

Legislative Analysis



HEALTHY FOOD ASSISTANCE ACT

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House Bill 5180 as introduced
Sponsor: Rep. Dave Pagel
Committee: Appropriations
Complete to 3-8-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5180 would create a new act, the Healthy Food Assistance Act. The act would *"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."* Specifically, the bill would *"provide funding for county-based programs to provide assistance to small food retailers to increase the availability and sales of fresh and nutritious food, including fresh produce, in low and moderate income communities."*

FISCAL IMPACT:

The bill would establish a new state-restricted fund, the Healthy Food Financing Fund, through an FY 2015-16 appropriation of \$6.5 million from the state General Fund. As a result, the bill would reduce state General Fund revenue in FY 2015-16 by \$6.5 million, but increase state-restricted funds by a like amount. Revenue from the new restricted fund would be loaned or granted to private entities and/or local public health agencies for purposes described in the bill.

Of the \$6.5 million initial funding, not more than \$5.0 million could be used for the Healthy Food Financing grant/loan program, not more than \$1.0 million for the Small Food Retailer grant program, and not more than \$500,000 for the Michigan Department of Agriculture and Rural Development's costs of program administration.

As authorized under the bill, the Healthy Food Financing Program provides for loans, grants, and forgivable loans to qualified applicants. The bill does not specify where loan repayments would be credited. To the extent that the program makes loans, and loans are repaid, we assume that loan repayments would be credited to the Healthy Food Financing Fund. Under those circumstances, the fund would effectively be a kind of revolving fund.

DETAILED ANALYSIS

Purpose

House Bill 5180 would create a new act, the Healthy Food Assistance Act. Section 1 indicates that the act has two purposes:

"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."

"Provide funding for county-based programs to provide assistance to small food retailers to increase the availability and sales of fresh and nutritious food, including fresh produce, in low- and moderate-income communities."

The bill would establish a new state-restricted fund, the Healthy Food Financing Fund, through an appropriation of \$6.5 million from the state General Fund. The fund would be established within the Michigan Department of Treasury and the state Treasurer would be required to direct the investment of the fund and credit to the fund interest and investment earnings. However, the fund would be administered by the Michigan Department of Agriculture and Rural Development (MDARD) for auditing purposes, and MDARD would have authority over the programs established in the bill.

The bill directs MDARD to expend money from the fund, upon appropriation, for two purposes: to provide funding for the *Healthy Food Financing Program*; and, to provide funding for county-based programs to provide assistance to small food retailers to increase the availability and sales of fresh and nutritious food in low- and moderate-income areas.

Healthy Food Financing Program (Section 4)

The bill would require MDARD to identify and contract with a *community development financial institution*, as defined in the bill, to establish and operate the healthy food financing program established in the bill.

The bill would permit MDARD to contract with one or more qualified nonprofit organizations or community development financial institutions to administer the program through a public-private-partnership. A community development financial institution under contract with the department would do the following: raise matching funds; promote the statewide program; evaluate applicants; underwrite and disburse grants and loans; and monitor compliance and impact.

The bill would allow up to 15% "of the money in the fund" to be used for community development financial institution administrative and operational program management costs. [The language of this section is similar to, but materially different from, the language in Section 5. It is not clear if the intention is to cap administrative costs of this program element at 15% of money in the fund or 15% of the amount earmarked for the Healthy Food Financing program.]

Project Criteria

The bill would direct the community development financial institution to create and implement an application process to ensure that financed projects meet eligibility guidelines. The bill would require that projects be located in *underserved communities* and primarily in *low-* and *moderate-income* areas. The bill establishes specific eligibility criteria for projects; eligible projects would have to provide for one or more of the following:

- Construction of new grocery stores.
- Grocery store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce and other healthy foods.
- Development and enhancement.
- Reduction of costs of local food production.
- Aggregation and processing.
- Distribution.
- Increase of retail outlets.
- Analysis and increase of marketing opportunities.

Applicant Criteria

The bill indicates that both for-profit and non-profit entities would be eligible to apply for financing. In addition, an applicant would have to meet the following specific criteria:

- Demonstrate the capacity to successfully implement the project and the likelihood that the project would be economically self-sustaining.
- Demonstrate the ability to repay the debt.
- Agree, for a period of not less than five years, to: accept supplemental nutritional assistance program (SNAP) benefits; to apply to accept special supplemental nutrition program for women, infants, and children (WIC) and to accept WIC benefits if approved; to allocate not less than 30% of retail food space for the sale of perishable foods, including fresh or frozen dairy, fresh produce, whole grains, fresh meats, poultry, and fish; to comply with all data collection and reporting requirements established by MDARD; to promote the hiring of local residents.

Project Selection Criteria

The bill also directs the community development financial institution to consider the following additional criteria in determining which qualified projects to select for financing:

- The level of need in the area to be served.
- The degree to which the project requires the investment of public financing to move forward, create impact, or be competitive and the level of need in the area to be served.
- The degree to which the project will have a positive economic impact on the underserved community, including by creating or retaining jobs of local residents.
- The degree to which the project will participate in state and local health department initiatives to educate consumers on nutrition and promote healthier eating.
- Other criteria the community development financial institution determines to be consistent with the purposes of the bill.

Eligible Uses of Project Financing

The bill authorizes the use of project financing for any of the following purposes:

- Site acquisition and preparation.
- Construction and build-out costs.
- Equipment and furnishings.
- Workforce training and security.
- Predevelopment costs such as market studies and appraisals.
- Energy efficiency measures.
- Working capital for first-time inventory and start-up costs.

Program Funding

Section 6 of the bill indicates that of the initial \$6.5 million in funding, not more than \$5.0 million could be used for the Healthy Food Financing Program. As authorized under the bill, the Healthy Food Financing Program provides for loans, grants, and forgivable loans to qualified applicants. The bill does not specify where loan repayments

would be credited. To the extent that the program makes loans, and loans are repaid, we assume that loan repayments would be credited to the Healthy Food Financing Fund. Under those circumstances, the fund would effectively be a kind of revolving fund.

Small Food Retailers Assistance Program (Section 5)

The bill would require MDARD to allocate money from the Healthy Food Financing Fund to fund community development financial institutions for county or regional departments of health or nonprofit organizations to create and operate a program to provide assistance to small food retailers within urban and rural low- and moderate-income areas to increase the sales of fresh produce and other healthy foods.

The bill would require community development financial institutions to establish guidelines for eligibility consistent with purposes of the program, as well as raise matching funds, promote the availability of funding statewide, evaluate applicants, and disburse funding. The bill also indicates that in determining which qualified projects to fund, MDARD consider the level of need in the area to be served. The bill also requires MDARD to establish monitoring and accountability mechanism for programs receiving assistance.

The bill would allow up to 15% "of the amount appropriated for this Section" to be used for community development financial institution administrative and operational program management costs. [The language of this section is similar to, but materially different from, the language in Section 4.]

Project/Applicant Criteria

The bill would direct the community development financial institution to create eligibility guidelines consistent with the section, and provide funding through an application process. To qualify for funding, an applicant would have to meet all of the following criteria:

- Be a county or regional public health department or not-for-profit entity.
- Be located in low- or moderate income areas.
- Accept or agree to accept as a condition of receiving assistance supplemental nutritional assistance program (SNAP) benefits.
- Agree to apply to accept special supplemental nutrition program for women, infants, and children (WIC) and to accept WIC benefits if eligible.
- Agree to abide by the conditions of receiving assistance.
- Collect and provide data and other information required by MDARD for monitoring, accountability, and evaluation purposes.

Provide defined goals, standards, and accountability mechanisms to ensure that expenditure of money under this section is consistent with the purpose of the bill, including identifying the basis for selecting a particular small food retailer or geographic area for assistance; providing a plan describing specific goals for increasing the sales of produce and other healthy foods by the small food retailers in the targeted area and engaging the community to support the participating small food retail stores, and standards to assess whether goals within the plan are met.

Engage an advisory group of members of other county or municipal agencies, such as planning or economic development, private or public universities, cooperative extensions, community-based organizations, and community members, to provide expertise and support and to coordinate other efforts to support small food retailers.

Ensure that funds are expended for appropriate expenses by requiring that small food retailers sign written agreements as a condition for receiving assistance, monitoring the small food retailers, and enforcing the agreements, if necessary.

Eligible Uses of Project Funding

The bill authorizes the use of Small Food Retailer project funding for any of the following purposes:

- Salary and associated costs of employees or contractors providing education, advice, or other assistance on food safety and handling, nutrition education, business operations, and promotion to small food retailers.
- Refrigeration, display shelving, or other equipment for small food retailers necessary for stocking healthy foods and fresh produce, not to exceed \$5,000 per retailer.
- Materials and supplies for nutrition education and healthy food promotion.
- Mini-grants to retailers, not to exceed \$100 per retailer to meet initial expenses incurred with participating in the program.

Project Funding

Section 6 of the bill indicates that of the initial \$6.5 million in funding, not more than \$1.0 million could be used for the Small Food Retailer grant program.

Reporting Requirement (Section 6)

The bill would require the community development financial institution to establish monitoring and accountability mechanisms for projects receiving financing. The bill also requires community development financial institutions to report annually to MDARD on the projects funded, the geographic distribution of the projects, the costs of the program,

and the outcomes, including the number and type of jobs created and health impacts associated with the program. The bill requires MDARD to provide the report to each house of the legislature.

Definitions

Section 2 of the bill includes the following defined terms:

Community development financial institution means an entity that meets all of the following:

Has previous experience lending to food retailers, producers, and other healthy food enterprises in underserved communities.

Has been in existence and operating as a public-private partnership prior to January 1, 2015.

Has the ability to raise matching capital to leverage appropriated funds.

Has the ability to underwrite loans and grants to grocers, distributors, and other food enterprises.

Has experience partnering with nonprofit food access, health, or community organizations in underserved communities.

Financing means loans, grants, and forgivable loans.

Grocery store means a for-profit or not-for-profit self-service retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries.

Low-income area means a census tract as reported in the most recently completed decennial census published by the United States Bureau of the Census that has a poverty rate of at least 20% or in which the median family income does not exceed 80% of the greater of the statewide or metropolitan median family income.

Moderate-income area means a census tract in which the median family income is between 81% and 95% of the median family income for the area.

Small food retailer means a small-scale store, corner store, convenience store, neighborhood store, small grocery, bodega, or other small retail outlet, of under 2,500 square feet, which sells a limited selection of foods and other products.

Underserved community means a census tract determined to be an area with low supermarket access by either the United States Department of Agriculture, as identified in the United States Department of Agriculture's Food Access Research Atlas, or through a

methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.