

SENATE BILL 177

P2, F1

(PRE-FILED)

5lr1677
CF HB 56

By: **Senator Hester**

Requested: November 1, 2024

Introduced and read first time: January 8, 2025

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2025

CHAPTER _____

1 AN ACT concerning

2 **Procurement – State Department of Education – ~~Control Authority~~ – Local Food**
3 **Purchasing Program**

4 FOR the purpose of ~~authorizing~~ requiring the State Department of Education ~~to engage in~~
5 ~~or control procurements of certain local food; altering the list of units exempt from~~
6 ~~the authority of the Board of Public Works to control procurement to include the~~
7 ~~Department for the purpose of master contracting; altering the list of units that are~~
8 ~~defined as designated procurement units to include the Department with respect to~~
9 ~~master contracts related to local food, in coordination with the Department of~~
10 General Services and the Department of Agriculture, to establish a program to
11 procure certain local food for local school systems from certain providers under
12 certain circumstances; altering a certain percentage price preference adopted by the
13 Board of Public Works by regulation; requiring the Board to adopt certain
14 regulations relating to limiting responses for certain procurements; and generally
15 relating to the State Department of Education and State procurement.

16 BY adding to

17 Article – Education

18 Section 7–136

19 Annotated Code of Maryland

20 (2022 Replacement Volume and 2024 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~12-101(a), 12-107(b)(4) and (5), 13-101(b), and 13-113(a)~~ 12-107(b)(2)(ix),
 2 14-407, and 14-702
 3 Annotated Code of Maryland
 4 (2021 Replacement Volume and 2024 Supplement)

5 ~~BY adding to~~
 6 ~~Article – State Finance and Procurement~~
 7 ~~Section 12-107(b)(6)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2021 Replacement Volume and 2024 Supplement)~~

10 BY repealing and reenacting, without amendments,
 11 Article – State Finance and Procurement
 12 Section ~~13-101(a) and (e) and~~ 14-701(a) through (d)
 13 Annotated Code of Maryland
 14 (2021 Replacement Volume and 2024 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 16 That the Laws of Maryland read as follows:

17 Article – Education

18 7-136.

19 ~~(A) (1) IN ACCORDANCE WITH § 12-107(B) OF THE STATE FINANCE AND~~
 20 ~~PROCUREMENT ARTICLE, THE DEPARTMENT, WITHOUT THE APPROVAL OF ANY~~
 21 ~~OTHER PRIMARY PROCUREMENT UNIT, MAY THE DEPARTMENT SHALL ESTABLISH A~~
 22 ~~PROGRAM, WHEN FUNDING IS AVAILABLE, TO ENGAGE IN OR CONTROL~~
 23 ~~PROCUREMENT OF LOCAL FOOD FOR LOCAL SCHOOL SYSTEMS.;~~

24 ~~(1) FOOD GROWN WITHIN A 200 MILE RADIUS FROM AN ELEMENTARY~~
 25 ~~OR SECONDARY SCHOOL FOR WHICH A LOCAL SCHOOL SYSTEM ENTERS INTO A~~
 26 ~~MASTER CONTRACT WITH THE DEPARTMENT;~~

27 ~~(2) FOOD GROWN AT A CERTIFIED LOCAL FARM UNDER § 14-701 OF~~
 28 ~~THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

29 ~~(3) CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDED BY A~~
 30 ~~CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDER AS DEFINED IN § 14-701 OF~~
 31 ~~THE STATE FINANCE AND PROCUREMENT ARTICLE~~

32 (2) THE PROGRAM SHALL PROCURE PRODUCTS THAT ARE:

33 (I) FOODS GROWN AT A CERTIFIED LOCAL FARM, AS DEFINED
 34 IN § 14-701 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

1 **(II) CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDED BY**
 2 **A CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDER, AS DEFINED IN § 14-701**
 3 **OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

4 **(III) FOODS GROWN WITHIN A 250-MILE RADIUS FROM AN**
 5 **ELEMENTARY OR SECONDARY SCHOOL IN THE STATE.**

6 **(3) THE PROGRAM SHALL GIVE PREFERENCE TO PROVIDERS**
 7 **QUALIFYING UNDER PARAGRAPH (2)(I) AND (II) OF THIS SUBSECTION.**

8 **(B) THE DEPARTMENT SHALL COORDINATE WITH THE DEPARTMENT OF**
 9 **AGRICULTURE, THE DEPARTMENT OF GENERAL SERVICES, AND ANY OTHER**
 10 **RELEVANT UNIT OF STATE GOVERNMENT TO ESTABLISH THE PROGRAM, INCLUDING**
 11 **A CENTRALIZED PLATFORM TO ENCOURAGE THE PARTICIPATION OF FARMERS AND**
 12 **DISTRIBUTORS IN PROCUREMENT OPPORTUNITIES IN ACCORDANCE WITH**
 13 **SUBSECTION (A) OF THIS SECTION.**

14 **(C) SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE**
 15 **DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE**
 16 **DECEMBER 1 EACH YEAR ON THE TOTAL NUMBER AND DOLLAR VALUE OF ~~MASTER~~**
 17 **~~CONTRACTS IN ACCORDANCE WITH THIS SECTION WITH:~~**

18 **~~(1) LOCAL SCHOOL SYSTEMS;~~**

19 **~~(2) CERTIFIED LOCAL FARMS; AND~~**

20 **~~(3) CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDERS~~**
 21 **PROCUREMENT CONTRACTS FOR LOCAL FOOD AT LOCAL SCHOOLS, INCLUDING THE**
 22 **NUMBER OF THESE CONTRACTS THAT ARE WITH CERTIFIED LOCAL FARMS OR**
 23 **CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDERS.**

24 **Article – State Finance and Procurement**

25 ~~12-101.~~

26 **~~(a) This section does not apply to:~~**

27 **~~(1) capital expenditures by the Department of Transportation or the~~**
 28 **~~Maryland Transportation Authority, in connection with State roads, bridges, or highways,~~**
 29 **~~as provided in § 12-202 of this title; [or]~~**

30 **~~(2) procurements by the Department of General Services for the purpose of~~**
 31 **~~modernizing cybersecurity infrastructure for the State valued below \$1,000,000; OR~~**

~~(3) PROCUREMENTS BY THE STATE DEPARTMENT OF EDUCATION FOR THE PURPOSE OF MASTER CONTRACTING AS DEFINED IN § 13-101 OF THIS ARTICLE.~~

~~12-107.~~

(b) Subject to the authority of the Board, jurisdiction over procurement is as follows:

~~(2) the Department of General Services may:~~

~~(ix) coordinate with governmental entities and local entities to maximize use of intergovernmental purchasing agreements established in accordance with § 13-110 of this article, INCLUDING WORKING WITH THE STATE DEPARTMENT OF EDUCATION TO PROCURE LOCAL FOOD FOR LOCAL SCHOOL SYSTEMS IN ACCORDANCE WITH § 7-136 OF THE EDUCATION ARTICLE;~~

~~(4) the Maryland Port Commission, without the approval of any of the other primary procurement units, may engage in the procurement of:~~

~~(i) supplies for port related activities, including motor vehicles and information processing supplies, but excluding:~~

~~1. supplies funded by the proceeds from State general obligation bonds; and~~

~~2. insurance;~~

~~(ii) services for port related activities, including information processing services, but excluding banking and financial services under the authority of the State Treasurer under item (1) of this subsection;~~

~~(iii) construction and construction related services for a port facility as defined in § 6-101(e) of the Transportation Article;~~

~~(iv) port related architectural and engineering services under Title 13, Subtitle 3 of this article; and~~

~~(v) leases of real property for port related activities unless the lease payments are from the General Fund of the State; [and]~~

~~(5) the Department of General Services, without the approval of any other primary procurement unit, may engage in or control procurement of:~~

~~(i) information processing equipment, cloud computing equipment, and associated services, as provided in Title 3.5, Subtitle 3 of this article;~~

1 (ii) ~~information technology system modernization, as provided in~~
2 ~~Title 3.5, Subtitle 3 of this article;~~

3 (iii) ~~telecommunication equipment, systems, or services, as provided~~
4 ~~in Title 3.5, Subtitle 4 of this article; and~~

5 (iv) ~~cybersecurity upgrades and modernization, as provided in Title~~
6 ~~3.5, Subtitle 3 of this article; AND~~

7 **~~(6) THE STATE DEPARTMENT OF EDUCATION, WITHOUT THE~~**
8 **~~APPROVAL OF ANY OTHER PRIMARY PROCUREMENT UNIT, MAY ENGAGE IN OR~~**
9 **~~CONTROL PROCUREMENT OF:~~**

10 **~~(I) FOOD GROWN WITHIN A 200-MILE RADIUS FROM AN~~**
11 **~~ELEMENTARY OR SECONDARY SCHOOL FOR WHICH A LOCAL SCHOOL SYSTEM~~**
12 **~~ENTERS INTO A MASTER CONTRACT WITH THE STATE DEPARTMENT OF EDUCATION;~~**

13 **~~(II) FOOD GROWN AT A CERTIFIED LOCAL FARM UNDER § 14-701~~**
14 **~~OF THIS ARTICLE; AND~~**

15 **~~(III) CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDED BY~~**
16 **~~A CERTIFIED CHESAPEAKE INVASIVE SPECIES PROVIDER AS DEFINED IN § 14-701~~**
17 **~~OF THIS ARTICLE.~~**

18 ~~13-101.~~

19 (a) ~~In this subtitle the following words have the meanings indicated.~~

20 (b) ~~“Designated procurement unit” means:~~

21 (1) ~~the Department of General Services;~~

22 (2) ~~the Department of Transportation; [or]~~

23 (3) ~~the Department of Information Technology, only with respect to an~~
24 ~~information technology master contract executed before July 1, 2022, until the earlier of:~~

25 (i) ~~the expiration date of all information technology master~~
26 ~~contracts; or~~

27 (ii) ~~June 30, 2027; OR~~

28 **~~(4) THE STATE DEPARTMENT OF EDUCATION, ONLY WITH RESPECT~~**
29 **~~TO A MASTER CONTRACT RELATED TO LOCAL FOOD.~~**

1 ~~(e) "Master contracting" means a streamlined procurement method that provides~~
 2 ~~for the qualification of bidders and offerors for the procurement of services, supplies, or~~
 3 ~~commodities.~~

4 ~~13-113.~~

5 ~~(a) (1) The designated procurement units may adopt master contracting, a~~
 6 ~~streamlined procurement method, to provide for the qualification of an offeror in one or~~
 7 ~~more categories of services, supplies, or commodities.~~

8 ~~(2) NOTWITHSTANDING ANY REQUIREMENTS OF A LOCAL SCHOOL~~
 9 ~~SYSTEM, THE STATE DEPARTMENT OF EDUCATION MAY NOT REQUIRE~~
 10 ~~CERTIFICATION FOR GOOD AGRICULTURAL PRACTICES FOR MASTER CONTRACTING.~~

11 ~~14-407.~~

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) "Locally grown food" means food grown [in the State] AT A CERTIFIED
 14 LOCAL FARM DEFINED IN § 14-701 OF THIS TITLE.

15 (3) "Percentage price preference" means the percent by which a responsive
 16 bid from a responsible bidder whose product is a locally grown food may exceed the lowest
 17 responsive bid submitted by a responsible bidder whose product is not a locally grown food.

18 (b) (1) The Board shall adopt regulations that require State schools and
 19 facilities to establish a percentage price preference, not to exceed [5%] 10%, for the
 20 purchase of locally grown food.

21 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE
 22 BOARD SHALL ADOPT REGULATIONS AUTHORIZING STATE SCHOOLS AND
 23 FACILITIES TO CONDUCT AN INDIVIDUAL PROCUREMENT THAT IS LIMITED TO
 24 RESPONSES FROM CERTIFIED LOCAL FARMS AS DEFINED IN § 14-701 OF THIS TITLE.

25 (c) A percentage price preference under this section may not be used in
 26 conjunction with any other percentage price preference established under this title.

27 (d) Each State school and facility shall review the procurement specifications
 28 currently used and, to the extent practicable, require the use of a percentage price
 29 preference in their purchase of locally grown food.

30 (e) (1) Except as provided in paragraph (2) of this subsection, this section is
 31 broadly applicable to all procurements by State schools and facilities if the locally grown
 32 food is consistent with the requirements of the bid specification.

1 (2) Only to the extent necessary to prevent the denial of federal money or
2 eliminate the inconsistency with federal law, this section does not apply to a procurement
3 by a State school or facility if it is determined that compliance with this section would:

4 (i) cause denial of federal money; or

5 (ii) be inconsistent with the requirements of federal law.

6 14–701.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) “Certified Chesapeake invasive species” means a finfish species that is:

9 (1) ranked as high priority in the Maryland Aquatic Nuisance Species
10 Management Plan; and

11 (2) harvested from the Chesapeake Bay or its tributaries.

12 (c) “Certified Chesapeake invasive species provider” means a person licensed and
13 authorized as a seafood dealer under § 4–701 of the Natural Resources Article that:

14 (1) is certified by the Department in accordance with regulations adopted
15 under this subtitle; and

16 (2) can demonstrate that the person’s product is a certified Chesapeake
17 invasive species.

18 (d) “Certified local farm” means a local farm enterprise that:

19 (1) meets the nutrient management requirements established under Title
20 8, Subtitle 8 of the Agriculture Article; and

21 (2) is certified by the Department in accordance with regulations adopted
22 under this subtitle.

23 14–702.

24 (a) (1) There is an Office for the Certified Local Farm and Fish Program in the
25 Department.

26 (2) The purpose of the Office is to administer the Program and facilitate
27 the participation of certified local farms and certified Chesapeake invasive species
28 providers in the Program.

29 (b) (1) There is a Certified Local Farm and Fish Program in the Office.

1 (2) The purpose of the Program is to encourage each unit to try to achieve
2 an overall percentage goal of 20% of the unit’s total dollar value of procurement contracts
3 for food from certified local farms and certified Chesapeake invasive species providers.

4 (c) The Department shall create two positions to provide staff for the Office.

5 **(D) THE DEPARTMENT, ALONG WITH THE DEPARTMENT OF GENERAL**
6 **SERVICES, SHALL COORDINATE WITH THE STATE DEPARTMENT OF EDUCATION TO**
7 **PROCURE LOCAL FOOD FOR LOCAL SCHOOL SYSTEMS IN ACCORDANCE WITH § 7-136**
8 **OF THE EDUCATION ARTICLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2025.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.