

DATE: February 9, 2021

BILL NO.: Senate Bill 365

COMMITTEE: Senate Committee on Education, Health, and Environmental Affairs

TITLE: Neighborhood Business Development Program - Food Desert Projects - Business Retention

SPONSORS: Sen. McCray

Letter of Information

Description of Bill:

Senate Bill 365 would require the Department of Housing and Community Development's Neighborhood Business Works small business lending program to provide loan forgiveness to certain business entities that provide access to fresh foods in designated food deserts, and increase the amount of funding eligible for this forgiveness to \$100,000.

Background:

The ability for a local jurisdiction to designate a food desert within a Priority Funding Area was created by the Department's Fresh Food Financing Initiative in 2014. While food deserts are a significant problem, we believe that there was not sufficient enough incentive for local governments, or fresh food businesses that may be interested in locating in a de facto food desert, to pursue the designation and associated loan support for fresh food activities. This bill seeks to address that by enhancing the incentives for jurisdictions to designate food deserts and for businesses to apply for funding.

While the Department has no way of assessing whether this bill creates an attractive enough incentive, we would like to point out that loan forgiveness is generally considered taxable income by the Internal Revenue Service, and a recipient of this loan forgiveness would be liable for any taxes due on the amount of the forgiven loan in the tax year in which forgiveness occurs. For the maximum \$100,000 loan eligible for forgiveness under this bill, a business may be liable for up to 37% in federal taxes if they are a pass through entity, or up to 21% if they pay corporate taxes. State taxes would also be owed unless specifically exempted. These tax payments would either be due quarterly or upon annual filing.

Also, this bill would either have a significant negative impact on the Department's small business lending capacity or would result in a significant increase in General Funds. Senate Bill 365 allows for operating expenses to be an allowable purpose of the financial assistance provided to an eligible business. The Neighborhood Business Works program is funded primarily through GO Bonds, plus Special Funds resulting from repayment of program loans. GO Bonds are not eligible to be used for operating expenses, therefore any funding from this program would have to come from Special Funds or General Funds. If

Special Funds are used, the Special Fund balance will be depleted as a result of the loan forgiveness, and will render the program unable to offer financial assistance for business operations, including for this incentive. If General Funds are intended to be used, the Department would require an appropriation of General Funds commensurate with expected program assistance.