

SENATE BILL 2082

By Norris

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3; Title 67, Chapter 4 and Title 67, Chapter 6, relative to creating the "Fresh Food Financing fund".

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

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, is amended by adding Sections 2 through 7 of this act as a new, appropriately designated part.

SECTION 2.

(a) There is created within the department a pilot program, to be referred to as the "food desert relief enterprise program," that will terminate January 1, 2030, unless extended by the general assembly, to encourage the financing and development of food desert relief enterprises that sell fresh food in low-income, underserved areas of this state.

(b) The department may make grants and loans from the 3F fund solely for the development of food desert relief enterprises that private industry alone would be otherwise unable to serve, at interest rates lower than would otherwise be obtainable.

(c) For purposes of this part:

(1) "3F fund" means the Fresh Food Financing fund created pursuant to Section 3;

(2) "Bottled soft drink" has the same meaning as defined in § 67-4-402;

(3) "Caloric sweetener" means any substance suitable for human consumption that adds calories to the diet of a person who consumes that substance. "Caloric sweetener" includes sucrose, fructose, glucose, and other sugars. "Caloric sweetener" does not include non-caloric sweetener;

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

(5) "Food desert relief enterprise" means a supermarket or grocery retailer that operates on a self-service basis, having at least fifty percent (50%) of revenue derived from the sale of groceries, produce, meat, baked goods or dairy products, or a farmers market, in an underserved area;

(6) "Governmental entity" means any city, county, including any county with a metropolitan form of government, or any economic development organization of the city or county;

(7) "Low income census tract" means, for metropolitan areas, an area having an unemployment rate greater than one and one-half (1 1/2) times the national average, a poverty rate greater than twenty percent (20%), a median family income less than eighty percent (80%) of the area's median income, and a population greater than one thousand five hundred (1,500). For non-metropolitan areas, "low income census tract" means an area having an unemployment rate greater than one and one-half (1 1/2) times the national average, a poverty rate greater than twenty percent (20%), a median family income less than eighty percent (80%) of the state's or national non-metropolitan median family income, and a population greater than five hundred (500);

(8) "Non-caloric sweetener" means any substance suitable for human consumption that does not add calories to the diet of a person who consumes that substance. "Non-caloric sweetener" includes aspartame, saccharin, stevia, and sucralose;

(9) "Sugar-sweetened beverage" means any bottled soft drink containing any added sugar or caloric sweetener. "Sugar-sweetened beverage" does not include any bottled soft drink containing less than one (1) calorie per ounce; and

(10) "Underserved area" means a low income census tract, an area of below average supermarket density or an area having a supermarket customer base with more than fifty percent (50%) living in a low income census tract.

SECTION 3.

(a) There is created a special reserve fund in the state treasury to be known as the "Fresh Food Financing fund," referred to in this part as the "3F fund."

(b) Beginning July 1, 2014, the amount of revenue generated from six-hundred twenty-five ten thousandths percent (.0625%) of the rate of tax imposed by § 67-6-228(a) on retail sales of sugar-sweetened beverages shall be deposited in the 3F Fund for the sole use by the department to fund grants and loans awarded under the food desert relief enterprise program established by Section 2.

(c) The 3F fund shall also consist of any gifts, grants, and other donations received by the department for the 3F fund and funds appropriated by the general assembly for the 3F fund.

(d) Money in the 3F fund may be used by the department for program administration, marketing expenses, and program evaluation; however, the expenses shall not exceed two percent (2%) of the total amount appropriated for the program in any fiscal year.

(e) Amounts remaining in the 3F fund at the end of each fiscal year shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(f) Money in the 3F fund shall be invested by the state treasurer pursuant to title 9, chapter 4, part 6, for the sole benefit of the 3F fund.

(g) All earnings attributable to any investments shall be credited to the 3F fund.

(h) The department shall establish, administer, manage and make expenditures and allocations from the 3F fund.

(i) To the extent practicable, money from the 3F fund shall be spent in all areas of the state.

SECTION 4.

(a) The department may only make grants or loans under the food desert relief enterprise program to governmental entities, which shall use the proceeds for the sole purpose of awarding grants or loans to food desert relief enterprises that meet the requirements of this part. No grant made by a governmental entity to finance a single food desert relief enterprise shall exceed two hundred fifty thousand dollars (\$250,000).

(b) The department may make and undertake commitments to make loans to or deposits with a governmental entity for the financing of food desert relief enterprises under terms and conditions that shall:

(1) Require the proceeds of the loans or deposits to be used by the governmental entity to make loans or grants for food desert relief enterprises; and

(2) Require that no loans made by the governmental entity to finance a single food desert relief enterprise shall exceed the aggregate principal amount of five hundred thousand dollars (\$500,000).

(c) The department may invest in, purchase or make commitments to invest in or purchase, and take assignments of loans made by a governmental entity for the construction, rehabilitation or purchase of food desert relief enterprises. No loan shall be eligible for investment in, purchase or assignment by the department:

(1) If the loan was initially made more than six (6) months prior to the date of investment, purchase or assignment; or

(2) If the aggregate principal amount of the loan received by a person exceeds five hundred thousand dollars (\$500,000), and in computing that amount

a loan received by an individual shall be aggregated with those loans received by the individual's spouse and children, and a loan received by a firm, partnership or corporation shall be aggregated with those loans received by each owner, partner or stockholder of the firm, partnership or corporation.

SECTION 5.

(a) Prior to an exercise of powers conferred by Section 4(c), the department shall:

(1) Require the lender to certify that the loan at the time of making was, is or will be in all respects a prudent investment;

(2) Require the lender to certify that it would not have made the loan if the department had not agreed to purchase the loan pursuant to Section 4(c);

(3) Require the lender to certify, if the principal amount of the loan is two hundred fifty thousand dollars (\$250,000) or more, that the borrower has obtained at least one (1) written declination of credit from a lender in or near the borrower's local community; and

(4) Require that the loan involved be insured by a loan insurer or be guaranteed by a loan guarantor or that the payment of principal and interest on the notes or bonds be insured or guaranteed.

(b) Prior to the exercise of any powers conferred by Section 4, the department shall for all loans to be made for food desert relief enterprises:

(1) Require any type of security that it deems reasonable and necessary;

(2) Authorize the reservation of funds by lenders in the amounts and subject to the conditions as the department considers reasonable and necessary; and

(3) Require that all food desert relief enterprises for which funds are advanced, loaned or otherwise provided by the department under this part be in compliance with any state or local land use, zoning, subdivision and other laws applicable to the land upon which such enterprise is located or is to be constructed.

SECTION 6. The department may promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of this part, including rules governing the application procedure and criteria, terms and conditions for grants or loans under this part.

SECTION 7. The department shall report on the pilot program to the commerce and labor committee of the senate and the business and utilities committee of the house of representatives no later than February 1 of each year during the existence of the pilot program, and annually thereafter, if the pilot program is extended by the general assembly. The report shall include information concerning the amount of each grant or loan authorized, the name of the food desert relief enterprise receiving the benefit of the grant or loan, and the total outstanding grants and loans.

SECTION 8. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 9. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2014, the public welfare requiring it.