SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2921

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2921.

This bill revises certain requirements of the Food Desert Relief Program, through which the New Jersey Economic Development Authority (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 also 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.

Under the bill, the term "first or second new supermarket or grocery store" is defined as the first and second new supermarket or grocery store in each food desert community to be approved for tax credits under the program, except that a supermarket or grocery store may lose this designation if the project does not meet certain program milestones in a timely manner, as determined by the EDA. The bill also defines the term "new supermarket or grocery store" to include those entities that commenced construction, or commenced rehabilitation of at least 75 percent of their square footage, after the effective date of the "Food Desert Relief Act."

Notably, the bill also revises the definition of "supermarket and grocery store." Under the bill, this term is defined as a retail outlet with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products. Currently, this term is limited to retail outlets with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products. Additionally, the bill provides that when determining whether a retail outlet meets the definition of a "supermarket or grocery store" or "mid-sized food retailer," the food and related products would be based on industry standards, as determined by the EDA, except that these products would not include alcoholic beverages and products related to the consumption of such beverages.

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.

Lastly, the bill repeals section 40 of P.L.2020, c.156 (C.34:1B-308), which was enacted as part of the "Food Desert Relief Act." This statute includes certain duplicative provisions of law concerning the manner in which program tax credits can be claimed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would result in a marginal expenditure increase for the 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 the tax credits that are awarded under this 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.