



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

June 8, 2020

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
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THRU: Josh Hamlin *JH*
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FROM: Isabel Williams *IW*
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RE: Fiscal and Policy Note
CB-3-2020, Healthy Food Priority Area Grocery Store Incentives

CB-3-2020 (*Proposed and Presented by:* Councilmembers Franklin, Hawkins, Anderson-Walker, Dernoga, Glaros, Harrison, Ivey, Streeter, Taveras, and Turner)

Assigned to the Committee of the Whole

AN ACT concerning Healthy Food Priority Area Grocery Store Incentives for the purpose of establishing a Healthy Food Priority Area Tax Credit Program and related requirements.

Fiscal Summary

Direct Impact:

Expenditures:

None. Any additional administrative costs associated with implementation should be absorbed by the Office of Finance.

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Revenues:

Negative, in the form of reduced personal property tax revenues from eligible stores.

Indirect Impact:

Potentially positive.

Current Law/Background:

The problem with food access

Limited access to supermarkets, grocery stores, or other outlets providing healthy and affordable food makes it harder for many Americans to eat a healthy diet. There are many ways to measure food store access for individuals and for neighborhoods, and many ways to define which areas have been historically referred to as “food deserts” – neighborhoods that lack healthy food sources. Typically, some or all of the following indicators are used to identify these areas:

- accessibility to sources of healthy food, as measured by distance to a store or by the number of stores in an area;
- individual-level resources that may affect accessibility, such as family income or vehicle availability; and
- neighborhood-level indicators of resources, such as the average income of the neighborhood and the availability of public transportation.

The U.S. Department of Agriculture’s term for these areas is “low-income low-access” (LILA): when a high percentage of a population with low income lives more than one mile from a supermarket or grocery store in urban areas, or more than 10 miles in rural areas.

At the County level, research by the County Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC) (2015)¹ and the Food Equity Council² have highlighted the challenges faced by many County residents in accessing healthy food. On April 4, 2019, representatives from M-NCPPC, the Food Equity Council, and the County Economic Development Corporation briefed the Planning, Housing and Economic Development Committee on the issue of food access.³ Two key findings of the Planning Department study are that: (1) there are more supermarkets in the study area than the market would normally support; and (2) it is not the lack of supermarkets, but the spatial distribution of them and the quality and price of the

¹<http://www.mncppcapps.org/planning/Publications/PDFs/304/Cover%20page.%20Introduction%20and%20Executive%20summary.pdf>

²<https://healthyfoodpolicyproject.org/case-studies/prince-georges-county-md>

³ Video of the briefing can be accessed at:

http://princegeorgescountymd.granicus.com/MediaPlayer.php?view_id=2&clip_id=1124

Presentation materials can be accessed via the Committee meeting details at:

<https://princegeorgescountymd.legistar.com/LegislationDetail.aspx?ID=3898871&GUID=15D6338B-EF4B-4B71-AFD0-CF0CD219F39C&Options=&Search=>

products they carry that create inequity in accessing healthy food. Simply stated, it is not the quantity of outlets that is the problem, but rather their locations. One strategy recommended by the Planning Department was to “[p]rovide tax incentives to food retail outlets that carry healthy food items in underserved communities.” CB-3-2020 represents an effort to implement this recommendation.

Existing County real property tax credit

In 2014, the Council enacted CB-18-2014,⁴ (codified at §§ 10-310 and 311 of the County Code) which created a tax credit against the County tax on real property that is used for a grocery store located in an economically disadvantaged or underserved area. The credit is available for up to 10 years, and is equal to 75% of the amount of the property tax imposed on the increased assessment attributable to:

- an expansion or renovation of a grocery store;
- new construction of a grocery store; or
- re-use of vacant commercial space for a grocery store.

To be eligible for the credit, a store must be located in a “Grocery Store Focus Area” which is “an economically disadvantaged or underserved area in Prince George's County.” A Grocery Store Focus Area must be either:

- (1) an area designated as a food desert by:
 - (a) the Secretary of the Maryland Department of Housing and Economic Development in accordance with Section 6-308(c) of the Housing and Community Development Article of the Annotated Code of Maryland; or
 - (b) the United States Department of Agriculture; or
- (2) a vacant commercial space in Prince George's County that:
 - (a) was previously occupied by a grocery store; or
 - (b) is located within a commercial shopping center in operation for more than twenty-five (25) years.

The real property tax credit has not been used since implementation. The regulatory requirements, complexity, lack of awareness, or availability of alternative incentives may be contributing factors to underutilization. Additionally, the real property tax credit may not be enough of an incentive alone to attract grocery stores.

State enabling legislation (HB 188 (2019))

In 2019, the Maryland General Assembly enacted a law⁵ authorizing Prince George's County to grant a property tax credit for *personal property* owned by a grocery store that completes eligible construction and is located in a “healthy food priority area.” The law requires the County governing body to, by local ordinance, designate what constitutes a “healthy food priority area” based on

⁴<https://princegeorgescountymd.legistar.com/LegislationDetail.aspx?ID=2467064&GUID=89D7CF5C-1720-430E-9E8F-6B92EED441BD&Options=ID|Text|Search=CB-18>

⁵ <http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0188/?ys=2019rs>

several factors, and allows the County to establish, by law, limits on the amount of the credit and additional eligibility requirements.

Discussion/Policy Analysis:

Key elements of CB-3-2020

In general terms, CB-3-2020 creates a credit equal to 80% annual tax credit against the County personal property taxes for a newly constructed or substantially renovated grocery store located, at the time of tax credit award, in a healthy food priority area for the first 10 taxable years after both:

- (1) completion of eligible construction of the newly constructed or substantially renovated grocery store and
- (2) expenditure on new personal property for the newly constructed or substantially renovated grocery store.

The bill also imposes additional eligibility requirements related to the amount of expenditures on new personal property, and requires:

- 35% of the total costs of eligible construction to be spent with County-based small businesses or County-based minority business enterprises;
- at least 50% of annual work hours in the grocery store to be worked by County residents each year that the store receives the credit; and
- employees of the store be paid the higher \$15.00 per hour or the State minimum wage.

The County MBE Compliance Officer and the Supplier Development and Diversity Division are responsible for certifying compliance with the eligibility requirements to the Director of Finance prior to the remittance of any tax credit proceeds. Any failure to comply with the eligibility requirements would render the grocery store ineligible to receive the credit.

Experience elsewhere

Baltimore and the District of Columbia implemented similar bills.

- In Baltimore, one additional grocery store opened after the bill.⁶
- In Washington D.C., the supermarkets that did come were concentrated in transitioning and higher income neighborhoods.⁷
 - Of the two supermarkets that opened in D.C.'s lowest income wards (Ward 7 and Ward 8), one closed after 2 years.
 - To mitigate the concentration in high earning areas, the incentive should be tailored toward the portions of the county with the greatest need

⁶ <http://baltimoredevelopment.com/incentives/tax-credits/grocery-store-tax-credit>

⁷ See pages 14-24 at https://www.taxadmin.org/assets/docs/Meetings/18rev_est/ocabor.pdf

Accountability and Outcomes

As local governments look to mitigate the financial impact of Covid-19 on their budgets, many jurisdictions will be examining ways to reduce expenses and/or generate revenue. While some jurisdictions have seen underutilization that resulted in no financial impact, the budget impact of this legislation will hinge on the frequency of use. Overutilization and abuse may cause a potentially negative financial impact.

Additionally, critics of tax credits question whether tax credits are effective in increasing the activities they attempt to promote, or whether those activities would occur regardless. For instance, in D.C., many of the grocery stores that opened would have opened without the incentive.

These are important questions to ask, since tax credits are extremely expensive and often last for years. The bill would benefit from a reporting detailing what documents a qualifying business uses. A reporting requirement would allow the County Council to evaluate the success of the bill overtime.

Additionally, the Council should consider whether the County-based small business and County resident employment eligibility requirements will present an impediment to eligibility which renders the Bill ineffective. Businesses may see these requirements as more costly than the benefit of the credit, both economically and operationally.

Impact of Covid-19

As with any legislation involving the potential of reduced revenue, the Council should consider the Bill in light of the budget impact of COVID-19 health crisis.

Fiscal Impact:

Direct Impact

If CB-3-2020 is enacted, personal property tax revenues from *eligible* grocery stores will decrease. The amount of the decrease will be dependent on the number of stores eligible and the value of the personal property owned by these stores. In essence, the cost of the bill will be directly related to its effectiveness in incentivizing grocery stores to locate in Grocery Store Focus Areas.

Indirect Impact

Enactment of CB-3-2020 may have an indirect positive fiscal impact in the County in the form of increased commerce in Focus Areas, as well benefits that inure from having a healthier population.

Appropriated in the Current Fiscal Year Budget

No.

Additional Information:

Similar bills are in place in the following areas:

Washington D.C.: https://www.taxadmin.org/assets/docs/Meetings/18rev_est/ocabor.pdf

Baltimore: <http://baltimoredevelopment.com/incentives/tax-credits/grocery-store-tax-credit>