STATE OF NEW YORK

4406--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 14, 2023

Introduced by M. of A. LUPARDO, WOERNER, THIELE, FAHY, DICKENS, GUNTHER, GLICK, BUTTENSCHON, STIRPE, JONES, TAGUE, FITZPATRICK, HAWLEY, ANGELINO, RAGA -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- 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-e to read as follows:

§ 163-e. Procurement goals for New York state food products. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "New York state food product" shall mean a food or drink item that is:

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

(ii) 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; or

(iii) intended for human consumption that may be purchased using any funding stream managed by any state agency, including any federally funded programs.

(b) "State agency" shall mean any agency or department over which the governor has executive authority, including all offices and divisions thereof, as well as all public authorities for which the governor appoints the chair, the chief executive, or the majority of board members, including all offices and divisions thereof, except for the

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

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Port Authority of New York and New Jersey. State agency shall include the state university of New York and the city university of New York.

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 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 products then:

(i) on or before December thirty-first, two thousand twenty-five, at least fifteen percent of all food products purchased by such state agency shall be New York state food products;

(ii) on or before December thirty-first, two thousand twenty-six, at least twenty percent of all food products purchased by such state agency shall be New York state food products;

(iii) on or before December thirty-first, two thousand twenty-seven, at least twenty-five percent of all food products purchased by such state agency shall be New York state food products; and

(iv) on or before December thirty-first, two thousand twenty-eight and thereafter, at least thirty percent of all food products purchased by such state agency shall be New York state food products.

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

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

4. Nothing in this section shall be construed to conflict with or otherwise limit the goals and requirements set forth by section one hundred sixty-two of this article and articles fifteen-A and seventeen-B of the executive law. Any contracts meeting the goals and requirements set forth by this section, in addition to requirements set forth by section one hundred sixty-two of this article and/or articles fifteen-A and seventeen-B of the executive law, shall be counted toward all applicable goals and requirements it may satisfy.

5. The commissioner, in conjunction with the commissioner of agriculture and markets shall periodically, but no later than every three years, review the New York state food product goals and requirements set forth by subdivision two of this section, and shall issue a joint recommendation suggesting any changes in such goals and requirements deemed

necessary. Such recommendation shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly.

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

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 **products** 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 **products** from facilities outside of New York state**; and**

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

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

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

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

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

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

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