

PUBLIC HEARING
ON
Bill 20-677, “D.C. Urban Farming and Food Security Act of
2014”

Before the
Committee of the Whole
Council of the District of Columbia

The Honorable Phil Mendelson, Chair

and

Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Chair

June 12, 2014, 11:00 a.m.
John A. Wilson Building, Room 412



Testimony of
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Good morning, Chairman Mendelson, Chairman Evans and the members of the two committees. My name is Yesim Yilmaz, Director of Fiscal and Legislative Analysis at the Office of Revenue Analysis. I am pleased to testify for the Office of the Chief Financial Officer on Bill 20-677, D.C. Urban Farming and Food Security Act of 2014.

The Urban Farming and Food Security Act requires the District to identify vacant, District-owned land that could be used for food production. The bill also proposes property tax incentives for transforming privately owned land into urban farms and gardens, and provides income tax incentives to individuals and business entities to increase donations to District shelters and non-profits.

Income tax credits

My comments on this bill will largely focus on the tax incentives proposed by the bill. First, the section on income tax credits offered to individuals, corporations and unincorporated entities is titled “Farm to Food” but as drafted, anyone could claim this credit, so long as they donate some food, whether they grew it themselves, or purchased it from a supermarket. It is important to clarify that this is indeed the intent. If so, the fiscal implications could be drastic.

The non-refundable tax credit offered by the bill is worth much more to individuals and entities compared to the charitable contribution deductions allowed under current law. Our tax data can help illustrate how drastic the impact could be. In the District, a third of District’s 300,000 individual income tax filers have claimed some charitable deduction. Given our

marginal tax rates, each dollar deducted yields about 9 cents in tax benefits. Under the proposed bill, each dollar counted towards food donations would result in a dollar of reduction in taxes. If the same share of our taxpayers took full advantage of the offered tax credit, and claimed \$150 worth of donations per year, the fiscal impact would be \$13.5 million. It should be noted that, the median charitable contribution deduction for individual taxpayers is \$2,280—that is very close to the limit of \$2,500 set by the bill.

Similar observations can be made for corporate and unincorporated businesses. Our tax data shows that among firms that pay taxes above the minimum franchise tax, over 11,000 (corporations and UB combined) show charitable contribution, on average, greater than the \$5000 allowed. If each firm were to take \$500 in credits, for example, compared to the current allowance of deductions, the cost would be over \$5 million per year. It should be noted that because District tax credits could increase federal taxable income for corporations. Our estimate is that for business entities, a \$1 D.C. tax credit is equivalent to \$0.70 in income due to federal tax treatment of this credit.

Property tax credits

The bill also proposes a 50 percent reduction in real property taxes to owners who lease their land, or a proportion of it, for farming. First, as drafted, the benefit would be available to both individuals and entities. If the Council's intent is to limit the abatement to individuals only, then this intent could be made clearer in the language. Second, from an administrative perspective, the benefit could be burdensome in cases where only a portion of the land is leased. OTR would have to verify that share with every new abatement

application. It would be simpler to allow a reduction of the assessed value by a specified amount, such as is done with homesteads, or to allow a reduction in tax on the entire property by a certain percentage. Under any one of these scenarios, there will be a fiscal impact from the foregone property taxes, but we would like to understand the intended process a bit better before determining this impact.

Other items related to the fiscal impact analysis

Lastly, disposing or leasing District property to be used for farming purposes would not have a fiscal impact since assets are not a part of the District's budget and financial plan. But, it would be important to understand other obligations that would fall on the District. For example, irrigating these lands could be costly, and may not be supported by capital investments. The cost of establishing the necessary pipes and spigot could be in the range of \$15,000 to \$20,000 per parcel. Were the District able to identify all 25 parcels of vacant land, as required by the legislation, the cost could be up to \$500,000. These costs would have to be accounted for, unless explicitly made the responsibility of the lessee.

Technical corrections

Lastly, some ambiguous terms in the bill would make legal interpretation difficult. I have included these at the end of my testimony, and OCFO tax counsel would be more than happy to work with you to clarify these terms.

This concludes my testimony. I am happy to answer any questions you might have on this matter.

Appendix: Ambiguous terms in the legislation

1. “unrelated” describing the relationship between the land owner and the lessee. It could mean ownership or family relationships, and needs clarification.
2. “small-scale farming” needs definition, including a description of what test OTR would apply and over what entity. It could be the size of the farm or the gross receipts, but it should also be clarified whether the test applies to a single plot or the combined plots owned or operated by a single entity, or entities that are owned by the same parent company.
3. OTR would like clarification on the meaning of the phrase beginning with the word “provided” on page 7, lines 2-3 of the introduced legislation. Is it designed to limit the deduction only to the leased lot, and not abutting real property owned by the same lessor? Or is this intended to prevent neighboring owners from leasing each other’s land for farming and creating a tax deduction? How about a farmer that farms his own land? Would the farmer have a special tax treatment?
4. It would help to refer to the property as a “lot” to specify, and not simply “real property.”
5. It should be noted that to qualify for the abatement, as structured, the owner must apply for it, and then submit annual reports in its use. The abatement would end when the lease term ends.