

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:

1 Section 1. The state finance law is amended by adding a new section
2 163-e to read as follows:

3 § 163-e. Procurement goals for New York state food products. 1. For
4 the purposes of this section, the following terms shall have the follow-
5 ing meanings:

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

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

9 (ii) processed inside or outside this state comprising over fifty-one
10 percent agricultural raw materials grown, harvested, or produced in this
11 state, by weight or volume; or

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

15 (b) "State agency" shall mean any agency or department over which the
16 governor has executive authority, including all offices and divisions
17 thereof, as well as all public authorities for which the governor
18 appoints the chair, the chief executive, or the majority of board
19 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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1 Port Authority of New York and New Jersey. State agency shall include
2 the state university of New York and the city university of New York.

3 2. (a) In order to create, strengthen, and expand local farm and food
4 economies throughout New York, all state agencies annually spending an
5 amount exceeding fifty thousand dollars on food products shall set
6 percentage goals for New York state food products purchased yearly and
7 if a state agency spends an amount greater than or equal to two million
8 dollars annually on food products then:

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

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

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

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

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

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

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

51 5. The commissioner, in conjunction with the commissioner of agricul-
52 ture and markets shall periodically, but no later than every three
53 years, review the New York state food product goals and requirements set
54 forth by subdivision two of this section, and shall issue a joint recom-
55 mendation suggesting any changes in such goals and requirements deemed

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

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

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

9 (i) a description of the office's efforts to improve and increase the
10 tracking of information relating to New York state food products
11 procured by agencies; ~~and~~

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

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

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

20 (c) the total dollar value of all other food products from outside of
21 New York state and processed food products from facilities outside of
22 New York state; and

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

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

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

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

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

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

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