

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2791

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 5, 2022

SUMMARY

- Synopsis:** Provides sales and use tax exemption for certain purchases made by certain supermarkets and grocery stores located within urban enterprise zones.
- Type of Impact:** Annual State revenue decrease; Annual indeterminate increase in State expenditures.
- Agencies Affected:** Department of the Treasury and Department of Community Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual Impact</u>
State Cost Increase	Indeterminate
State Revenue Decrease	Up to \$50,000

- The Office of Legislative Services (OLS) concludes that the bill would decrease annual State revenues by up to \$50,000 and increase annual State expenditures by an indeterminate amount associated with the expansion of the unlimited sales and use tax exemption for certain supermarkets and grocery stores located within urban enterprise zones.
- To qualify for the unlimited sales and use tax exemption, a supermarket or grocery store located within an urban enterprise zone would be required to annually apply to the Department of Community Affairs (DCA) and meet certain criteria concerning the employment or recruitment of certain types of persons.
- The OLS is unable to quantify the anticipated reduction in annual State revenue because it cannot predict how many supermarkets or grocery stores would: (1) meet the criteria necessary to qualify for the unlimited exemption; or (2) qualify for the unlimited exemption under the bill's expanded definition of "supermarket or grocery store." However, if all supermarkets or grocery stores located in urban enterprise zones qualified for the unlimited exemption, the OLS estimates that the bill would result in a \$21,134 decrease in annual sales and use tax collections.

- The bill is also expected to result in an indeterminate annual increase in DCA expenditures associated with the processing and review of applications for the unlimited sales and use tax exemption, as well as the annual provision of notice to supermarkets and grocery stores and One Stop Career Centers.

BILL DESCRIPTION

This bill expands the existing sales and use tax exemption for supermarkets and grocery stores located within food desert communities to include certain supermarkets and grocery stores located within urban enterprise zones.

Under current law, the sales and use tax is not imposed on certain purchases made by qualified businesses for their exclusive use within an urban enterprise zone. In this circumstance, the receipts from the first \$100,000 of retail sales of tangible personal property (except motor vehicles and energy) and sales of services (except telecommunications services and utility services) are exempt from the sales and use tax. However, if a supermarket or grocery store is located within a food desert community, the business is eligible for an uncapped sales tax exemption on these purchases, including purchases in excess of the first \$100,000 in qualifying sales.

Under the bill, the uncapped sales tax exemption for supermarket and grocery stores would no longer be limited to those businesses located within food desert communities. Instead, the bill provides that the uncapped exemption would also apply to certain supermarkets or grocery stores that are located within an urban enterprise zone and receive an annual certification of eligibility from the DCA.

To qualify for the certification, a supermarket or grocery would be required to apply and demonstrate to the DCA that during the 12-month period immediately preceding the date of application: (1) not less than 30 percent of the employees hired by the supermarket or grocery store were comprised of persons who were unemployed for not less than three months or persons with a disability; or (2) not less than 35 percent of the employees hired by the supermarket or grocery store are residents of a municipality in which the urban enterprise zone has been established, and the supermarket or grocery store actively participated with one or more One Stop Career Centers in the recruitment of unemployed persons and persons with a disability. The One Stop Career Centers would also be required to provide written documentation to the DCA attesting to the actions of the supermarket or grocery store. The bill also requires the DCA, in consultation with the Department of Labor and Workforce Development, to provide annual written notice to supermarkets and grocery stores within urban enterprise zones and One Stop Career Centers concerning the provisions of the bill.

Additionally, the bill expands the definition of “supermarket or grocery store” for the purposes of the sales tax exemption. Under the bill, this term is defined as any retail outlet with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products. Under current law, this term includes retail outlets with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products.

The bill clarifies that the existing limitation for the sales and use tax exemption for businesses in an enterprise zone, and for erecting structures or buildings on or improving, altering or repairing certain real property of a qualified business, applies annually to the first \$100,000 of annual qualifying purchases.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would decrease annual State revenues by up to \$50,000 and increase annual State expenditures by an indeterminate amount.

Notably, the bill expands the existing sales and use tax exemption for supermarkets and grocery stores located within food desert communities to include certain supermarkets and grocery stores located within urban enterprise zones. To qualify for the unlimited sales and use tax exemption, a supermarket or grocery store located within an urban enterprise zone, but outside of a food desert community, would be required to annually apply to the DCA. Moreover, these supermarkets would also be required to meet certain criteria concerning the employment or recruitment of certain types of persons in order to be approved for the unlimited sales and use tax exemption. The bill also expands the definition of “supermarket or grocery store” to allow certain additional entities to qualify for the exemption.

Accordingly, the bill is expected to decrease annual State revenues by increasing the number of supermarkets and grocery stores that qualify for the unlimited sales and use tax exemption. However, the OLS is unable to predict how many supermarkets or grocery stores would: (1) meet the criteria necessary to qualify for the unlimited sales and use tax exemption; or (2) qualify for the unlimited sales and use tax exemption by virtue of the bill’s expanded definition of “supermarket or grocery store.” As a result, the OLS is unable to quantify the anticipated decrease in State revenue. However, if all supermarkets or grocery stores located within urban enterprise zones qualified for the unlimited exemption, the OLS estimates that the bill would result in a \$21,134 decrease in annual sales and use tax collections, based on information provided by the DCA.

The bill is also expected to increase annual DCA expenditures associated with the processing and review of applications for the unlimited sales and use tax exemption. In addition, the DCA would also incur additional annual expenses associated with the requirement to provide annual notice to supermarkets and grocery stores, as well as One Stop Career Centers. However, the OLS is unable to determine the magnitude of these cost increases or whether these responsibilities could be accomplished through existing staff. As such, the OLS is unable to quantify the anticipated increase in State expenditures.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).