

By: Sherman, Sr.

H.B. No. 3874

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a grocery access investment fund program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Agriculture Code, is amended by adding Chapter 26 to read as follows:

CHAPTER 26. TEXAS GROCERY ACCESS INVESTMENT FUND

Sec. 26.001. DEFINITIONS. In this chapter:

(1) "Community development financial institution" has the meaning assigned by 12 U.S.C. Section 4702.

(2) "Financing" means a loan, grant, or forgivable loan.

(3) "Fund" means the Texas grocery access investment fund established by this chapter.

(4) "Grocery store" means a self-service retail store that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries.

(5) "Low-income area" means a census tract, based on the most recent information published by the United States Bureau of the Census, in which the poverty rate is 20 percent or higher or the median family income is at or below 81 percent of the median family income for the state or the metropolitan statistical area.

(6) "Moderate-income area" means a census tract, based on the most recent information published by the United States

1 Bureau of the Census, in which the median family income is above 81
2 percent and at or below 95 percent of the median family income for
3 the state or the metropolitan statistical area.

4 (7) "Program" means the Texas grocery access
5 investment fund program authorized by this chapter.

6 (8) "Supplemental nutrition assistance program" means
7 the nutritional assistance program operated under Chapter 33, Human
8 Resources Code, and formerly referred to as the food stamp program.

9 (9) "Underserved area" means a census tract, based on
10 the most recent information published by the United States Bureau
11 of the Census, that has been determined to be an area with low
12 supermarket access by:

13 (A) the United States Department of Agriculture,
14 as identified in the Food Access Research Atlas published by that
15 department; or

16 (B) another governmental or philanthropic
17 healthy food initiative.

18 (10) "WIC program" means the federal special
19 supplemental nutrition program for women, infants, and children
20 authorized by 42 U.S.C. Section 1786.

21 Sec. 26.002. TEXAS GROCERY ACCESS INVESTMENT FUND PROGRAM.

22 (a) The department, in cooperation with public and private sector
23 partners, shall establish the Texas grocery access investment fund
24 program to provide financing to construct, rehabilitate, or expand
25 grocery stores in underserved low-income and moderate-income areas
26 in this state.

27 (b) The fund is a trust fund outside the treasury with the

1 comptroller and administered by the department.

2 (c) The fund is composed of:

3 (1) money appropriated to the fund by the legislature;

4 (2) federal, state, or private grants or loans;

5 (3) money received as a result of federal tax credits;

6 and

7 (4) any other type of financial assistance.

8 (d) Money in the fund may be appropriated only to the
9 department for the purposes of establishing the program authorized
10 by this chapter. Not less than 25 percent of the money in the fund
11 shall be used to provide grants or forgivable loans distributed
12 under the program. Not more than 10 percent of the money in the fund
13 may be reserved for administrative or operational costs of
14 operating the program, unless the costs are covered by another
15 budget or in-kind contributions.

16 Sec. 26.003. ADMINISTRATION OF TEXAS GROCERY ACCESS
17 INVESTMENT FUND PROGRAM. (a) The department shall contract with
18 one or more qualified nonprofit organizations or community
19 development financial institutions to administer the program
20 through a public-private partnership.

21 (b) A nonprofit organization or community development
22 financial institution contracted under Subsection (a) shall
23 establish program guidelines, raise matching funds, promote the
24 program statewide, evaluate applicants, underwrite and disburse
25 grants and loans, and monitor compliance with and the impact of the
26 program.

27 (c) The department shall establish rules or other

1 procedures as necessary to administer this chapter.

2 (d) The department shall establish monitoring and
3 accountability mechanisms for projects receiving financing under
4 the program and shall report annually to the legislature. The
5 report must include information regarding the projects that are
6 funded, the geographic distribution of the projects, the costs of
7 start-up and administration of the program, and the outcomes of the
8 projects, including the number and types of jobs created as a result
9 of the program and the health impact of the program.

10 (e) The department shall create project eligibility
11 guidelines and provide financing through an application process.
12 Projects must be located in an underserved area and primarily serve
13 low-income or moderate-income areas. Projects eligible for
14 financing include:

- 15 (1) constructing a new grocery store; and
16 (2) improving an existing grocery store, including
17 upgrading the store's infrastructure, renovating the store, or
18 expanding the store to improve the availability and quality of
19 fresh produce and other healthy food.

20 (f) An applicant for financing may be a for-profit or
21 nonprofit entity, including a sole proprietorship, partnership,
22 limited liability company, corporation, cooperative, nonprofit
23 organization, nonprofit community development entity, university,
24 or government entity. An applicant for financing must:

- 25 (1) demonstrate the capacity to successfully
26 implement the project and the likelihood that the project will be
27 economically self-sustaining;

1 (2) demonstrate the ability to repay any loan required
2 to be repaid; and

3 (3) agree, for a period of five years, to:

4 (A) accept benefits under the WIC program and the
5 supplemental nutrition assistance program;

6 (B) allocate 30 percent of the retail space for
7 the sale of perishable foods, which may include whole grains, fresh
8 produce, meat, poultry, seafood, and fresh or frozen dairy
9 products;

10 (C) comply with all data collection and reporting
11 requirements established by the department;

12 (D) promote the sale of fresh produce, including
13 Texas-grown fruits and vegetables, and fresh Texas-raised meat,
14 poultry, and seafood products; and

15 (E) promote the hiring of local residents.

16 (g) In determining which qualified projects to finance, the
17 department shall consider:

18 (1) the level of need in the area to be served;

19 (2) the amount of public funding required to make the
20 project move forward, create impact, or be competitive;

21 (3) the degree to which the project will have a
22 positive economic impact on the underserved area, including by
23 creating or retaining jobs for local residents;

24 (4) the degree to which the project will participate
25 in state and local health initiatives to educate consumers on
26 nutrition and promote healthy eating, including Texas A&M AgriLife
27 Extension Service initiatives; and

1 (5) any other criteria the department considers
2 necessary or appropriate.

3 (h) A recipient of financing may use funds received for the
4 following purposes:

- 5 (1) site acquisition and preparation;
- 6 (2) construction and build-out costs;
- 7 (3) equipment and furnishings;
- 8 (4) employee training and security;
- 9 (5) predevelopment costs, including market studies
10 and appraisals;
- 11 (6) energy efficiency measures; and
- 12 (7) working capital for initial inventory and start-up
13 costs.

14 (i) The department shall ensure that all independent
15 grocery stores have access to the same supply chain options that are
16 available to full-service chain grocery stores.

17 SECTION 2. Not later than December 1, 2023, the Department
18 of Agriculture shall adopt rules to administer Chapter 26,
19 Agriculture Code, as added by this Act.

20 SECTION 3. Not later than December 15, 2023, the Department
21 of Agriculture shall contract with one or more nonprofit
22 organizations or community development financial institutions as
23 provided by Section 26.003, Agriculture Code, as added by this Act.

24 SECTION 4. Not later than January 15, 2024, the Department
25 of Agriculture shall transfer money to the Texas grocery access
26 investment fund.

27 SECTION 5. This Act takes effect September 1, 2023.