

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SB 852

INTRODUCER: Senator Siplin

SUBJECT: Healthy Foods Retail Act

DATE: February 27, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Buford</u>	<u>AG</u>	Favorable
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>BGA</u>	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill makes legislative findings regarding obstacles to a healthy diet, obesity resulting from a poor diet, the effect of inadequate access to retailers selling healthy, affordable foods, and the resulting impact on the health of low income families, children, and elderly people. It provides definitions for certain terms used in the act. The bill requires the Department of Agriculture and Consumer Services (DACS) to establish a financing program, to the extent funds are available, to fund healthy food retailers and it sets guidelines for participation, funding limitations, determination of eligible projects, types of expenditures authorized, requirements to be met by applicant, basis for setting the amount of funding, establishment of controls and compliance monitoring, and legislative reporting. It authorizes funding to be leveraged with other funding and it provides rule making authority for the department to administer this program.

The DACS estimates it would need an additional three positions and \$156,400 to implement and administer this program in the 2012-2013 fiscal year. This impact may be offset by an anticipated application fee but the amount of revenue from this source is unknown at this time.

The bill provides that the financing program proposed will be established to the extent funds are available. As there is no dedicated appropriation of funds for the program, the establishment of the program will depend upon a reallocation in an undetermined amount of existing department funds.

This bill creates unnumbered sections in the Florida Statutes.

II. Present Situation:

Let's Move is a comprehensive initiative aimed at solving the problem of obesity. At its launch in February 2010, the President of the United States signed a Presidential Memorandum creating a Task Force on Childhood Obesity. *Let's Move* reports that one in three children in America is overweight or obese and likely to suffer from diabetes at some point in their lives as well as other obesity-related health problems like heart disease, high blood pressure, cancer and asthma.¹ Among other suggestions, the organization has outlined actions to foster healthier food choices in school and recommendations for providing access to healthy, affordable food. In connection with this initiative, the nation's leading health foundations have created the Partnership for a Healthier America to facilitate partnerships with States, communities, and the non-profit and private sectors to address childhood obesity.²

It is estimated that more than 23 million Americans, more than one-fourth of them being children, live in low-income urban and rural neighborhoods that are more than a mile from a supermarket with access to affordable, quality, and nutritious foods, resulting in many children not eating recommended levels of fruits, vegetables, and whole grains.³

PolicyLink is a national research and action institute that was founded in 1999 for the purpose of advancing economic and social equity with a focus on low income communities and communities of color by relying on the experience of and sharing findings and analysis with national and local policymakers.⁴ In a publication issued July 20, 2011, PolicyLink followed up on a prior report prepared by PolicyLink and The California Endowment, a private health foundation, in 2005.⁵ The publication highlights the relationship between obesity and lack of access to healthy, fresh food, and particularly the problem it poses for low-income children and children of color, who face some of the highest rates of obesity. It found the situation to exist in both urban and rural communities. Strategies suggested by the report to develop new healthy food retail opportunities include: create financing sources to develop new grocery stores in low-income neighborhoods; improve small stores; start and sustain farmers' markets; and connect local farmers to low-income consumers. In summary, the PolicyLink report maintains that better access contributes to healthier eating which contributes to lower rates of obesity and diet-related disease. The PolicyLink, in conjunction with the Food Trust,⁶ reported similar findings in a publication issued March 15, 2010⁷ emphasizing that the lack of access to healthy and affordable foods in low-income communities has created "food deserts" due to the abundance of convenience stores and fast food restaurants that sell cheap, high-fat, high-sugar, processed foods while offering few healthy options, with a corresponding high presence of obesity, diabetes, and other diet-related diseases. There is a general agreement about the consequences of the lack of

¹ See <http://www.letsmove.gov> website. Last visited December 12, 2011.

² See <http://www.ahealthieramerica.org> website. Last visited December 13, 2011.

³ First Lady Michelle Obama Launches Let's Move: America's Move to Raise a Healthier Generation of Kids; press release dated February 9, 2010. Found at <http://www.whitehouse.gov/the-press-office/first-lady-michelle-obama-launches-lets-move>.

⁴ See <http://policylink.org>. Last visited January 3, 2012.

⁵ Healthy Food, Healthy Communities, <http://www.policylink.org/site/c.lkIXLbMNjRE/b.5158569/k.A334/Publications.htm>.

⁶ The Food Trust was founded in 1992 as a non profit entity whose goal is to make affordable, healthy food available to all. See <http://thefoodtrust.org>. Last visited January 3, 2012.

⁷ The Grocery Gap; Who Has Access to Healthy Foods and Why It Matters, www.policylink.org/atf/cf/...BB43-406D.../FINALGroceryGap.pdf.

access to healthy foods and suggested solutions range from developing and expanding retail outlets to removing transportation barriers to allow for better access.

At the federal level, the Healthy, Hunger Free Kids Act of 2010⁸ reauthorizes expiring provisions of the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide funding for federal school meal and child nutrition programs and increase access to healthy food for low-income children. One of its aims is to ensure that more local foods are used in the school setting by helping communities establish local farm to school networks. On November 30, 2011, bipartisan bills were introduced in both the United States Senate and House to establish a Healthy Food Financing Initiative (HFFI)⁹ which will, if it becomes law, appropriate \$125 million to improve access to healthy foods in underserved areas by providing loans and grants to eligible fresh, healthy food retailers as administered by a National Fund Manager in partnership with local groups, and state and municipal governments.

Several states have adapted financing initiatives aimed at facilitating access to healthy foods in underserved areas.¹⁰ Louisiana adopted the first statewide Healthy Food Retail Act in 2009 contingent upon funding by the state.¹¹ While there has been no appropriation to fund this program on a statewide basis, the National Policy & Legal Analysis Network to Prevent Childhood Obesity cites the city of New Orleans' use of Community Development Grant Money as a creative way to fund the state's Healthy Food Retail program.¹²

The DACS has created the Florida "Farm to School" program to bring nutritious, fresh fruits and vegetables from local farms to schools. The DACS is not intended to be a party to any agreement but a source of information to promote opportunities for schools and growers to work together to increase the volume of locally grown produce that is served in school cafeterias and dining halls.¹³

The Junior League of Greater Orlando (League) is a community service organization that created HIP kids (Healthy Informed Playful Kids) to address immediate and long term challenges faced by hungry children. As an outgrowth of that cause, the Chair of the Public Affairs Committee researched nationwide programs aimed at bringing healthy foods into food deserts, defined for their purposes as low-income communities whose closest grocery store or market is at least 1-5 miles from that community resulting in little to no access to fresh fruits and vegetables and other healthy foods.¹⁴ Examples of successful efforts were found in several states. A result was that this bill, which is modeled after the Louisiana Healthy Food Retail Act of 2009, was filed.

⁸ Public Law 111-296, Dec 13, 2010; found at <http://www.gpo.gov/fdsys/pkg/PLAW-111-publ296/pdf>.

⁹ S. 1926 and H.R. 3525.

¹⁰ Pennsylvania, see <http://www.thefoodtrust.org/php/programs/fffi.php>. Site last visited January 3, 2012; Illinois, see <http://www.rwjf.org/publichealth/digest.jsp?id=10962>. Site last visited January 4, 2012; New York, see <http://www.esd.ny.gov/BusinessPrograms/HealthyFoodHealthyCommunities.html>. Site last visited January 4, 2012; and New Jersey, see http://www.trfund.com/financing/realstate/NJ_FoodAccessInitiative_HandoutwApp.pdf. Site last visited January 4, 2012.

¹¹ Chapter 3-D. Healthy Food Retail Act, <http://legis.state.la.us/lss/newWin.asp?doc=670617>.

¹² Financing Healthy Food Retail & Promoting Physical Activity Opportunities, Manel Kappagoda, JD, MPH, April 9, 2010, see <http://www.ncsl.org/portals/1/documents/health/MKappagodaSF10.pdf>.

¹³ <http://www.florida-agriculture.com/FarmToSchool>. Site last visited December 12, 2011.

¹⁴ Telephone conversation with Katherine Martin, Chairperson, December 3, 2012.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the “Healthy Foods Retail Act.”

The bill suggests the following legislative findings:

- a) Low income families, children, and elderly people face obstacles to a healthy diet when fresh fruits and vegetables and other healthy foods aren’t readily available or affordable. National research indicates that these types of residents are most often affected by inadequate access to supermarkets and other retailers that sell healthy foods as well as by high rates of obesity.
- b) Obesity, resulting from poor diet and physical inactivity, is the fastest growing cause of disease and death in the United States and especially puts adults and children at risk for developing serious health problems.
- c) People who have better access to retail food outlets that sell fresh fruits, vegetables, and other healthy food tend to have healthier diets and lower levels of obesity according to studies.
- d) The development of quality retail food outlets creates jobs, expands markets for farmers, and supports economic vitality in underserved communities.
- e) The purpose is to establish a program to:
 - provide a source of financing for food retailers in underserved communities;
 - increase access to affordable healthy food;
 - promote sale and consumption of fresh fruits and vegetables, especially those that are locally grown; and
 - support expanded economic opportunities in low-income and rural communities.

The bill provides the following definitions for this act:

- a) “Department” means the Department of Agriculture and Consumer Services.
- b) “Funding” means grants, loans, or a combination of grants and loans.
- c) “Healthy food retailers” means for-profit or not-for-profit retailers that sell high-quality fresh fruits and vegetables at competitive prices.
- d) “Program” means a public-private partnership administered by the department to provide a dedicated source of financing for food retailers that provide increased access to the supply of healthy food contemplated by this act.
- e) “Underserved community” means a geographic area located in a lower income or high-poverty area with limited access to healthy food retailers.

The bill directs the department to establish a financing program, to the extent funds are available, to fund healthy food retailers that provide access to affordable healthy food in underserved communities in accordance with the following guidelines:

- a) The department may contract with qualified nonprofit organizations or community development financial institutions to administer the program, raise matching funds, provide marketing support, evaluate applicants, make award decisions, underwrite loans, and monitor compliance and impact as well as coordinate with complementary nutrition assistance and educational programs.
- b) Funding shall be provided on a competitive, one-time basis for eligible projects.
- c) Types of projects that may be funded by the program are:
 - new construction of supermarkets and grocery stores;

- store renovations and expansion and infrastructure upgrades that improve availability and quality of fresh produce;
 - marketing and distribution outlets that enable food retailers in underserved communities to regularly obtain fresh produce; and
 - other projects that meet the intent of this act to create or improve access to healthy food retailers.
- d) Specific purposes for which funds may be used, excluding any use for a restaurant, are:
- site acquisition and preparation;
 - construction costs;
 - equipment and furnishings;
 - workforce training;
 - security;
 - predevelopment costs such as market studies and appraisals; and
 - working capital for first-time inventory and start-up costs.
- e) For-profit or not-for-profit entities, both private and public, may apply for funding.
- f) Applicants must meet the following criteria:
- the project must benefit an underserved community;
 - a meaningful commitment to sell fresh fruits and vegetables must be demonstrated that will be measured by standards developed by the department;
 - vouchers issued by the Supplemental Nutrition Assistance Program (SNAP) must be accepted and clients of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) must be served. For program applicants that are not eligible to be included in either of these two categories, the department shall establish standards to measure a meaningful commitment to serve low-income households.
- g) The amount of funding shall be based on the following criteria:
- a demonstrated capacity to successfully implement the project, including relevant experience and likelihood of self-sustainability;
 - the ability of applicant to repay debt;
 - the degree to which the project requires public funding and the level of need in the area to be served. Consideration may be given to factors that indicate accessibility to retail outlets for low-income residents, such as proximity to public transit lines;
 - the degree to which the project will promote sales of fresh produce, especially locally grown;
 - the degree to which the project will have a positive impact on the underserved community, including job creation or retention for local residents; and
 - other criteria consistent with this act as determined by the department.
- h) The department shall establish benchmarks and reporting requirements to make certain the program benefits both rural and urban communities, in addition to establishing monitoring and accountability mechanisms, such as tracking fruit and vegetable sales data.
- i) The department shall prepare an annual report for the Legislature for any projects funded.

To the extent practicable, funds described in this act may be leveraged with other funding, including, but not limited to, the New Markets Tax Credits Program, federal and foundation

grants, incentives available to Empowerment Zones or Renewal Communities, operator equity, and funding from private sector financial institutions under the federal Community Reinvestment Act of 1977.

The department may adopt rules as necessary to administer this section.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private entities and public-private partnerships will benefit in an unknown amount to the extent they are awarded grants and may further benefit from loans and loan terms that facilitate or accelerate the growth or expansion of business opportunities.

C. Government Sector Impact:

The DACS is charged with implementing and administering this program and it estimates that it would incur expenditures as shown in the table below. This impact may be offset by an anticipated application fee but the amount of revenue from this source is unknown at this time.

Expenditures	FY 12-13	FY 13-14
Recurring		
FTEs (3)	\$141,430	\$141,430
Support	\$ 15,000	\$ 7,500
Total recurring	\$156,430	\$148,930

The bill provides that the financing program proposed will be established to the extent funds are available. As there is no dedicated appropriation of funds for the program, the establishment of the program will depend upon a reallocation in an undetermined amount of existing department funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.