

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 403
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Government Organization
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Access to foods with high nutritional value is necessary for a healthy community, however the geographic distribution of grocery stores in communities is uneven. Low-income areas without close access to grocery stores are called "food deserts." The United States Department of Agriculture estimates that 15 percent of Texans reside in a food desert, making Texas the state with the largest "grocery gap" in the country. This lack of access is linked to higher rates of diet-related diseases for residents and higher costs to the health care system. The University of Texas Medical Branch at Galveston determined that having a grocery store in a neighborhood is associated with higher fruit and vegetable consumption and lower rates of overweight and obese individuals. Nearly two-thirds of the Texas population is obese or overweight.

In addition to providing healthy fresh food, grocery stores serve as retail anchors for neighborhoods. Businesses open near grocery stores because of the heavy traffic that grocery stores attract. A 2006 analysis by The Reinvestment Fund (TRF) concluded that the opening of a grocery store reverses any real downward trend in property values within a half-mile radius of the store and not only are jobs created by operating the stores, but the construction of the stores also creates jobs. A report by The Food Trust found that an additional 589 supermarkets could be supported across the state of Texas.

This bill establishes a community development grocery store and healthy corner store revolving loan fund held by a community development financial institution (CDFI). The fund will be administered by the Texas Department of Agriculture and used for the purpose of making loans to entities operating grocery stores or healthy corner stores located in food deserts in Texas. Several states have had success encouraging small grocery stores to open in food deserts through the establishment of public-private partnerships. These partnerships use start-up grants to CDFIs, which leverage additional private investment to establish revolving loan funds for small to mid-size businesses that do not qualify for standard loans. By amending statute and authorizing a fund to support investment in low-income areas in need of grocery stores, Texas could increase the availability of healthy foods to underserved communities.

C.S.S.B. 403 amends current law relating to the establishment of a community development grocery store and healthy corner store revolving loan fund program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 2 (Sections 26.007 and 26.010, Agriculture Code) and SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that it is the intent of the legislature to support revitalization in food deserts, reduce the cost of financing agricultural development projects, and increase the number of food markets providing affordable and nutritious foods in underserved areas.

SECTION 2. Amends Title 2, Agriculture Code, by adding Chapter 26, as follows:

CHAPTER 26. TEXAS COMMUNITY DEVELOPMENT GROCERY STORE AND HEALTHY CORNER STORE REVOLVING LOAN FUND

Sec. 26.001. Defines "community development financial institution," "corner store," "food desert," "fund," "grocery store," "healthy corner store," "program," "supplemental nutrition assistance program," and "WIC program."

Sec. 26.002. TRUST FUND. (a) Provides that the community development grocery store and healthy corner store revolving loan fund (fund) is a trust fund outside the state treasury held by a community development financial institution (CDFI) and overseen by the Texas Department of Agriculture (TDA) as trustee on behalf of entities operating grocery stores or healthy corner stores located in food deserts in this state.

(b) Provides that the fund is composed of gifts or grants received from public or private sources, and income from other money in the fund.

(c) Authorizes TDA to accept on behalf of the fund gifts and grants for the use and benefit of the program.

Sec. 26.003. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION. (a) Requires TDA to contract with and award money, if available, to not more than five CDFIs to carry out the purposes of this chapter.

(b) Requires TDA, in selecting a CDFI, to consider the CDFI's demonstrated success in implementing similar economic development projects, ability to raise additional capital, and solvency.

(c) Requires the CDFI to provide revolving loan funds to entities proposing to operate or operating grocery stores or healthy corner stores in food deserts; develop, in consultation with TDA, a scoring system used to score loan applications; provide training on business management and the profitable sale of healthy foods to corner store owners receiving a loan or grant money from the program; accept gifts and grants; and seek funding from various government and private sources.

Sec. 26.004. LOAN REVIEW COMMITTEE. (a) Requires TDA, before contracting with a CDFI, to require the CDFI to establish or make use of an existing loan review committee to approve loan requests of entities proposing to operate grocery stores or healthy corner stores.

(b) Prohibits the loan review committee from approving a loan request of an entity proposing to operate or operating a grocery store or healthy corner store unless the grocery store or healthy corner store will be or currently is located in a food desert, will be or currently is located in a low and moderate income area, as determined by the United States Department of Housing and Urban Development, or will serve or currently is serving a customer base living in a low and moderate income area, will accept benefits under the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786 (WIC program) and the supplemental nutrition assistance program not later than the 90th day after the date the store opens, or currently accepts benefits under those programs, and will be or currently is open year-round.

Sec. 26.005. CONSIDERATION OF OTHER RESOURCES. Requires the loan review committee in approving a loan request to give preference to an entity proposing to operate or operating a grocery store or healthy corner store that uses additional public and private resources to fund the grocery store or healthy corner store, including cash or in-kind matches.

Sec. 26.006. LOANS TO GROCERY STORES OR CORNER STORES. (a) Prohibits the CDFI from making a loan to an entity proposing to operate or operating a grocery store or healthy corner store in a food desert unless the loan review committee has approved the loan.

- (b) Authorizes a loan made by the CDFI to be subordinated debt.
- (c) Authorizes the CDFI to make a loan under the program through a partnership or joint investment with one or more financial institutions or federal or state programs.
- (d) Requires that payments on grocery store or healthy corner store loans be made to the CDFI. Requires the CDFI to use the repayments of loan principal by entities operating grocery stores or healthy corner stores to make new loans as provided by this chapter.
- (e) Authorizes the CDFI to make a forgivable loan at a zero percent interest rate for a period of five years to an entity proposing to operate or operating a grocery store or healthy corner store in a food desert. Provides that the CDFI that makes a forgivable loan under this subsection:
 - (1) is prohibited from making a forgivable loan to an entity that exceeds \$500,000;
 - (2) is prohibited from forgiving an amount greater than one-fifth of the forgivable loan amount each year;
 - (3) is required to annually evaluate an entity that receives a forgivable loan under this subsection to ensure that the entity is in compliance with the requirements of this chapter; and
 - (4) if the CDFI determines that the entity is not in compliance with the requirements of this chapter, is required to require the entity to repay the remaining balance of the forgivable loan.
- (f) Requires a loan provided under this chapter to be made from available funds that must be used for that purpose.

Sec. 26.007. INCREASE IN INTEREST RATE; ACCELERATED REPAYMENT. Authorizes the CDFI that made the loan, if a recipient of a loan does not comply with the requirements of this chapter, as provided by TDA rule, to increase the interest rate on the loan, accelerate repayment of the principal of and interest on the loan, or take any other remedy permitted by TDA rule that the CDFI considers appropriate.

Sec. 26.008. SELF-FUNDING. Requires TDA to develop the fund program as a revolving loan fund that will become self-funding over the life of the program.

Sec. 26.009. INCOME FROM LOAN. Provides that all income received on a loan made with money received under the program is the property of the CDFI. Provides that income received on a loan includes the payment of interest by a borrower and the administrative fees assessed by the CDFI.

Sec. 26.010. RULES. (a) Requires TDA to adopt rules to administer this chapter, including rules that require:

- (1) TDA to review the lending and servicing practices of a CDFI to ensure the practices conform to generally accepted accounting principles;
- (2) an eligible entity proposing to operate or operating a grocery store or healthy corner store to enter into an agreement with the CDFI that states the terms of the loan made to the entity;
- (3) the CDFI to provide to TDA semiannual reports giving details of the status of each loan made under the program;

(4) the CDFI to develop rules to regulate financial monitoring and inventory;

(5) a third-party certified public accountant to perform biennial audits of grocery stores for which loans are made under the program; and

(6) TDA to provide oversight of the CDFI as necessary to qualify the CDFI for loan guarantees from federal or state programs.

(b) Authorizes the CDFI, under rules adopted by TDA, to make grants to eligible entities proposing to operate or operating grocery stores or healthy corner stores from money other than money that may be received from the fund, or seek funds from state or federal agencies or private sources to supplement and complement the funds received under the program.

(c) Authorizes TDA to adopt other rules as necessary to accomplish the purposes of this chapter.

Sec. 26.011. ANNUAL REPORT. (a) Requires TDA, not later than December 1 of each even-numbered year, in coordination with the CDFI, to submit a report to the House Appropriations Committee, the Senate Finance Committee, the governor, and the Legislative Budget Board.

(b) Requires that the report include for the preceding two state fiscal years the number of entities receiving loans or grants under this chapter, repayment rates on loans, the total amount of money loaned or awarded by grants, the amount of square footage of commercial space created, the number of jobs created or retained, the average wages of the jobs created or retained, and the additional property tax revenue gained by local entities.

SECTION 3. Requires TDA, not later than November 15, 2013, to adopt rules to administer Chapter 26, Agriculture Code, as added by this Act.

SECTION 4. Requires TDA, not later than January 15, 2014, to designate CDFI, as provided by Section 26.003, Agriculture Code, as added by this Act, to carry out the purposes of Chapter 26, Agriculture Code, as added by this Act.

SECTION 5. Requires TDA, not later than February 15, 2014, to transfer money in the fund to the CDFI.

SECTION 6. Effective date: September 1, 2013.