

BILL ANALYSIS

Senate Research Center
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S.B. 574
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Food Research & Action Center, "low-income neighborhoods frequently lack full-service grocery stores where residents can buy" fresh or healthy foods. These residents are often forced to shop at neighborhood convenience stores, where options are likely limited to prepackaged, high-carbohydrate, or high-fat foods. Neighborhoods with "better access to supermarkets and limited access to convenience stores" tend to have healthier diets and a reduced risk of obesity.

S.B. 574 entitles an entity to a franchise tax credit for opening a grocery store or healthy corner store in a food desert if it meets certain requirements.

A "food desert" is an area determined by the state to be a low-income or high-poverty area with limited access to healthy food retailers or an area with serious limitations on healthy food access. A "corner store" is a store with fewer than 2,000 square feet of retail space, and a "healthy corner store" is a corner store that offers fresh produce and allocates at least 20 percent of retail space to perishable foods.

The tax credit is five percent of the amount the entity spent to establish the store during the 12-month period where the entity (1) made a qualifying expenditure and (2) opened the store. Qualifying expenditures include the purchase/lease of land, construction or remodel costs, and furnishing costs. Qualifying expenditures do not include inventory costs.

The Texas Department of Housing and Community Affairs must certify an entity's qualification for the tax credit and issue a certificate of eligibility. The entity will then forward the certificate and certain other cost documentation to the comptroller of public accounts of the State of Texas to claim the tax credit.

An identical bill was filed in the House (H.B. 605) by Representative Thierry.

As proposed, S.B. 574 amends current law relating to a franchise tax credit for entities that establish a grocery store or healthy corner store in a food desert.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 1 (Section 171.730, Tax Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 171.730, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 171, Tax Code, by adding Subchapter N-1, as follows

SUBCHAPTER N-1. TAX CREDIT FOR ESTABLISHMENT OF FOOD STORE IN FOOD DESERT

Sec. 171.721. DEFINITIONS. Defines "corner store," "department," "food desert," "grocery store," "healthy corner store," "supplemental nutrition assistance program," and "WIC program."

Sec. 171.722. ENTITLEMENT TO CREDIT. Entitles a taxable entity to a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.723. QUALIFICATION. Establishes that a taxable entity qualifies for a credit under this subchapter if, on or after January 1, 2020, the taxable entity opens a grocery store or healthy corner store:

- (1) located in a food desert;
- (2) located in a low or moderate income area, as determined by the United States Department of Housing and Urban Development, or that serves a customer base living in a low or moderate income area;
- (3) that begins accepting benefits under the WIC program and the supplemental nutrition assistance program not later than the 90th day after the date the store opens; and
- (4) that is open year-round.

Sec. 171.724. CERTIFICATION OF ELIGIBILITY. (a) Requires a taxable entity, before claiming a credit under this subchapter, to request from the Texas Department of Housing and Community Affairs (TDHCA) a certificate of eligibility on which TDHCA certifies that the taxable entity qualifies for a credit under Section 171.723. Requires the taxable entity to include with a taxable entity's request information required by TDHCA to determine whether the taxable entity meets the requirements of Section 171.723.

(b) Requires TDHCA to issue a certificate of eligibility to a taxable entity that qualifies for a credit under Section 171.723.

(c) Requires the taxable entity to forward the certificate of eligibility and certain documentation to the comptroller of public accounts of the State of Texas (comptroller) to claim the credit.

(d) Authorizes the comptroller, for purposes of approving a credit under this subchapter, to rely on the audited cost report provided by the taxable entity applying for the credit.

Sec. 171.725. AMOUNT OF CREDIT. (a) Authorizes a taxable entity to claim a credit for each store described by Section 171.723 equal to five percent of the amount the taxable entity spends to establish the store during the earliest 12-month period in which the taxable entity makes an expenditure to which this section applies and that includes the date the store opens for business.

(b) Provides that Subsection (a) applies to amounts spent to purchase or lease the land or building, construct or remodel the store, and furnish and equip the store.

(c) Provides that Subsection (a) does not apply to amounts spent to acquire inventory for the store.

Sec. 171.726. LIMITATIONS. (a) Provides that the total credit a taxable entity is authorized to claim under this subchapter for a tax report, including the amount of any credit carryforward under Section 171.728, may not exceed 50 percent of the amount of franchise tax due after applying all other applicable credits.

(b) Prohibits a taxable entity from conveying, assigning, or transferring a credit under this subchapter to another entity unless all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction.

Sec. 171.727. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. Authorizes a taxable entity, subject to Section 171.728, to claim a credit under this subchapter on a tax report only for an expenditure made during the period on which the report is based.

Sec. 171.728. CARRYFORWARD. (a) Authorizes a taxable entity, if it is eligible for a credit that exceeds the limitation under Section 171.726(a), to carry the unused credit forward for not more than five consecutive reports.

(b) Provides that credits, including credit carryforwards, are considered to be used in the order of a credit carryforward under this subchapter, and then a current year credit.

Sec. 171.729. APPLICATION FOR CREDIT. Requires a taxable entity to apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed. Authorizes the comptroller to promulgate an application form for the credit under this subchapter.

Sec.171.730. RULES. (a) Authorizes TDHCA to adopt rules governing the requirements to qualify for a credit under Section 171.723, including rules governing the stores that qualify as grocery stores or healthy corner stores and the areas that qualify as food deserts.

(b) Authorizes the comptroller to adopt any rules necessary to administer this subchapter other than rules described by Subsection (a).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2020.