

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-THIRD OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 16, 2011

BILL NUMBER: HB 2117 STATUS AND DATE OF BILL: Engrossed 03/14/2011

AUTHORS: House Hickman & Jackson Senate Mazzei

TAX TYPE (S): Ad Valorem, Sales & Use SUBJECT: Other

PROPOSAL: Amendatory 62 O.S. § 853 & 856;¹ 61 O.S. § 127

Section 1 amends the definition of "increment" to provide that *regardless of taxable location or recipient local public taxing entity* increment includes local taxes or 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.

Section 2 strikes contiguous from the description of a district² that a city, town, or county may by agreement jointly create with another entity and allows the governing body of a district to defer creation of the district up to ten (10) years after the approval date of the project plan.

Section 3 expands application of the Public Competitive Bidding Act under the stated circumstances striking public trusts and providing for public entities.

EFFECTIVE DATE: August 26, 2011³

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 12: None

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 12: None

3/16/11

DATE

Dawn E. Egan

DIVISION DIRECTOR

cjc

3/16/11

DATE

Reece Womack

REECE WOMACK, ECONOMIST

3/16/11

DATE

[Signature]

FOR THE COMMISSION

1 Local Development Act

2 Incentive District authorized by Section 860 of Title 62 or Increment District authorized by Section 861 of Title 62.

3 Assumes the published sine die date of May 27, 2010.

ATTACHMENT TO FISCAL IMPACT HB 2117 [Engrossed] Prepared 03/16/2011

Set forth below is supplemental information regarding the proposed modification to the definition of "increment" in the Local Development Act. [Section 1 of HB 2117].

In A.G. Opinion 09-13 the determination was made citing the Streamlined Sales and Use Tax Administration Act⁴ that sales outside a sales TIF district where possession of the product was taken at the time of purchase would not be subject to the apportionment rules of the sales TIF district.

A.G. Opinion 09-39 expands and clarifies the analysis given in A.G. Opinion 09-13 "regarding whether a city, town or county, as taxing jurisdiction and creator of a sales TIF district, may lawfully allocate sales taxes between the area comprising the sales TIF district and other locations in the city, town or county outside sales TIF district boundaries." Citing Article X, Section 6C of the Oklahoma Constitution and the Local Development Act it was determined that taxing jurisdictions with TIF districts are authorized to apportion local sales tax that it reasonably determines to be generated by the project under a formula approved by its governing body. It is further stated in the Opinion that the authority to apportion local sales tax extends even to local sales taxes otherwise payable to another taxing jurisdiction, provided: (1) it is reasonably determined under the formula that such local sales taxes are generated by the project and (2) such apportionment has the consent of the taxing jurisdiction to which such local sales tax would otherwise be payable.

Under the Opinion sales continue to be sourced consistent with the Streamlined Sales and Use Tax Administration Act. The Opinion concludes that once a sale is sourced to a taxing jurisdiction, the tax can be apportioned under the Local Development Act by a formula approved by the governing body of the city, town, or county establishing the sales TIF district.

Section 1 of HB 2703 amends the definition of "increment" as follows:

"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, regardless of taxable location or recipient local public taxing entity, 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;

The proposed amendment appears to be an attempt to capture not only those sales tax revenues generated from the purchase of goods and materials sourced outside the sales TIF district but within the boundaries of the taxing jurisdiction which created said district but also sales taxes on materials and equipment sourced to other taxing jurisdictions.

The proposed amendment in light of the referenced A.G. Opinions does not appear to affect current sourcing rules or the Tax Commission practices regarding apportionment of local sales tax to the various local taxing jurisdictions.