

# STATE OF NEW YORK

6808--A

2021-2022 Regular Sessions

## IN SENATE

May 18, 2021

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to establishing procurement goals for the purchase of New York state food products by state agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The state finance law is amended by adding a new section 163-c to read as follows:

§ 163-c. Procurement goals for New York state food products. 1. Definition. For the purposes of this section, the term "New York state food product" shall mean a food item that is:

(a) grown, harvested, or produced in this state; or

(b) processed inside or outside this state comprising over fifty-one percent agricultural raw materials grown, harvested, or produced in this state, by weight or volume.

2. (a) In order to create, strengthen, and expand local farm and food economies throughout New York, all state agencies annually spending an amount exceeding fifty thousand dollars on food or food products shall set percentage goals for New York state food products purchased yearly and if a state agency spends an amount greater than or equal to two million dollars annually on food or food products then: in the first and second year after the effective date of this section, at least fifteen percent of all food and food products purchased by such state agency shall be New York state food products; in the third year after the effective date of this section, at least twenty percent of all food and food products purchased by such state agency shall be New York state

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

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1 food products; and in the fourth year after the effective date of this  
2 section and thereafter, at least twenty-five percent of all food and  
3 food products purchased by such state agency shall be New York state  
4 food products.

5 (b) To meet the goal set forth in this subdivision, when a state agen-  
6 cy's contract for the purchase of food or food products is to be awarded  
7 to the lowest responsible bidder, an otherwise qualified bidder who will  
8 fulfill the contract through the use of New York state food products may  
9 be given preference over other bidders, provided that the cost included  
10 in the bid of New York state food products is not more than ten percent  
11 greater than the cost included in a bid that is not for New York state  
12 food products.

13 3. The provisions of this section shall not apply if the head of the  
14 contracting state agency purchasing food or food products, in his or her  
15 sole discretion, determines that: (a) purchasing New York state food or  
16 food products pursuant to the provisions in subdivision one of this  
17 section would be against the public interest; (b) purchasing New York  
18 state food or food products would increase the cost of the contract by  
19 an unreasonable amount; (c) New York state food products cannot be  
20 obtained in sufficient and reasonable available quantities and of satis-  
21 factory quality to meet the contracting state agency's requirements; or  
22 (d) purchasing food or food products grown, harvested, or produced  
23 outside of this state, or food processed in facilities inside or outside  
24 of this state comprising less than fifty-one percent agricultural raw  
25 materials grown, harvested, or produced in this state, by weight or  
26 volume, is necessary to avoid a delay in the delivery of food or food  
27 products.

28 4. Nothing in this section shall be construed to conflict with or  
29 otherwise limit the goals and requirements set forth by section one  
30 hundred sixty-two of the state finance law and articles fifteen-A and  
31 seventeen-B of the executive law. Any contracts meeting the goals and  
32 requirements set forth by this section, in addition to requirements set  
33 forth by section one hundred sixty-two of the state finance law and/or  
34 articles fifteen-A and seventeen-B of the executive law, shall be count-  
35 ed toward all applicable goals and requirements it may satisfy.

36 5. The commissioner, in conjunction with the commissioner of agricul-  
37 ture and markets shall periodically, but no later than every three  
38 years, review the New York state food and food product goals and  
39 requirements set forth by subdivision two of this section, and shall  
40 issue a joint recommendation suggesting any changes in such goals and  
41 requirements deemed necessary. Such recommendation shall be submitted to  
42 the governor, the temporary president of the senate, and the speaker of  
43 the assembly.

44 § 2. Paragraph g of subdivision 4 of section 165 of the state finance  
45 law, as amended by chapter 533 of the laws of 2013, is amended to read  
46 as follows:

47 g. No later than December first of each year the commissioner shall  
48 annually report to the governor and legislature on the implementation of  
49 this subdivision. Such report shall include, at minimum:

50 (i) a description of the office's efforts to improve and increase the  
51 tracking of information relating to New York state food procured by  
52 agencies; [and]

53 (ii) the information collected pursuant to paragraph f of this subdi-  
54 vision, compiled to provide the following, disaggregated by food product  
55 and processed food:

1 (a) the total dollar value of New York state food products procured by  
2 agencies;

3 (b) the total dollar value of food products from outside of New York  
4 state procured by agencies during their listed New York state availabil-  
5 ity periods; and

6 (c) the total dollar value of all other food products from outside of  
7 New York state and processed food from facilities outside of New York  
8 state; and

9 (iii) an annual summary detailing each state agency contract made  
10 which satisfies the New York state food product procurement goals and  
11 requirements as set forth by section one hundred sixty-three-c of this  
12 article, disaggregated by contracting agency, to include the following  
13 information:

14 (a) the total dollar value of all food or food products purchased in  
15 each contract;

16 (b) the total dollar value of New York state food or food products  
17 purchased in each contract;

18 (c) the total dollar value of food or food products from outside of  
19 New York state and food processed from facilities inside or outside of  
20 New York state comprising less than fifty-one percent of agricultural  
21 raw materials grown, harvested, or produced in this state, by weight or  
22 volume purchased in each contract;

23 (d) the agency's annual aggregate percentage of food or food products  
24 purchased; and

25 (e) an enumeration of all contracts entered into in which the head of  
26 the contracting state agency applied one of the exceptions pursuant to  
27 subdivision three of section one hundred and sixty-three-a of this arti-  
28 cle in the awarding of a bid; and the total dollar amount of food or  
29 food products from outside of New York state and food processed from  
30 facilities inside or outside of New York state comprising less than  
31 fifty-one percent of agricultural raw materials grown, harvested, or  
32 produced in this state, purchased in such contracts.

33 § 3. This act shall take effect one year after it shall have become a  
34 law; provided, however, that section two of this act shall take effect  
35 two years after it shall have become a law.