LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 21, 2021

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB209** by Thierry (Relating to a franchise tax credit for entities that establish a grocery store or healthy corner store in a food desert.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB209, As Introduced : a negative impact of ($262,203) through the biennium ending August 31, 2023.

Additionally, the bill will have a direct impact of a revenue loss to the Property Tax Relief Fund of ($2,000,000) for the 2022-23 biennium. Any loss to the Property Tax Relief Fund must be made up with an equal amount of General Revenue to fund the Foundation School Program.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2022	($145,931)
2023	($116,272)
2024	($116,272)
2025	($116,272)
2026	($116,272)

All Funds, Five-Year Impact:

Fiscal Year	**Probable (Cost) from *General Revenue Fund* 1**	**Probable Revenue (Loss) from *Property Tax Relief Fund* 304**	*Change in Number of State Employees from FY 2021*
2022	($145,931)	$0	1.5
2023	($116,272)	($2,000,000)	1.3
2024	($116,272)	($2,000,000)	1.3
2025	($116,272)	($2,000,000)	1.3
2026	($116,272)	($2,000,000)	1.3

Fiscal Analysis

The bill would amend the Tax Code regarding franchise tax to add a tax credit for entities that establish a grocery or healthy corner store in a food desert.

A taxable entity would qualify for a credit if, on or after January 1, 2022, the taxable entity opens a grocery or healthy corner store, as defined in the bill, in a food desert in a low or moderate income area and accepts WIC and supplemental nutrition assistance benefits within 90 days of opening.

The bill would require a taxable entity to request a certificate of eligibility from the Texas Department of Housing and Community Affairs (TDHCA) and would require TDHCA to issue a certificate of eligibility to a taxable entity that qualifies for a credit. The taxable entity would be required to forward the certificate, along with documentation outlined in the bill, to the Comptroller in order to claim the credit. The bill would allow TDHCA to adopt rules regarding requirements to qualify for the credit.

The amount of the credit would equal five percent of the amount the taxable entity spends to establish the store during the 12-month period that includes the date the store opens for business. Spending qualified for the credit would include spending to purchase or lease the land or building, to construct or remodel, and to furnish and equip the store. The amount of credit for a tax report would be limited to 50 percent of the amount of franchise tax due on a report. A taxable entity could not transfer the credit to another entity; however, a credit that could not be claimed due to the limitation could be carried forward for not more than five consecutive reports.

The bill would take effect on January 1, 2022 and only apply to reports due on or after that date.

Methodology

The bill imposes on TDHCA the responsibility to make subjective assessments of what may constitute a food desert, review applications, and issue certifications. Currently, TDHCA does not have the capacity or expertise in any division to handle grocery or food store applications. Based on experience of other programs, the agency assumes a program specialist would be needed for program design and application reviews, and a part-time attorney would be needed to develop forms and rules. Combined, this results in a cost of $145,931 and 1.5 FTEs in fiscal year 2022, and $116,272 and 1.25 FTEs in fiscal year 2023.

This analysis assumes no compliance monitoring visits by agency staff to verify information and that physical inspection of the store facility will not be required.

On the assumption that TDHCA would act to give the provision practical effect, it is expected that at least three stores annually could plausibly meet standards for certification of eligibility for the tax credit. Allowing for the time for TDHCA to adopt rules and make the necessary assessments of eligibility, fiscal implications to the Property Tax Relief Fund would be expected to occur beginning with franchise tax reports due in FY 2023.

Technology

TDHCA estimates a technology impact of $1,500 in fiscal year 2022 for computer systems and software for 1.5 FTEs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 332 Dept Housing-Comm Affairs

LBB Staff: JMc, KK, SD, MPUK