

# STATE OF NEW YORK

3125--A

2023-2024 Regular Sessions

## IN SENATE

January 27, 2023

Introduced by Sens. HINCHEY, HELMING, MAY, MURRAY, ROLISON -- 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:

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 item that is:

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

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

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

18 2. (a) In order to create, strengthen, and expand local farm and food  
19 economies throughout New York, all state agencies annually spending an  
20 amount exceeding fifty thousand dollars on food or food products shall

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

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1 set percentage goals for New York state food products purchased yearly  
2 and if a state agency spends an amount greater than or equal to two  
3 million dollars annually on food or food products then:

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

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

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

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

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

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

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

47 5. The commissioner, in conjunction with the commissioner of agricul-  
48 ture and markets shall periodically, but no later than every three  
49 years, review the New York state food and food product goals and  
50 requirements set forth by subdivision two of this section, and shall  
51 issue a joint recommendation suggesting any changes in such goals and  
52 requirements deemed necessary. Such recommendation shall be submitted to  
53 the governor, the temporary president of the senate, and the speaker of  
54 the assembly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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