

4061

2013-2014 Regular Sessions

I N   S E N A T E

March 6, 2013

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Introduced by Sens. RITCHIE, MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to solicitation of available New York food products

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

1     Section 1. Paragraphs a, d, f and g of subdivision 4 of section 165 of  
2     the state finance law, as amended by chapter 137 of the laws of 2008,  
3     are amended to read as follows:

4     a. Except as otherwise provided in this subdivision, when letting  
5     contracts for the purchase of food products on behalf of facilities and  
6     institutions of the state, solicitation specifications of the office of  
7     general services and any other agency, department, office, board or  
8     commission may require provisions that mandate that all or some of the  
9     required food products are grown, produced or harvested in New York  
10    state, or that any processing of such food products take place in facilities located within New York state.

11    (I) ALL SUCH SOLICITATIONS FOR THE PURCHASE OF FOOD PRODUCTS SHALL  
12    INCLUDE THE LIST OF FOOD PRODUCTS DEVELOPED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION; AND

13    (II) NOTICE THAT SUCH FOOD PRODUCTS ARE AVAILABLE IN SUFFICIENT QUANTITIES FOR COMPETITIVE PURCHASING AND THAT THE LIST WAS DEVELOPED TO  
14    ASSIST THE STATE IN INCREASING PURCHASES OF NEW YORK STATE FOOD  
15    PRODUCTS.

16    d. The commissioner, and the commissioner of agriculture and markets,  
17    [may] SHALL issue [such] regulations [as they deem necessary and proper]  
18    for the implementation of this subdivision, INCLUDING BUT NOT LIMITED  
19    TO:

20    (I) ESTABLISHING GUIDELINES THAT WILL ASSIST AGENCIES IN INCREASING  
21    THEIR USE AND PURCHASE OF NEW YORK STATE FOOD PRODUCTS;  
22   

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

LBD09009-01-3

(II) PUBLISHING SUCH PURCHASING GUIDELINES ON THE OFFICE OF GENERAL SERVICES WEBSITE, DISSEMINATING SUCH GUIDELINES TO AGENCIES AND TRAINING CONTRACTING PERSONNEL ON IMPLEMENTING SUCH GUIDELINES; AND

(III) PROVIDING FOR MONITORING OF IMPLEMENTATION.

f. (i) With each offer, the offerer shall certify that the food products provided pursuant to that solicitation will be in conformity with the provisions of the percentage required to meet or exceed the requirements in the solicitation specifying that all or some of the food products be grown, produced, or harvested within New York state or that any processing of such food products take place in facilities located within New York state.

(ii) Any successful offerer who fails to comply with the provisions of this subdivision, at the discretion of such agency, board, office or commission, shall forfeit the right to bid on contracts let under the provisions of this subdivision for a period of time to be determined by the commissioner and the commissioner of agriculture and markets.

(III) EVERY SUCCESSFUL OFFERER SHALL:

(1) REVIEW THE LIST OF NEW YORK STATE FOOD PRODUCTS DEVELOPED PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION TO DETERMINE WHETHER ANY SUCH PRODUCTS ARE BEING PROVIDED UNDER THEIR CONTRACTS;

(2) REPORT TO THE PROCURING AGENCY ALL OF THE FOOD PRODUCTS AND PROCESSED FOOD PROCURED UNDER SUCH CONTRACTS, CATEGORIZED BY SPECIFIC TYPE, TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH CONTRACT, TO THE EXTENT PRACTICABLE AND KNOWN TO SUCH VENDOR; AND

(3) FOR EACH SUCH TYPE OF FOOD PRODUCT OR PROCESSED FOOD INCLUDED ON THE LIST OF NEW YORK STATE FOOD PRODUCTS, REPORT TO THE PROCURING AGENCY, TO THE EXTENT PRACTICABLE AND KNOWN TO SUCH VENDOR:

(A) ANY SUCH NEW YORK STATE FOOD PRODUCT PROCURED UNDER SUCH CONTRACT, TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH CONTRACT;

(B) ANY SUCH FOOD PRODUCT FROM OUTSIDE OF NEW YORK STATE PROCURED UNDER SUCH CONTRACT DURING ITS LISTED NEW YORK STATE AVAILABILITY PERIOD, TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH CONTRACT; AND

(C) ANY OTHER SUCH FOOD PRODUCT FROM OUTSIDE OF NEW YORK STATE OR PROCESSED FOOD FROM FACILITIES OUTSIDE OF NEW YORK STATE PROCURED UNDER SUCH CONTRACT FROM OUTSIDE NEW YORK STATE, TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH CONTRACT.

g. NO LATER THAN DECEMBER FIRST OF EACH YEAR THE COMMISSIONER SHALL ANNUALLY REPORT TO THE GOVERNOR AND LEGISLATURE ON THE IMPLEMENTATION OF THIS SUBDIVISION. SUCH REPORT SHALL INCLUDE, AT MINIMUM:

(I) A DESCRIPTION OF THE OFFICE'S EFFORTS TO IMPROVE AND INCREASE THE TRACKING OF INFORMATION RELATING TO NEW YORK STATE FOOD PROCURED BY AGENCIES; AND

(II) THE INFORMATION COLLECTED PURSUANT TO PARAGRAPH F OF THIS SUBDIVISION, COMPILED TO PROVIDE THE FOLLOWING, DISAGGREGATED BY FOOD PRODUCT AND PROCESSED FOOD:

(A) THE TOTAL DOLLAR VALUE OF NEW YORK STATE FOOD PRODUCTS PROCURED BY AGENCIES;

(B) THE TOTAL DOLLAR VALUE OF FOOD PRODUCTS FROM OUTSIDE OF NEW YORK STATE PROCURED BY AGENCIES DURING THEIR LISTED NEW YORK STATE AVAILABILITY PERIODS; AND

(C) THE TOTAL DOLLAR VALUE OF ALL OTHER FOOD PRODUCTS FROM OUTSIDE OF NEW YORK STATE AND PROCESSED FOOD FROM FACILITIES OUTSIDE OF NEW YORK STATE.

1 H. The commissioner and the commissioner of agriculture and markets,  
2 shall advise and assist the chancellor of the state university of New  
3 York in extending the benefits of the provisions of this subdivision to  
4 the university and shall modify any regulations or procedures heretofore  
5 established pursuant to this subdivision, in order to facilitate such  
6 participation.

7 S 2. This act shall take effect on the ninetieth day after it shall  
8 have become a law; provided, however, that effective immediately, the  
9 addition, amendment and/or repeal of any rule or regulation necessary  
10 for the implementation of this act on its effective date is authorized  
11 and directed to be made and completed on or before such effective date.