

By: Miles

S.B. No. 574

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for entities that establish a grocery store or healthy corner store in a food desert.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter N-1 to read as follows:

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

Sec. 171.721. DEFINITIONS. In this subchapter:

(1) "Corner store" means a store that has fewer than 2,000 square feet of retail space.

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Food desert" means a geographic area in this state determined by the department to be an area that:

(A) has limited access to healthy food retailers and is located in a low-income or high-poverty area; or

(B) otherwise has serious healthy food access limitations.

(4) "Grocery store" means a store that has at least:

(A) 66 percent of the store's retail space reserved for the sale of food products;

(B) 50 percent of the store's food retail space reserved for the sale of non-prepared foods or foods intended for

1 home preparation and consumption; and

2 (C) 30 percent of the store's food retail space
3 reserved for the sale of perishable foods, including dairy
4 products, fresh produce, fresh meats, poultry, and fish, and frozen
5 foods.

6 (5) "Healthy corner store" means a corner store that:

7 (A) offers a wide variety of fresh produce for
8 sale; and

9 (B) allocates at least 20 percent of the store's
10 retail space to fresh produce and other perishable foods, including
11 dairy products.

12 (6) "Supplemental nutrition assistance program" means
13 the nutritional assistance program operated under Chapter 33, Human
14 Resources Code, and formerly referred to as the food stamp program.

15 (7) "WIC program" means the federal special
16 supplemental nutrition program for women, infants, and children
17 authorized by 42 U.S.C. Section 1786.

18 Sec. 171.722. ENTITLEMENT TO CREDIT. A taxable entity is
19 entitled to a credit in the amount and under the conditions and
20 limitations provided by this subchapter against the tax imposed
21 under this chapter.

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

25 (1) located in a food desert;

26 (2) located in a low or moderate income area, as
27 determined by the United States Department of Housing and Urban

1 Development, or that serves a customer base living in a low or
2 moderate income area;

3 (3) that begins accepting benefits under the WIC
4 program and the supplemental nutrition assistance program not later
5 than the 90th day after the date the store opens; and

6 (4) that is open year-round.

7 Sec. 171.724. CERTIFICATION OF ELIGIBILITY. (a) Before
8 claiming a credit under this subchapter, a taxable entity must
9 request from the department a certificate of eligibility on which
10 the department certifies that the taxable entity qualifies for a
11 credit under Section 171.723. The taxable entity must include with
12 the taxable entity's request information required by the department
13 to determine whether the taxable entity meets the requirements of
14 Section 171.723.

15 (b) The department shall issue a certificate of eligibility
16 to a taxable entity that qualifies for a credit under Section
17 171.723.

18 (c) The taxable entity must forward the certificate of
19 eligibility and the following documentation to the comptroller to
20 claim the credit:

21 (1) an audited cost report issued by a certified
22 public accountant, as defined by Section 901.002, Occupations Code,
23 that itemizes the taxable entity's expenditures to which Section
24 171.725 applies;

25 (2) the date the grocery store or healthy corner store
26 first opened for business and evidence of that opening; and

27 (3) an attestation of the total amount of the taxable

1 entity's expenditures to which Section 171.725 applies.

2 (d) For purposes of approving a credit under this
3 subchapter, the comptroller may rely on the audited cost report
4 provided by the taxable entity applying for the credit.

5 Sec. 171.725. AMOUNT OF CREDIT. (a) A taxable entity may
6 claim a credit for each store described by Section 171.723 equal to
7 five percent of the amount the taxable entity spends to establish
8 the store during the earliest 12-month period:

9 (1) in which the taxable entity makes an expenditure
10 to which this section applies; and

11 (2) that includes the date the store opens for
12 business.

13 (b) Subsection (a) applies to amounts spent to:

14 (1) purchase or lease the land or building for the
15 store;

16 (2) construct or remodel the store; and

17 (3) furnish and equip the store.

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

20 Sec. 171.726. LIMITATIONS. (a) The total credit a taxable
21 entity may claim under this subchapter for a tax report, including
22 the amount of any credit carryforward under Section 171.728, may
23 not exceed 50 percent of the amount of franchise tax due after
24 applying all other applicable credits.

25 (b) A taxable entity may not convey, assign, or transfer a
26 credit under this subchapter to another entity unless all of the
27 assets of the taxable entity are conveyed, assigned, or transferred

1 in the same transaction.

2 Sec. 171.727. PERIOD FOR WHICH CREDIT MAY BE CLAIMED.

3 Subject to Section 171.728, a taxable entity may claim a credit
4 under this subchapter on a tax report only for an expenditure made
5 during the period on which the report is based.

6 Sec. 171.728. CARRYFORWARD. (a) If a taxable entity is
7 eligible for a credit that exceeds the limitation under Section
8 171.726(a), the taxable entity may carry the unused credit forward
9 for not more than five consecutive reports.

10 (b) Credits, including credit carryforwards, are considered
11 to be used in the following order:

12 (1) a credit carryforward under this subchapter; and

13 (2) a current year credit.

14 Sec. 171.729. APPLICATION FOR CREDIT. A taxable entity
15 must apply for a credit under this subchapter on or with the tax
16 report for the period for which the credit is claimed. The
17 comptroller may promulgate an application form for the credit under
18 this subchapter.

19 Sec. 171.730. RULES. (a) The department may adopt rules
20 governing the requirements to qualify for a credit under Section
21 171.723, including rules governing the stores that qualify as
22 grocery stores or healthy corner stores and the areas that qualify
23 as food deserts.

24 (b) The comptroller may adopt any rules necessary to
25 administer this subchapter other than rules described by Subsection
26 (a).

27 SECTION 2. This Act applies only to a report originally due

1 on or after the effective date of this Act.

2 SECTION 3. This Act takes effect January 1, 2020.