

1 S.69

2 Introduced by Senators Pollina and White

3 Referred to Committee on

4 Date:

5 Subject: Government purchasing; Vermont products and services

6 Statement of purpose: This bill proposes to require state and local
7 governments to purchase products from Vermont companies and encourage
8 use of Vermont workers in projects that receive state funding.

9 An act relating to government purchasing of Vermont products and services

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 29 V.S.A. § 161a is added to read:

12 § 161a. PUBLIC WORKS CONTRACTS; LOCAL EMPLOYMENT

13 (a) Definitions. In this section:

14 (1) "Bona fide apprentice program" means an apprentice program
15 approved by the Vermont department of labor.

16 (2) "Responsible contractor" means a contractor or subcontractor who
17 has demonstrated that it is financially responsible, has experience suggesting
18 that it has the ability to perform government projects responsibly, has
19 demonstrated that it is a responsible employer, and has demonstrated that it has
20 fair subcontractor relations or that it performs all work with its own forces.

1 (3) “Vermont resident” means a person domiciled in Vermont for at
2 least the three months immediately preceding the date of the contract award.

3 (b) Hire local. Unless a provision conflicts with a state or federal law or
4 regulation applicable to a particular contract, a state contract for public works
5 or improvements with an estimated value of \$100,000.00 or more shall include
6 provisions requiring the contractor, with the assistance of local labor union
7 hiring halls, state employment offices, qualified apprenticeship programs,
8 community organizations, and others, as is necessary, to ensure that of all
9 workers employed pursuant to a contract:

10 (1) A minimum of 50 percent per craft of the total project hours,
11 including any subcontractor work force, as measured in labor work hours shall
12 be Vermont residents. Not less than 50 percent of Vermont resident workers
13 employed pursuant to this section shall have completed a bona fide
14 apprenticeship program.

15 (2) A minimum of ten percent per craft of the total project hours worked
16 shall be female employees. Not less than 50 percent of female workers
17 employed pursuant to this section shall have completed a bona fide
18 apprenticeship program.

19 (3) A minimum of five percent of the total project hours shall be
20 apprentices who are currently enrolled in a bona fide apprenticeship program.

1 (c) Waiver. If no bona fide apprenticeship program exists for a particular
2 craft or trade, the contractor shall be exempt from the requirements of this
3 section with regard to that craft or trade.

4 (d) Good faith effort. A contract bidder or contractor who fails to meet the
5 requirements of this section shall be deemed to have made a “good faith effort”
6 to hire sufficient numbers of Vermont residents if, prior to execution of the
7 contract, the contractor completes and documents each of the following:

8 (1) Having direct contact with labor halls and bona fide labor
9 organizations to determine availability of qualified workers and apprentices.

10 (2) Placing a valid job order with local town offices and the Vermont
11 department of labor.

12 (3) Advertising vacancies, organizing meetings, and conducting job
13 workshops and job interviews.

14 (4) Conducting a job informational meeting to inform the local
15 community of employment opportunities

16 (e) Required documentation; breach of contract.

17 (1) A contractor shall complete and provide to the department of labor,
18 on standardized forms developed by the department for that purpose:

19 (A) An accurate record of the name, place of residence, hours
20 employed, and per diem wages and benefits of each person employed by the

1 contractor and the contractor's subcontractors on the project, including
2 full-time, part-time, permanent, and temporary employees.

3 (B) An accurate record documenting the contractor's good faith
4 efforts to comply with the local resident employment and apprentice
5 employment provisions of this law, including: name and address of all local
6 recruitment sources contacted by the contractor; the date of the recruitment
7 contact, identity of the person contacted; the trade, classification, and number
8 of employment referrals requested; and the number of local residents employed
9 as a result of the contact.

10 (2) Bid documents shall require bidders, contractors, and subcontractors
11 to maintain records necessary for monitoring compliance with this section.
12 Contracts and bid documents shall provide that the failure of any contractor or
13 subcontractor to comply with any of its requirements shall be deemed a
14 material breach of the contract or subcontract.

15 (f) Responsible contractor qualification. The department of labor shall
16 have the authority to qualify responsible contractors, from whom bid proposals
17 shall be accepted. A contractor or subcontractor who fails to comply with this
18 section may be disqualified by the department of labor and may be prohibited
19 from bidding on future projects.

20 (g) Binding subcontractors. The good faith local resident employment and
21 apprentice employment provisions of this section shall bind the contractor both

1 with respect to persons employed directly by the contractor and to all persons
2 employed by the contractor's subcontractors. The contractor shall be
3 responsible for assuring that all subcontractors document compliance by
4 submitting, and making available to the department of labor, forms required by
5 this section.

6 Sec. 2. SECRETARY OF ADMINISTRATION; UNIFORMITY OF
7 CONTRACT PRACTICES

8 The secretary of administration shall review contracting procedures related
9 to licensed professional service providers, such as engineers and architects, at
10 the various agencies and departments in order to evaluate and make necessary
11 changes to ensure that the procedures are uniform, and that such procedures
12 afford equal access to, and actively promote, contracting with Vermont-
13 domiciled professional service providers.

14 Sec. 3. 29 V.S.A. § 161(g) is added to read:

15 (g) When considering contract bids under this section, the commissioner
16 shall consider the interests of the state relating to the proximity of the supplier
17 and the costs of transportation, and relating to the economy of the state and the
18 need to maintain and create jobs in the state. The commissioner shall utilize an
19 econometric model developed and maintained by the legislative joint fiscal
20 office to evaluate the net costs of each contract.

1 Sec. 4. 29 V.S.A. § 903 is amended to read:

2 § 903. REQUISITION FOR SUPPLIES AND MATERIALS

3 * * *

4 (b)(1) When purchasing any items or services mentioned in this chapter,
5 the commissioner of buildings and general services, in any determination of
6 the best interest of the state shall consider:

7 (~~1~~)(A) specified quality;

8 (~~2~~)(B) price;

9 (~~3~~)(C) ease of access of supply;

10 (~~4~~)(D) incidental administrative costs;

11 (~~5~~)(E) proven reliability of bidder;

12 (~~6~~)(F) use of recycled materials or products;

13 (~~7~~)(G) minimizing the creation, by the state, of solid waste;

14 (~~8~~)(H) the extent to which the usage of the item involves the
15 generation of pollutants;

16 (~~9~~)(I) life cycle costs, if required under the state agency energy plan,
17 as implemented;

18 (~~10~~)(J) the interests of the state relating to the proximity of the
19 supplier and the costs of transportation, and relating to the economy of the
20 state and the need to maintain and create jobs in the state; and

1 Sec. 5. 29 V.S.A. § 909 is added to read:

2 § 909. STATE PURCHASE OF LOCAL FOOD

3 When procuring food for the state, its agencies, departments,
4 instrumentalities, and institutions, the commissioner of buildings and general
5 services shall purchase food that is produced, grown, or harvested on land
6 physically located in Vermont, at a price that equals or exceeds by not more
7 than eight percent the lowest cost purchase price for food of comparable
8 quality, safety, and reliability.

9 Sec. 6. VERMONT FAIR TRADE CERTIFICATION PROGRAM; REPORT

10 (a) The secretary of agriculture, food and markets, together with the
11 secretary of commerce and community development, shall convene a
12 committee to establish a Vermont Fair Trade certification program.

13 (b) In addition to the secretaries or designees, the committee shall consist
14 of:

15 (1) One member appointed by Rural Vermont.

16 (2) One member appointed by the Northeast Organic Farming
17 Association of Vermont.

18 (3) One member appointed by the Vermont Farm Bureau.

19 (4) One legislative member appointed by the speaker of the house of
20 representatives.

1 (5) One legislative member appointed by the senate committee on
2 committees.

3 (c) The committee shall study, design, and propose in legislation, a
4 Vermont Fair Trade certification program, the purpose of which shall be to
5 create an industry standard, recognizable to the public, that a product is
6 produced in Vermont, meets or exceeds clearly established quality standards,
7 and provides the producer of the product with a fair return.

8 (d) On or before January 15, 2012, the committee shall submit to the
9 general assembly its findings and recommendations, and shall include
10 proposed legislation for implementation of the program.

11 Sec. 7. REPEAL

12 6 V.S.A. § 4601 (Vermont products) is repealed.

13 Sec. 8. 1 V.S.A. § 317 is amended to read:

14 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
15 DOCUMENTS

16 (a) As used in this subchapter, “public agency” or “agency” means any
17 agency, board, department, commission, committee, branch, instrumentality, or
18 authority of the state or any agency, board, committee, department, branch,
19 instrumentality, commission, or authority of any political subdivision of the
20 state; or any for-profit person awarded a privatization contract under 3 V.S.A.
21 chapter 14.

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Sec. 9. EFFECTIVE DATE

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This act shall take effect on passage.