

4924

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to the purchase
of local food products by school districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 9 of section 103 of the general municipal law,
2 as amended by chapter 269 of the laws of 2004, is amended to read as
3 follows:
4 9. Notwithstanding the foregoing provisions of this section to the
5 contrary, a board of education [may] SHALL, on behalf of its school
6 district, [separately purchase eggs, livestock, fish, dairy products
7 (excluding milk), juice, grains, and species of fresh fruit and vegeta-
8 bles directly from New York State producers or growers, or associations
9 of producers and growers] REQUIRE THAT ESSENTIAL COMPONENTS OF ALL FOOD
10 PRODUCTS PURCHASED ARE GROWN, PRODUCED OR HARVESTED IN NEW YORK STATE OR
11 THAT ANY PROCESSING OF SUCH FOOD PRODUCTS TAKE PLACE IN FACILITIES
12 LOCATED WITHIN NEW YORK STATE, provided that:
13 (a) [such] AN association of producers or growers THAT PRODUCES OR
14 GROWS EGGS, LIVESTOCK, FISH, DAIRY PRODUCTS (EXCLUDING MILK), JUICE,
15 GRAINS, AND SPECIES OF FRESH FRUIT AND VEGETABLES, is comprised of ten
16 or fewer owners of farms who also operate such farms and who have
17 combined to fill the order of a school district as herein authorized,
18 provided however, that a school district may apply to the commissioner
19 of education for permission to purchase from an association of more than
20 ten owners of such farms when no other producers or growers have offered
21 to sell to such school;
22 (b) [the amount that may be expended by a school district in any
23 fiscal year for such purchases shall not exceed an amount equal to twenty
24 cents multiplied by the total number of days in the school year
25 multiplied by the total enrollment of such school district;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(c)] UPON DETERMINATION BY A BOARD OF EDUCATION THAT THE COST OF SUCH FOOD PRODUCTS IS NOT REASONABLY COMPETITIVE, THE SPECIFICATIONS REQUIRING SUCH PURCHASE SHALL BE WAIVED FOR THAT SPECIFIC FOOD PRODUCT UNTIL THE NEXT CONTRACT FOR SUCH FOOD PRODUCT IS LET OUT FOR BID. FOR PURPOSES OF THIS SUBDIVISION "REASONABLY COMPETITIVE" SHALL MEAN THAT THE COST OF THE NEW YORK STATE GROWN, PRODUCED, HARVESTED OR PROCESSED FOOD PRODUCT DOES NOT EXCEED A COST PREMIUM OF TEN PERCENT ABOVE THE COST OF A COMPARABLE PRODUCT THAT IS NOT GROWN, PRODUCED, HARVESTED OR PROCESSED IN NEW YORK STATE.

(C) UPON DETERMINATION BY A BOARD OF EDUCATION THAT SUCH FOOD PRODUCTS ARE NOT AVAILABLE IN SUFFICIENT QUANTITY FOR PURCHASING, THE SPECIFICATIONS REQUIRING SUCH PURCHASE SHALL BE WAIVED FOR THAT SPECIFIC FOOD PRODUCT UNTIL THE NEXT CONTRACT FOR SUCH FOOD PRODUCT IS LET OUT FOR BID.

(D) all such purchases shall be administered pursuant to regulations promulgated by the commissioner of education. Such regulations shall: be developed in consultation with the commissioner of agriculture and markets to accommodate and promote the provisions of the farm-to-school program established pursuant to subdivision five-b of [the] section sixteen of the agriculture and markets law and subdivision thirty-one of section three hundred five of the education law as added by chapter two of the laws of two thousand two; ensure that the prices paid by a district for any items so purchased do not exceed the prices of comparable local farm products that are available to districts through their usual purchases of such items; ensure that all producers and growers who desire to sell to school districts can readily access information in accordance with the farm-to-school law; include provisions for situations when more than one producer or grower seeks to sell the same product to a district to ensure that all such producers or growers have an equitable opportunity to do so in a manner similar to the usual purchasing practices of such districts; develop guidelines for approval of purchases of items from associations of more than ten growers and producers; and, to the maximum extent practicable, minimize additional paperwork, recordkeeping and other similar requirements on both growers and producers and school districts.

S 2. This act shall take effect immediately and shall apply to the academic school year commencing on or after July 1, 2011; provided that, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.