

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE  
FOR  
4 SENATE BILL NO. 1279

By: Smalley of the Senate

5 and

6 Hilbert of the House

7

8

9 COMMITTEE SUBSTITUTE

10 An Act relating to public finance; amending 62 O.S.  
11 2011, Sections 851 and 855, as amended by Section 1,  
12 Chapter 381, O.S.L. 2015 (62 O.S. Supp. 2017, Section  
13 855), which relate to the Local Development Act;  
14 modifying legislative finding; correcting reference;  
15 modifying approval process for proposed district,  
16 plan or project; eliminating certain vote threshold  
17 requirement based on specified recommendation;  
18 establishing certain vote threshold requirement based  
19 on assent of specified representatives; establishing  
20 procedures for recording and memorializing votes; and  
21 providing an effective date.

22

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

24 SECTION 1. AMENDATORY 62 O.S. 2011, Section 851, is  
25 amended to read as follows:

26 Section 851. The Local Development Act shall serve to implement  
27 and execute Section 6C of Article X of the Oklahoma Constitution as  
28 approved by the voters of the State of Oklahoma on November 6, 1990,  
29 by:

1       1. Providing for the granting of incentives and exemptions from  
2 taxation within certain areas, placing restrictions thereon, and  
3 limiting the time period for the exemptions, as authorized by  
4 subsection A thereof;

5       2. Providing for apportionment of an increment of local taxes  
6 and fees, placing restrictions thereon, and limiting the time period  
7 for the apportionment, as authorized by subsection B thereof; and

8       3. Providing for the planning, financing, and carrying out of  
9 development and redevelopment within certain areas, as authorized by  
10 subsection C thereof.

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

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

19       SECTION 2.       AMENDATORY       62 O.S. 2011, Section 855, as  
20 amended by Section 1, Chapter 381, O.S.L. 2015 (62 O.S. Supp. 2017,  
21 Section 855), is amended to read as follows:

22       Section 855. A. Prior to the adoption and approval of a  
23 project plan and the ordinance or resolution required under Section  
24 856 of this title and prior to the public hearing required under

1 Section 859 of this title, the governing body shall appoint a review  
2 committee to review and make a recommendation concerning the  
3 proposed district, plan or project. The membership of the review  
4 committee shall consist of the following: a representative of the  
5 governing body who shall serve as chairperson; a representative of  
6 the planning commission having jurisdiction over the proposed  
7 district; a representative designated by each taxing jurisdiction  
8 within the proposed district whose ad valorem taxes might be  
9 impacted according to the plan; and three members representing the  
10 public at large and selected by the other committee members from a  
11 list of seven names submitted by the chairperson of the review  
12 committee; provided, at least one of the members representing the  
13 public at large shall be a representative of the business community  
14 in the city, town, or county considering the proposed plan and  
15 project, and if a proposed plan objective is development of  
16 principally commercial retail, such representative shall be either a  
17 retailer or a representative of a retail organization.

18       B. The review committee shall consider and make its findings  
19 and recommendations to the governing body with respect to the  
20 conditions establishing the eligibility of the proposed district.  
21 The review committee recommendations shall include the analysis used  
22 to project revenues over the life of the project plan, the effect on  
23 the taxing entities and the appropriateness of the approval of the  
24 proposed plan and project. The review committee may recommend that

1 the project plan be approved, denied or approved subject to  
2 conditions set forth by the committee.

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

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

18 E. Approval of the proposed district or the proposed plan or  
19 project by the governing body ~~which is in accord with the~~  
20 ~~recommendation of the review committee~~ shall be by a majority vote  
21 of the governing body. ~~Such approval which is not in accord with~~  
22 ~~the recommendations and/or conditions set forth by the review~~  
23 ~~committee shall be by a two-thirds (2/3) majority vote and shall~~  
24 ~~require the assent of sixty percent (60%) of the persons who~~

1 represent the taxing jurisdictions having representation on the  
2 review committee created pursuant to subsection A of this section or  
3 their authorized successor. The assent of sixty percent (60%) of  
4 the persons who represent the taxing jurisdictions with  
5 representation on the review committee may be indicated by having  
6 such persons physically present at the meeting of the governing body  
7 at which the approval of the proposed district or the proposed plan  
8 or project by the governing body is scheduled as reflected on a  
9 meeting notice of the governing body. The county clerk, for  
10 approval by a county, or the municipal clerk, for approval by a  
11 municipality, shall be provided with a list of the total number of  
12 taxing jurisdictions represented on the review committee and the  
13 name of each person, or their successor, authorized to represent  
14 each such taxing jurisdiction in order to determine the number of  
15 affirmative votes comprising sixty percent (60%) of the total number  
16 of such persons required for approval. As an alternative to being  
17 physically present at a meeting of the governing body, the  
18 representatives of the taxing jurisdictions may cast their vote with  
19 respect to the approval of a proposed district, a proposed plan or a  
20 project separately, but in advance of the meeting of the governing  
21 body. If the vote occurs prior to the meeting of the governing  
22 body, the vote shall take place no earlier than thirty (30) days  
23 prior to the date as of which the meeting of the governing body is  
24 scheduled. If such prior and separate vote is taken, the total

1 number of taxing jurisdictions represented on the committee, the  
2 name of each person and the taxing jurisdiction he or she  
3 represents, or the name of his or her successor, authorized to  
4 represent each such taxing jurisdiction and the result of the vote  
5 shall be memorialized by an instrument bearing the signatures of  
6 those persons casting a vote during such procedure, and whether the  
7 person voted "aye" in favor of the proposal or "nay" against the  
8 proposal. Each signature on the instrument shall be acknowledged in  
9 the presence of a notary public who shall be physically present at  
10 the meeting during which the representatives of the taxing  
11 jurisdiction cast the vote authorized by this subsection. The  
12 instrument, or a certified copy of the instrument, shall be provided  
13 to the county clerk of the county if the county is the sponsoring  
14 entity with respect to the proposed district, project or plan or to  
15 the municipal clerk of the city or town if a municipality is the  
16 sponsoring entity with respect to the proposed district, project or  
17 plan. Whether the representatives of the taxing jurisdictions are  
18 physically present at the meeting of the governing body or whether  
19 the vote is memorialized during a prior vote as authorized by this  
20 subsection, assent shall require sixty percent (60%) of the total  
21 number of taxing jurisdiction representatives without reduction of  
22 the required total due to illness, incapacity, resignation or  
23 vacancy for any cause.

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

10       SECTION 3. This act shall become effective November 1, 2018.

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