



DEPARTMENT OF AUDITS AND ACCOUNTS

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Greg S. Griffin
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January 17, 2020

Honorable Penny Houston
State Representative
245 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill (LC 43 1447)

Dear Representative Houston:

The bill would eliminate the June 30, 2021 sunsets of exemptions from state sales and use tax for sales of food and food ingredients to qualified food banks and for donations of the same to qualified nonprofit agencies for hunger purposes. It would also add a new exemption for donations of food and food ingredients for disaster relief purposes, with an assumed effective date of July 1, 2020.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated minimal revenue loss in FY 2021 due to the new exemption related to donations for disaster relief purposes. In FY 2022, the revenue loss increases to \$2.0 million due to the elimination of the sunset for the bill's two other exemptions. Local governments would have a revenue loss of \$1.6 million in FY 2022. Revenue losses are estimated to increase slightly in subsequent years. The attached appendix details the analysis.

Table 1. LC 43 1447 Elimination of Sunsets, Effect on State Revenues

(\$ millions)	FY 2021	FY 2022	FY2023	FY 2024	FY 2025
State Revenue Impact*	(\$0.02)	(\$2.0)	(\$2.0)	(\$2.1)	(\$2.1)
Local Revenue Impact	(\$0.02)	(\$1.6)	(\$1.7)	(\$1.7)	(\$1.8)

*Totals not adding due to rounding

Impact on State Expenditures

The Department of Revenue would not require additional funding to implement the bill.

Sincerely,

Greg S. Griffin
State Auditor

/s/ Greg S. Griffin

Kelly Farr, Director
Office of Planning and Budget

/s/ Kelly Farr

GSG/KF/mt

Analysis by the Fiscal Research Center

Under current law, O.C.G.A. §48-3-57.1 provides a sales and use tax exemption for sales of food and food ingredients to qualified food banks through June 30, 2021. O.C.G.A. §48-3-57.2 provides a sales and use tax exemption for donations of food and food ingredients to qualified nonprofit agencies for use for hunger relief purposes through June 30, 2021. The proposed legislation would eliminate both sunset provisions and also add to the exemption for the donation of food and food ingredients to qualified nonprofit organization language to include donations for the purpose of disaster relief.

Absent the repeal of the sunset provisions, purchases of food and food ingredients by food banks would be subject to state sales tax (the existing exemption for groceries applies only to individual purchasers, not businesses), and donations of food and food ingredients for hunger and disaster relief purposes would be subject to state use tax, in both cases starting on July 1, 2021. In the case of food donations by individuals to nonprofits, it is assumed that such donors will continue to pay sales tax at the time of purchase, so only donations by businesses (where the receiving entity would otherwise owe use tax) are considered.

Estimated effects on state sales and use tax revenues from elimination of the sunset provisions are based on the following reported facts and assumptions:

- Data from DOR indicate that in FY 2018 qualified food banks purchased \$5.4 million in food and food ingredients and received 59.9 million pounds of food donated by retail business partners.
- Feeding America, a non-profit association of food banks, estimates that the retail value of donated food is about \$1.69 per pound, on average. Georgia food banks apparently concur with this estimate as, in some cases, they use it in their audited financial statements. The estimates assume this value per pound for all donated food.
- Feeding America also estimates that 62 percent of all food donated by business partners to food banks is through a “food rescue” type program where foods from restaurants and retailers that are otherwise safe, but which would have been disposed, are donated. Under current state regulations (Rule 560-12-1-14) and independent of the exemptions under this bill, such donations of unusable or unsalable goods do not constitute a taxable sale. The estimates thus assume that 62 percent of business donations would not be taxable.
- DOR data also indicate that the value of food purchased by qualified food banks plus the value of their food donations from retailers was increasing by about 2.8 percent per year. The estimates assume that the amount of food purchases by qualified food banks and the value of food donations by business partners will increase at this annual rate through FY 2025.
- In the wake of Hurricane Michael, The Georgia Food Bank Association reported providing about 2 million pounds of food to hurricane victims and subsequently suggested to their members to partner with emergency response organizations and keep on hand food for the purpose of disaster relief. The estimate assumes 630 thousand pounds of additional food donations by business partners per year to account for this additional inventory.

●In addition to food banks, private nonprofit disaster relief organizations are also eligible for the exemption. For example, the Salvation Army’s response to Hurricane Michael included providing 750,000 meals, 380,000 drinks, and 520,000 snacks in affected areas of Georgia. Using similar data and assumptions to that described above for donations to food banks, Salvation Army’s response to Hurricane Michael is estimated to include donations of food and food ingredients with a retail value of approximately \$285 thousand dollars that would have been taxable in the absence of 57.3. Due to the unpredictability of such large-magnitude disasters, the estimates assume an average disaster response of about half that amount, or \$142 thousand, per year through FY 2025.

Table 2 below projects the estimated value of food purchases and donations eligible for these exemptions through FY 2025. Table 1 reports the state and local revenue impacts of these exemptions, net of amounts exempted under current law up through the current sunset date.

Local estimates in Table 1 assume an average local tax rate of 3.33 percent, the population-weighted average local sales tax rate in Georgia as of July1, 2019, according to the Tax Foundation.

Table 2. Net Value of Food Purchased by Food Banks or Donated for Hunger and Disaster Relief by Business Establishments

<i>(\$ millions)</i>	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Purchases (57.1)	\$5.9	\$6.0	\$6.2	\$6.4	\$6.6
Donations (57.2)*	\$42.4	\$43.6	\$44.8	\$46.0	\$47.3
Total net value**	\$48.1	\$49.4	\$50.8	\$52.2	\$53.7

* Donations are net of unsalable or unusable food donated through food rescue programs.

** Totals may not sum exactly due to rounding.