# LEGISLATIVE FISCAL ESTIMATE

# SENATE, No. 2921

# STATE OF NEW JERSEY
# 220th LEGISLATURE

DATED: JULY 5, 2022

## SUMMARY

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| **Synopsis:** | Revises various provisions of Food Desert Relief Program. |
| **Type of Impact:** | Marginal increase in State expenditures; potential decrease in State revenues. |
| **Agencies Affected:** | New Jersey Economic Development Authority and Department of the Treasury. |

**Office of Legislative Services Estimate**

| **Fiscal Impact** | **Annual Impact** |
|---|---|
| **Marginal State Cost Increase** | Indeterminate |
| **Potential State Revenue Decrease** | Indeterminate |

- The Office of Legislative Services (OLS) estimates that the bill would result in a marginal expenditure increase for the New Jersey Economic Development Authority (EDA) associated with the requirement to publish certain information on its website concerning the transfer, pledge, or sale of tax credits under the Food Desert Relief Program.

- The bill also allows the recipients of tax credits under the Food Desert Relief Program to transfer the credits to other taxpayers or pledge the credits as collateral. Although this provision would not impact the total value of tax credits that are awarded under the program, this allowance may increase the rate at which these credits are applied against actual tax liabilities. Accordingly, the bill may also result in a potential decrease in State revenues.

## BILL DESCRIPTION

This bill revises certain requirements of the Food Desert Relief Program, through which the EDA provides incentives for the establishment of supermarkets and grocery stores within food desert communities.

Notably, the bill provides several changes concerning the provision of tax credits under the program. Specifically, the bill permits the recipients of tax credits to transfer the credits to other taxpayers or pledge the credits as collateral, except that the credits may not be sold for less than

85 percent of the full amount of the credits. Under the bill, the EDA would also be required to publish certain information on its website concerning any program tax credits that are transferred, pledged, or otherwise sold. The bill also clarifies that program tax credits could not be applied against the State's gross income tax.

Additionally, the bill clarifies that the tax credits would only be made available to the first or second new supermarkets or grocery stores located in a food desert community. The bill provides that if a first or second new supermarket or grocery store leases or subleases the spaces that are used for such purposes, the supermarket or grocery would still qualify for tax credits. However, the bill also provides that in addition to the existing requirement to pay prevailing wages, the supermarket or grocery store may only qualify for tax credits if: (1) the project is not economically feasible without the tax credit award; (2) a project financing gap exists; and (3) except for demolition and site remediation activities, the entity has not commenced any construction at the site of the project before submitting an application, unless the EDA determines that the project would not be completed otherwise.

The bill adds and revises various definitions relating supermarkets, grocery stores, and food retailers.

The bill also revises the types of entities that may qualify for grants and loans under the program. In addition to other eligibility criteria, current law provides that if a supermarket or grocery store qualifies for program tax credits, the entity would also qualify for a program grant or loan. Under the bill, these supermarkets and grocery stores would no longer automatically qualify for a grant or loan. Instead, the bill provides that such eligibility would depend on whether the supermarket or grocery store meets criteria established by the EDA, which, at minimum, would include a commitment to accept benefits from federal nutrition assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), in a designated food desert community. The bill also provides that if a mid-sized food retailer or small food retailer leases or subleases the spaces that are used for selling nutritious foods, the retailer would still qualify for a grant or loan.

The bill also clarifies that when an entity receives a program grant or loan to support the costs of initiatives to ensure the food security of residents in food desert communities, the amount of the grant or loan would be limited to the costs of such initiatives.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS estimates that the bill would result in a marginal expenditure increase for the EDA associated with the requirement to publish certain information related to the transfer, pledge, or sale of tax credits under the Food Desert Relief Program. Additionally, the bill may also reduce certain State revenues by allowing the recipients of tax credits to transfer those credits to other taxpayers.

Under current law, the EDA administers the Food Desert Relief Program, which provides incentives for the establishment of supermarkets and grocery stores within food desert communities. Although the bill revises various aspects of the program, including which entities are eligible for assistance under the program, most of these revisions are not expected to impact total program expenditures or associated revenue losses. However, by allowing the recipients of program tax credits to sell the credits to other taxpayers or to pledge the credits as collateral, the bill is expected to impact State expenditures and revenues.

Specifically, the bill provides that when a program tax credit has been transferred to another taxpayer or pledged as collateral, the EDA would be required to publish information on its website concerning the transfer or pledge of credits. As a result, the EDA is expected to incur marginal expenditure increases associated with maintaining and publishing this information. However, the OLS assumes that the EDA would be able to fulfill these responsibilities without hiring additional staff.

Although allowing the transfer or securitization of tax credits would not impact the total value of credits that are awarded under the program, the OLS notes that this allowance may increase the rate at which these credits are applied against actual tax liabilities. For example, absent the ability to transfer unused credits, if a tax credit recipient does not incur sufficient tax liabilities against which to claim the credits during certain tax years, the recipient may be unable to claim a portion of their approved credits. However, by allowing the recipient to sell all or some of the credits to interested taxpayers, the bill increases the probability that all program credits will be applied against actual tax liabilities. Accordingly, the bill may result in a potential decrease in State revenues. However, given the discretionary nature of such transfers, the OLS is unable to predict the degree to which this allowance would reduce State revenue collections.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).