely to
3 significantly benefit contiguous or nearby enterprise zone census
4 tracts shall be eligible for the state local government matching
5 payment authorized pursuant to subsection D of Section 844 of this
6 title; provided, no state local government matching payment shall be
7 made for project costs in relation to:

- 8 a. any gambling establishment, or
- 9 b. any development within a project plan that provides
10 for more than ten percent (10%) of the net leasable
11 space of such development to be used for retail
12 purposes.

13 State local government matching payments shall not be used to
14 supplant local revenue currently being expended within the increment
15 district boundaries.

16 2. In order to be eligible for state local government matching
17 payments for approving a project within an enterprise zone, a local
18 governmental entity shall provide to the Oklahoma Department of
19 Commerce as part of the application provided for in subsection J of
20 this section:

- 21 a. an estimate of incremental revenues likely to be
22 derived from the project, and
- 23 b. certification that all projects described within the
24 related project plan will generate, in the aggregate,

1 a minimum of either One Million Dollars
2 (\$1,000,000.00) in payroll, exclusive of payroll for
3 construction, or Five Million Dollars (\$5,000,000.00)
4 in investment.

5 3. In order to be eligible for state local government matching
6 payments in support of a major tourism destination project, a local
7 governmental entity shall provide to the Oklahoma Department of
8 Commerce as part of the application provided for in subsection J of
9 this section:

- 10 a. an estimate of incremental revenues new to the state
11 likely to be derived from the project,
12 b. certification that the major tourism destination meets
13 the applicable criteria described in paragraph 12 of
14 Section 841 of this title, and
15 c. an agreement to provide payment to the Oklahoma
16 Department of Commerce to defray the costs of the
17 study required by paragraph 4 of this subsection.

18 4. To determine if a project qualifies as a major tourism
19 destination project pursuant to subparagraph b of paragraph 12 of
20 Section 841 of this title and to assist in other required
21 determinations, the Oklahoma Department of Commerce shall cause a
22 market and feasibility study to be conducted by an independent
23 consultant with experience in the conduct of such studies. Upon
24 review of the feasibility report, the Oklahoma Department of

1 Commerce shall make its finding as to the reasonable probability
2 that the proposed project is a major tourism destination project as
3 provided in subparagraph b of paragraph 12 of Section 841 of this
4 title.

5 C. For purposes of the Oklahoma Local Development and
6 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a
7 retail activity, where otherwise prohibited by the Oklahoma
8 Enterprise Zone Act for purposes of the benefits and incentives
9 extended pursuant to the Oklahoma Enterprise Zone Act, shall be
10 considered an eligible enterprise for purposes of the state local
11 enterprise matching payment and the income tax credit authorized by
12 the Oklahoma Local Development and Enterprise Zone Incentive
13 Leverage Act.

14 D. The combined maximum amount of state local enterprise
15 matching payments and the amount of income tax credit authorized
16 pursuant to Section 2357.81 of Title 68 of the Oklahoma Statutes for
17 an enterprise per fiscal year shall not exceed Two Hundred Thousand
18 Dollars (\$200,000.00).

19 E. Except as provided in subsection H of this section, for
20 purposes of the Oklahoma Local Development and Enterprise Zone
21 Incentive Leverage Act, the maximum amount of aggregate investment
22 in all qualifying facilities located in any single county which can
23 qualify for a state local enterprise matching payment pursuant to
24 subsection A of Section 844 of this title or for an income tax

1 credit as authorized by Section 2357.81 of Title 68 of the Oklahoma
2 Statutes shall be computed for each county of the state by
3 multiplying Two Hundred Dollars (\$200.00) times the population of
4 the county according to the 1999 estimate provided by the United
5 States Bureau of the Census.

6 F. The computation required by subsection E of this section
7 shall be the maximum amount of aggregated investment qualifying for
8 the purposes of all enterprises for the duration of the Oklahoma
9 Local Development and Enterprise Zone Incentive Leverage Act.

10 G. The aggregate investment limit for all facilities located
11 within a county which may qualify for the state local enterprise
12 matching payments pursuant to subsection A of Section 844 of this
13 title or for an income tax credit as authorized by Section 2357.81
14 of Title 68 of the Oklahoma Statutes shall:

15 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for
16 counties with a population of less than one hundred thousand
17 (100,000) persons; and

18 2. Not be greater than Forty Million Dollars (\$40,000,000.00)
19 for all other counties of the state.

20 H. The aggregate limit for all state local government matching
21 payments made to any public entity on behalf of any local
22 governmental entity within a single county pursuant to subsection D
23 of Section 844 of this title for the duration of the Oklahoma Local
24 Development and Enterprise Zone Incentive Leverage Act shall be an

1 amount equal to the net benefit rate multiplied by the taxable gross
2 sales derived from the project over the period of apportionment of
3 local sales taxes, as certified by the Secretary of Commerce.

4 I. The payments authorized by Section 844 of this title and the
5 income tax credit authorized by Section 2357.81 of Title 68 of the
6 Oklahoma Statutes shall be available for business and governmental
7 entities qualifying pursuant to the Local Development Act for
8 investments made within an incentive district or for improvements
9 made within an increment district prior to December 31, 2007, or for
10 which an incentive district or an increment district has been
11 created prior to December 31, ~~2018~~ 2028, if the investments or
12 improvements are begun not later than December 31, ~~2019~~ 2029.

13 J. The Oklahoma Department of Commerce shall promulgate rules
14 to establish a procedure for an enterprise or local governmental
15 entity to make application for state local enterprise and state
16 local government matching payments pursuant to this section. Such
17 rules shall reflect the intent that the Oklahoma Local Development
18 and Enterprise Zone Incentive Leverage Act be fiscally neutral to
19 the state.

20 SECTION 2. This act shall become effective November 1, 2019.

21
22
23
24

1 Passed the House of Representatives the 19th day of February,
2019.

4 _____
Presiding Officer of the House
of Representatives

6 Passed the Senate the ___ day of _____, 2019.

8 _____
Presiding Officer of the Senate