SENATE BILL 1659

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 67, relative to a program to increase the availability of healthy food.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 7, is amended by adding the following new section:

(a) This section is known and may be cited as the "Healthy Food Financing Act."

(b) The purpose of this section is to establish a statewide program to increase the availability of fresh and nutritious food, including fruits and vegetables, in underserved communities by providing financing for retailers to open, renovate, or expand grocery stores.

(c) As used in this section:

(1) "Department" means the department of economic and community development;

(2) "Financing" means loans or grants;

(3) "Grocery store" means a for-profit or nonprofit self-service retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and other healthy or fresh food retailers;

(4) "Low-income area" means a census tract, as reported in the most recently completed decennial census published by the U.S. bureau of the census, that has a poverty rate of at least twenty percent (20%) or in which the

median family income does not exceed eighty percent (80%) of the greater of the statewide or metropolitan median family income;

(5) "Moderate-income area" means a census tract in which the median family income is between eighty-one percent (81%) and ninety-five percent (95%) of the median family income for the area; and

(6) "Underserved community" means a census tract determined to be an area with low supermarket access by either the U.S. department of agriculture, as identified in the USDA's Food Access Research Atlas, or through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

(d) There is established the healthy food financing fund, which consists of federal, state, or private grants or loans, federal tax credits, or other type of financial assistance, for the construction or expansion of grocery stores to expand access to fresh produce and other nutritious foods in underserved communities. Monies in the fund must be used, to the extent practicable, to leverage other forms of financing. No less than twenty-five percent (25%) of the monies in the fund must be expended in the form of grants or forgivable loans.

(e)

(1) The department, in cooperation with public and private sector partners, shall establish a financing program to provide financing to retailers to construct, rehabilitate, or expand grocery stores in underserved communities in low- and moderate-income areas.

(2) The department may contract with one (1) or more qualified nonprofit organizations or community development financial institutions to administer this program through a public-private partnership. The department shall establish

program guidelines, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor compliance and impact. No more than ten percent (10%) of the monies in the fund may be reserved for administrative and operational costs to manage the program by the department, unless those costs are provided for from other funding or in-kind resources.

(3) The department shall by rule establish monitoring and accountability mechanisms for projects receiving financing and shall report annually to the general assembly on the projects funded, the geographic distribution of the projects, the costs of the program, the administrative cost of the program, and the outcomes, including the number and type of jobs created and health impacts associated with the program.

(4) The department shall by rule create eligibility guidelines and provide financing through an application process. Projects must be located in an underserved community and primarily serve low- or moderate-income areas. Projects eligible for financing include:

(A) Construction of new grocery stores; and

(B) Store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce and other healthy foods.

(5) An applicant for financing may be a for-profit or nonprofit entity, including, but not limited to, a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization, nonprofit community development entity, university, or government entity. An applicant for financing must:

(A) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;

(B) Demonstrate the ability to repay the debt, if the financing provided by the department is a loan; and

(C) Agree, for a five-year period that begins on the date financing is awarded, to:

(i) Allocate at least thirty percent (30%) of food retail space for the sale of perishable foods, which may include fresh or frozen dairy, fresh produce, whole grains, fresh meats, poultry, and fish;

(ii) Comply with all data collection and reporting requirements established by the department; and

(iii) Promote the hiring of local residents.

(6) In determining which qualified projects to finance, the department shall consider:

(A) The level of need in the area to be served;

(B) The degree to which the project requires an investment of public financing to move forward, create impact, or be competitive, and the level of need in the area to be served;

(C) The degree to which the project will have a positive economic impact on the underserved community, including by creating or retaining jobs for local residents;

(D) The degree to which the project will participate in state and local health department initiatives to educate consumers on nutrition and promote healthier eating; and

(E) Other criteria the department determines to be consistent with the purposes of this section.

(7) Financing made available for projects may be used for:

(A) Site acquisition and preparation;

(B) Construction and build-out costs;

(C) Equipment and furnishings;

(D) Workforce training or security;

(E) Pre-development costs such as market studies and appraisals;

(F) Energy efficiency measures; and

(G) Working capital for first-time inventory and startup costs.

SECTION 2. Tennessee Code Annotated, Section 67-6-228, is amended by adding the following as a new subsection:

(1) In addition to the tax levied under subsection (a), there is a five cent ($0.05) tax levied on each beverage container sold in this state.

(2) The tax collected pursuant to this subsection ( ) must be deposited in the healthy food financing fund, created by Section 1.

(3) As used in this subsection ( ):

(A) "Beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink; and

(B) "Beverage container" means an airtight plastic container, which, at the time of sale, contains (1) gallon or less of a beverage.

SECTION 3. This act takes effect July 1, 2022, the public welfare requiring it.