

# STATE OF NEW YORK

4406

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 -- read once and referred to the Committee on Governmental Operations

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-c to read as follows:

3 § 163-c. Procurement goals for New York state food products. 1. Defi-  
4 inition. For the purposes of this section, the term "New York state food  
5 product" shall mean a food item that is:

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

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

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

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

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1 food products purchased by such state agency shall be New York state  
2 food products.

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

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

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

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

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

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

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

51 (ii) the information collected pursuant to paragraph f of this subdivi-  
52 sion, compiled to provide the following, disaggregated by food product  
53 and processed food:

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

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

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

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

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

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

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

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

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

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