

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1311 Healthy Food Financing Initiative Program

**SPONSOR(S):** Mariano

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	15 Y, 0 N	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

In 2016, the Legislature directed the Department of Agriculture and Consumer Services (DACS) to establish a Healthy Food Financing Initiative program (program) that is composed of and coordinates the use of federal, state, and private loans and grants, federal tax credits, and other forms of financial assistance. To implement the program, DACS may contract with nonprofit organizations or Community Development Financial Institutions (CDFI). The program is currently being administered by the Florida Community Loan Fund, which is a CDFI. For the 2016-2017 fiscal year, \$500,000 in nonrecurring funds were appropriated to DACS to implement the program.

The bill expands the functions of the program by directing DACS to provide grants and loans for the construction of independent grocery stores, supermarkets, community facilities, or other retail outlets to increase access to affordable fresh produce and other nutritious food in underserved communities.

The bill requires a qualified non-profit to be able to demonstrate certain criteria to enter into a contract with DACS to carry out the program and requires any third-party administrator that contracts with DACS to provide quarterly updates to DACS.

The bill requires DACS to give preference to Florida-based grocers, local business owners with experience in grocery stores, and grocers and business owners with a business plan that includes opportunities to purchase from farmers and growers in the state before seeking out-of-state purchases.

The bill specifies that for a project to be eligible for funding under the program, it must be located in an underserved community and provide for the construction of independent grocery stores or supermarkets; provide renovation, expansion, and infrastructure upgrades to stores and community facilities that improve the availability and quality of fresh produce and other healthy foods; or provide other projects that create or improve access to affordable fresh produce that meet the intent of the program. The bill requires the program to fund at least three eligible projects each year.

The bill does not appear to have a fiscal impact on state or local government.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Food Insecurity in Florida

The Office of Program Policy Analysis and Government Accountability (OPPAGA) prepared a research memorandum to describe low income, low access (LILA) census tracts in the state, which includes describing what is known about LILA food areas and the effects on residents of those areas.<sup>1</sup> A low income census tract is characterized by a poverty rate greater than 20 percent, or median family income of less than or equal to 80 percent of the statewide median family income, or in metropolitan areas, 80 percent of the metropolitan area median family income.<sup>2</sup> A low access census tract is characterized by an area where at least 500 people, or 33 percent of the population is greater than one mile or 10 miles from a supermarket, supercenter, or large grocery store.<sup>3</sup> The memorandum outlines the incidence of LILA census tracts statewide, specifically, the number of people that are both low income and have limited access to healthy food options by census tract; provides additional information about LILA areas in Hillsborough, Pinellas, and Suwannee Counties; and provides policy considerations to expand access to healthy food in LILA areas.

In Florida, the number of LILA tracts has decreased since 2015, but barriers to healthy food access remain.<sup>4</sup> Approximately 13.5 percent of Floridians live in census tracts that are both low income and low access, with a larger percentage of urban residents compared to rural residents.<sup>5</sup> In Hillsborough and Pinellas Counties, residents of LILA census tracts are disproportionately Black compared to other areas of the county, and the LILA census tracts have high poverty rates and few, if any, major chain supermarkets.<sup>6</sup> Public and private entities have started a range of food access initiatives in these counties, though resource constraints present a challenge. In Suwannee County, the two LILA census tracts have a higher proportion of residents that are 65 and older, have no major chain supermarkets, and stakeholders report that the largest barrier to healthy food access is transportation.<sup>7</sup>

High relative availability of unhealthy food refers to geographic areas where there is a high ratio of unhealthy food sources to healthy food sources. Such areas are sometimes referred to as food swamps. Both low-access and unhealthy food environments have been associated with a range of social, economic, and health concerns.

##### Healthy Food Financing Initiative Program

In 2016, the Legislature directed the Department of Agriculture and Consumer Services (DACS) to establish a Healthy Food Financing Initiative program (program)<sup>8</sup> that is composed of and coordinates the use of federal, state, and private loans and grants, federal tax credits, and other forms of financial assistance.<sup>9</sup> To implement the program, DACS may contract with nonprofit organizations or Community Development Financial Institutions (CDFI).<sup>10</sup> CDFIs are banks, credit unions, loan funds, microloan

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<sup>1</sup> OPPAGA, *Geographic Access to Healthy Food in Florida*, available at [https://www.flsenate.gov/Committees/Show/AG/MeetingPacket/5390/9672\\_MeetingPacket\\_5390\\_2.pdf](https://www.flsenate.gov/Committees/Show/AG/MeetingPacket/5390/9672_MeetingPacket_5390_2.pdf) (December 27, 2021). The document begins on page 4 of the PFD.

<sup>2</sup> U.S. Department of Agriculture, *Definitions*, <https://www.ers.usda.gov/data-products/food-access-research-atlas/documentation/#definitions> (last visited Jan. 30, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> OPPAGA, *Geographic Access to Healthy Food in Florida*, p. 10 available at [https://www.flsenate.gov/Committees/Show/AG/MeetingPacket/5390/9672\\_MeetingPacket\\_5390\\_2.pdf](https://www.flsenate.gov/Committees/Show/AG/MeetingPacket/5390/9672_MeetingPacket_5390_2.pdf) (December 27, 2021). The document begins on page 4 of the PFD.

<sup>5</sup> *Id. at iv.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Chapter 2016-221, Laws of Fla.

<sup>9</sup> Section 500.81, F.S.

<sup>10</sup> Section 595.81(3)(a), F.S.

funds, or venture capital providers that help families finance their first homes, support community residents starting businesses, and invest in local health centers, schools, or community centers for low income communities.<sup>11</sup> Currently, the program is being administered by the Florida Community Loan Fund, which is a CDFI.<sup>12</sup>

The goal of the program is to improve public health and the wellbeing of low-income children, families, and older adults by increasing access to fresh produce and other nutritious foods at participating independent grocery outlets that provide access to whole foods such as fruits, vegetables, whole grains, fat-free or low-fat dairy, and lean meats.<sup>13</sup> DACS must submit an annual report to the President of the Senate and Speaker of the House of Representatives on the projects, costs of the program, and the outcomes, including the number and types of jobs created under the program.<sup>14</sup> After seven years, OPPAGA is directed to review the impact and successfulness of the program.<sup>15</sup> For the 2016-2017 fiscal year, \$500,000 in nonrecurring funds were appropriated to DACS to implement the program.<sup>16</sup>

## Effect of the Bill

The bill revises the definition of “underserved community” to mean a low-income community where a substantial number of residents have low access to a full-service supermarket or grocery store.

The bill expands the functions of the program by directing DACS to provide grants and loans for the construction of independent grocery stores, supermarkets, community facilities, or other retail outlets to increase access to affordable fresh produce and other nutritious food in underserved communities.

The bill requires a qualified nonprofit to be able to demonstrate all of the following to enter into a contract with DACS to carry out the program:

- Prior experiences in healthy food financing;
- An exemption from taxation under s. 501(c)(3) of the Internal Revenue Code;
- The ability to successfully manage and operate lending and grant programs; and
- The ability to assume full financial risk for loans made under the program.

The bill specifies that any third-party administrator that contracts with DACS under the program must provide quarterly updates to DACS. Additionally, the bill authorizes DACS or a third-party administrator to make award decisions.

The bill repeals a provision that requires DACS to include the costs of the program in its annual report to the President of the Senate and Speaker of the House of Representatives.

The bill requires DACS to give preference to Florida-based grocers, local business owners with experience in grocery stores, and grocers and business owners with a business plan that includes written documentation of opportunities to purchase from farmers and growers in the state before seeking out-of-state purchases.

For a project to be eligible for funding under the program, the bill requires it to be located in an underserved community and provide for the construction of independent grocery stores or supermarkets; provide renovation, expansion, and infrastructure upgrades to stores and community facilities that improve the availability and quality of fresh produce and other healthy foods; or provide

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<sup>11</sup> CDFI Fund, *What Are CDFIs?*, [https://www.cdfifund.gov/Documents/CDFI\\_infographic\\_v08A.pdf](https://www.cdfifund.gov/Documents/CDFI_infographic_v08A.pdf) (last visited Jan. 28, 2022).

<sup>12</sup> DACS, *Healthy Food Financing Initiative*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Healthy-Food-Financing-Initiative#:~:text=Established%20by%20the%20Florida%20Legislature,grocery%20stores%2C%20independent%20supermarkets%2C%20convenience> (last visited Jan. 28, 2022); Florida Community Loan Fund, *About Us*, <https://fcflf.org/about-us> (last visited Jan. 28, 2022).

<sup>13</sup> DACS, *Healthy Food Financing Initiative*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Healthy-Food-Financing-Initiative#:~:text=Established%20by%20the%20Florida%20Legislature,grocery%20stores%2C%20independent%20supermarkets%2C%20convenience> (last visited Jan. 28, 2022).

<sup>14</sup> Section 500.81, (b)3., F.S.

<sup>15</sup> Section 500.81(4)(a), F.S.

<sup>16</sup> Chapter 2016-221, Laws of Fla.

other projects that create or improve access to affordable fresh produce that meet the intent of the program, as determined by DACS or a third-party administrator.

The bill requires the program to fund at least three eligible projects each year and specifies that funding under the program may be used for working capital for first-time inventory and startup costs, including seeds and starters for residential produce cultivation. The bill removes the requirement that only seven percent of total funds expended for any one project can be used for the acquisition of seeds and starter plants.

The bill specifies that if OPPAGA determines in its review that the program is unsuccessful after seven years, DACS must return any initial funds that have not been loaned, granted, or leveraged in a revolving loan fund to the General Revenue Fund.

The bill specifies that DACS's performance and obligation to pay for the program is contingent upon an annual appropriation by the Legislature. If DACS contracts with a third-party administrator, funds must be advanced from DACS's annual appropriation to the third-party administrator in order to implement the program.

The bill removes a provision prohibiting DACS from distributing more than \$500,000 among more than three recipients under the program.

#### B. SECTION DIRECTORY:

Section 1. Provides a directive to the Division of Law Revision.

Section 2. Transfers and renumbers s. 500.81, F.S., to 595.801, F.S., and amends that section, related to the Healthy Food Financing Initiative.

Section 3. Amends s. 595.401, F.S., related to the Florida School Food and Nutrition Act to specify the act includes ss. 595.401, F.S., through 595.601, F.S.

Section 4. Amends s. 595.402, F.S., to make conforming changes.

Section 5. Amends s. 595.404, F.S., to make conforming changes.

Section 6. Amends s. 595.408, F.S., to make conforming changes.

Section 7. Amends s. 595.501, F.S., to make conforming changes.

Section 8. Provides an effective date of July 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.