

# STATE OF NEW YORK

4521

2023-2024 Regular Sessions

## IN ASSEMBLY

February 16, 2023

Introduced by M. of A. DURSO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, the public authorities law and the executive law, in relation to requiring the purchase of personal protective equipment and medical supplies produced or manufactured in the state of New York in certain circumstances

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

1 Section 1. Section 148 of the state finance law is amended by adding a  
2 new subdivision 6 to read as follows:

3 6. Notwithstanding any contrary provision of this section or any other  
4 law, rule or regulation, the provisions of this section shall not apply  
5 to contracts involving personal protective equipment and medical  
6 supplies during the existence of a state disaster emergency under  
7 circumstances described in section one hundred forty-eight-a of this  
8 article requiring the purchase of personal protective equipment and  
9 medical supplies produced or manufactured in New York.

10 § 2. The state finance law is amended by adding a new section 148-a to  
11 read as follows:

12 § 148-a. Contracts involving personal protective equipment and medical  
13 supplies; state disaster emergency. 1. Notwithstanding any contrary  
14 provision of section one hundred forty-eight of this article or any  
15 other law, rule or regulation, during the existence of a state disaster  
16 emergency, as defined in paragraph (a) of subdivision two of this  
17 section, all contracts over fifty thousand dollars in value made and  
18 awarded by any department or agency of the state for the purchase of  
19 personal protective equipment or medical supplies shall require that the  
20 personal protective equipment or medical supply items be produced or  
21 made in whole or substantial part in the state of New York.

22 2. For purposes of this section:

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

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1 (a) "state disaster emergency" shall have the same meaning as defined  
2 in paragraph b of subdivision two of section twenty of the executive  
3 law, provided, however, such disasters shall be limited to those involv-  
4 ing an epidemic, pandemic or similar disease outbreak.

5 (b) "personal protective equipment" means all equipment worn to mini-  
6 mize exposure to medical hazards, including gloves, masks, face shields,  
7 eye protection, respirators, medical hair and shoe coverings, and  
8 disposable gowns and aprons.

9 (c) "medical supplies" means materials necessary to respond to health  
10 emergencies or pandemics, including and without limitation ventilators,  
11 medical test kits, and vaccines.

12 3. The provisions of this section shall not apply if the head of the  
13 department or agency purchasing the personal protective equipment or  
14 medical supplies, in his or her sole discretion, determines that such  
15 provisions would not be in the public interest; that obtaining such  
16 personal protective equipment or medical supplies produced or made in  
17 the state of New York would increase the cost of the contract by an  
18 unreasonable amount; that such personal protective equipment or medical  
19 supplies cannot be produced or made in the state of New York in suffi-  
20 cient and reasonably available quantities and of satisfactory quality or  
21 design to meet the department's or agency's requirements; or that  
22 purchasing personal protective equipment or medical supplies produced or  
23 manufactured outside of the state of New York is necessary to avoid a  
24 delay in the delivery of critical services that could compromise the  
25 public welfare. In the event a New York state source is not able to  
26 supply personal protective equipment or medical supply items, any other  
27 personal protective equipment or medical supply items produced or made  
28 in whole or substantial part in the United States may be utilized to  
29 satisfy the requirements of this subdivision.

30 4. Nothing in this section is intended to contravene any existing  
31 treaties, laws, trade agreements, or regulations of the United States or  
32 subsequent trade agreements entered into between any foreign countries  
33 and the state or the United States.

34 5. Subject to the provisions of this section, the department of  
35 economic development, in consultation with the office of general  
36 services and the division of the budget, shall be authorized to estab-  
37 lish rules and regulations for the effective administration of this  
38 section.

39 § 3. Section 2878-c of the public authorities law is amended by adding  
40 a new subdivision 6 to read as follows:

41 6. Notwithstanding any contrary provision of this section or any other  
42 law, rule or regulation, the provisions of this section shall not apply  
43 to contracts involving personal protective equipment and medical  
44 supplies during the existence of a state disaster emergency under  
45 circumstances described in section twenty-eight hundred seventy-eight-cc  
46 of this article requiring the purchase of personal protective equipment  
47 and medical supplies produced or manufactured in New York.

48 § 4. The public authorities law is amended by adding a new subdivision  
49 2878-cc to read as follows:

50 § 2878-cc. Contracts involving personal protective equipment and  
51 medical supplies; state disaster emergency. 1. Notwithstanding any  
52 contrary provision of section twenty-eight hundred seventy-eight-c of  
53 this article or any other law, rule or regulation, during the existence  
54 of a state disaster emergency, as defined in paragraph (a) of subdivi-  
55 sion two of this section, all contracts over fifty thousand dollars in  
56 value made and awarded by any authority of the state for the purchase of

1 personal protective equipment or medical supplies shall require that the  
2 personal protective equipment or medical supply items be produced or  
3 made in whole or substantial part in the state of New York.

4 2. For purposes of this section:

5 (a) "state disaster emergency" shall have the same meaning as defined  
6 in paragraph b of subdivision two of section twenty of the executive  
7 law, provided, however, such disasters shall be limited to those involv-  
8 ing an epidemic, pandemic or similar disease outbreak.

9 (b) "personal protective equipment" means all equipment worn to mini-  
10 imize exposure to medical hazards, including gloves, masks, face shields,  
11 eye protection, respirators, medical hair and shoe coverings, and  
12 disposable gowns and aprons.

13 (c) "medical supplies" means materials necessary to respond to health  
14 emergencies or pandemics, including and without limitation ventilators,  
15 medical test kits, and vaccines.

16 3. The provisions of this section shall not apply if the head of the  
17 authority purchasing the personal protective equipment or medical  
18 supplies, in his or her sole discretion, determines that such provisions  
19 would not be in the public interest; that obtaining such personal  
20 protective equipment or medical supplies produced or made in the state  
21 of New York would increase the cost of the contract by an unreasonable  
22 amount; that such personal protective equipment or medical supplies  
23 cannot be produced or made in the state of New York in sufficient and  
24 reasonably available quantities and of satisfactory quality or design to  
25 meet the authority's requirements; or that purchasing personal protec-  
26 tive equipment or medical supplies produced or manufactured outside of  
27 the state of New York is necessary to avoid a delay in the delivery of  
28 critical services that could compromise the public welfare. In the event  
29 a New York state source is not able to supply personal protective equip-  
30 ment or medical supply items, any other personal protective equipment or  
31 medical supply items produced or made in whole or substantial part in  
32 the United States may be utilized to satisfy the requirements of this  
33 subdivision.

34 4. Nothing in this section is intended to contravene any existing  
35 treaties, laws, trade agreements, or regulations of the United States or  
36 subsequent trade agreements entered into between any foreign countries  
37 and the state or the United States.

38 5. Subject to the provisions of this section, the department of  
39 economic development, in consultation with the office of general  
40 services and the division of the budget, shall be authorized to estab-  
41 lish rules and regulations for the effective administration of this  
42 section.

43 § 5. Section 28 of the executive law is amended by adding a new subdivi-  
44 sion 2-a to read as follows:

45 2-a. (a) Upon declaration of a disaster emergency involving an epidem-  
46 ic, pandemic or similar disease outbreak, the governor or the governor's  
47 designee shall:

48 (i) notify the heads of every department or agency that is subject to  
49 the purchasing requirements of article nine of the state finance law  
50 that such emergency exists and that all contracts over fifty thousand  
51 dollars in value made and awarded by any such department or agency for  
52 the purchase of personal protective equipment or medical supplies shall  
53 require that such personal protective equipment or medical supply items  
54 be produced or made in whole or substantial part in the state of New  
55 York pursuant to section one hundred forty-eight-a of the state finance  
56 law except as otherwise provided therein; and

1 (ii) notify the heads of every state agency subject to the require-  
2 ments of title four of article nine of the public authorities law that  
3 such emergency exists and that all contracts over fifty thousand dollars  
4 in value made and awarded by any such state authority for the purchase  
5 of personal protective equipment or medical supplies shall require that  
6 the personal protective equipment or medical supply items be produced or  
7 made in whole or substantial part in the state of New York pursuant to  
8 section twenty-eight hundred seventy-eight-cc of the public authorities  
9 law except as otherwise provided therein.

10 (b) The governor shall take appropriate actions pursuant to the emer-  
11 gency preparedness plan approved pursuant to subdivision three-a of  
12 section twenty-two of this article.

13 § 6. Section 22 of the executive law is amended by adding a new subdi-  
14 vision 3-a to read as follows:

15 3-a. a. Such plans shall, in addition to the requirements set forth in  
16 subdivision three of this section, also include measures to facilitate  
17 the production and/or manufacture in New York state of personal protec-  
18 tive equipment and medical supplies as defined in paragraph b of this  
19 subdivision, and such other provisions as are necessary to satisfy the  
20 applicable procurement requirements of section one hundred forty-eight-a  
21 of the state finance law and section twenty-eight hundred seventy-eight-  
22 cc of the public authorities law.

23 b. For the purposes of this section:

24 (i) "personal protective equipment" means all equipment worn to mini-  
25 imize exposure to medical hazards, including gloves, masks, face shields,  
26 eye protection, respirators, medical hair and shoe coverings, and  
27 disposable gowns and aprons.

28 (ii) "medical supplies" means materials necessary to respond to health  
29 emergencies or pandemics, including and without limitation ventilators,  
30 medical test kits, and vaccines.

31 § 7. This act shall take effect on the sixtieth day after it shall  
32 have become a law and shall apply to any state contracting opportunities  
33 advertised on or after such date and shall exclude contracts for which  
34 an invitation for bid, request for proposal, or similar solicitation has  
35 been issued prior to such effective date and such contracts shall be  
36 awarded pursuant to the provisions of law in effect at the time of issu-  
37 ance.