
HOUSE BILL 2798

State of Washington

60th Legislature

2008 Regular Session

By Representatives Pettigrew, Hinkle, Kenney, Springer, Blake, Priest, Hunt, Linville, Newhouse, Kretz, Dunshee, Green, Hudgins, Campbell, Ericks, Walsh, McCune, Quall, Goodman, Hurst, Seaquist, Hunter, Anderson, Hasegawa, Cody, Williams, Dickerson, Kagi, Roberts, Takko, Morrell, McIntire, Schual-Berke, Nelson, Rolfes, Loomis, Lias, Simpson, VanDeWege, McCoy, Warnick, Pedersen, Lantz, Appleton, Upthegrove, Sells, Conway, Sullivan, Santos, Moeller, and Ormsby

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1 AN ACT Relating to local food production; amending RCW 43.19.1906,
2 43.19.1911, 43.19.706, and 28B.10.029; reenacting and amending RCW
3 43.19.1905 and 28A.335.190; adding a new section to chapter 15.64 RCW;
4 adding a new section to chapter 28A.235 RCW; adding new sections to
5 chapter 15.04 RCW; adding a new section to chapter 43.41 RCW; creating
6 new sections; and making appropriations.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
9 recognizes that the benefits of localized food production include
10 stewardship of working agricultural lands; direct and spin-off jobs in
11 farming, processing, tourism, and support industries; energy
12 conservation; greenhouse gas reductions; and, notably, increased food
13 security through access to locally grown fresh and nutritious foods.

14 (2) The legislature finds there is a direct correlation between
15 adequate nutrition and a child's development and school performance.
16 Children who are hungry or malnourished are at risk of lower
17 achievement in school. Improving the health of children is an
18 investment in a productive and successful next generation and in
19 reducing future health care costs for the state.

1 (3) The legislature further finds that adequate nutrition is also
2 necessary for the physical health of adults, and that communities have
3 limited access to fruits and vegetables and quality meat and dairy
4 products, a lack of which may lead to high rates of diet-related
5 diseases.

6 (4) The legislature believes that expanding market opportunities
7 for Washington farmers will preserve and strengthen local food
8 production and increase the already significant contribution that
9 agriculture makes to the state and local economies. Improving farmers'
10 access to local processing, storage, distribution, and other marketing
11 infrastructure will enhance their ability to meet consumer demand for
12 affordable locally produced and processed foods year-round.

13 (5) The legislature finds that in its procurement practices, the
14 state should further the objectives of its own heart of Washington
15 initiative, which was designed to increase demand for Washington food
16 and agricultural products.

17 (6) The legislature intends that the local farms-healthy kids and
18 communities act strengthen the connections between the state's
19 agricultural industry and the state's food procurement procedures in
20 order to expand local agricultural markets, improve the nutrition of
21 children and other at-risk consumers, and have a positive impact on the
22 environment.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.64 RCW
24 to read as follows:

25 FARM-TO-SCHOOL PROGRAM. (1) A farm-to-school program is created
26 within the department to facilitate increased procurement of Washington
27 grown foods by the common schools.

28 (2) The farm-to-school program, in consultation as necessary with
29 the department of health, the office of the superintendent of public
30 instruction, the department of general administration, and Washington
31 State University shall, in order of priority:

32 (a) Coordinate the identification and development of policies and
33 procedures to implement and evaluate the program;

34 (b) Assist food producers, distributors, and food brokers to market
35 Washington products to schools by informing them of food procurement
36 opportunities, bid procedures, school purchasing criteria, and other
37 requirements;

1 (c) Assist school districts to connect with local producers by
2 informing them of the sources and availability of Washington grown
3 foods as well as the nutritional, environmental, and economic benefits
4 of purchasing Washington grown and produced foods;

5 (d) Identify and recommend mechanisms that will increase the
6 predictability of sales for producers and the adequacy of supply for
7 purchasers;

8 (e) Seek additional private and public sector funds to leverage
9 state resources;

10 (f) Identify and encourage the use of existing curricula, programs,
11 and publications, such as Washington agriculture in the classroom, that
12 educate students on the nutritional, environmental, and economic
13 benefits of preparing and consuming Washington grown foods, including
14 fresh fruits and vegetables;

15 (g) Support efforts to advance other farm-to-school connections
16 such as farmers markets on school grounds, school gardens, and
17 community supported agriculture; and

18 (h) As resources allow, seek additional private and public sector
19 funds to leverage state expenditures.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.235
21 RCW to read as follows:

22 WASHINGTON GROWN FRESH FRUIT AND VEGETABLE GRANTS. (1) The
23 Washington grown fresh fruit and vegetable grant program is created in
24 the office of the superintendent of public instruction. The purpose of
25 the program is to facilitate consumption of locally produced nutritious
26 snacks in order to improve student health and expand the market for
27 locally grown fresh produce.

28 (2) For purposes of this section, "fresh fruit and vegetables"
29 includes perishable produce that is unprocessed, minimally processed,
30 flash frozen, or otherwise prepared and handled to maintain its fresh
31 nature while providing convenience to the user. Producing minimally
32 processed food involves cleaning, washing, cutting, or portioning.

33 (3) The program shall increase the number of school children with
34 access to Washington grown fresh fruits and vegetables and shall be
35 modeled after the United States department of agriculture fresh fruit
36 and vegetable program, as described in 42 U.S.C. Sec. 1769(g). Schools

1 receiving funds under the federal program are not eligible for grants
2 under the Washington grown fresh fruit and vegetable grant program.

3 (4)(a) To the extent that state funds are appropriated specifically
4 for this purpose, the superintendent of public instruction shall
5 solicit applications, conduct a competitive process, and make one or
6 two-year grants to a mix of urban and rural schools to enable eligible
7 schools to provide free locally grown fresh fruits and vegetables
8 throughout the school day.

9 (b) When evaluating applications and selecting grantees, the
10 superintendent of public instruction shall consider and prioritize the
11 following factors:

12 (i) The applicant's plan for ensuring the use of Washington grown
13 fruits and vegetables within the program;

14 (ii) The applicant's plan for incorporating nutrition and related
15 agricultural stewardship and environmental education into the
16 curriculum;

17 (iii) The applicant's plan for establishing partnerships with
18 state, local, and private entities to further the program's objectives,
19 such as helping the school acquire, handle, store, and distribute fresh
20 fruits and vegetables, and developing educational components around
21 nutrition and agricultural stewardship.

22 (5)(a) The office of the superintendent of public instruction shall
23 give funding priority to applicant schools with any of grades
24 kindergarten through eight that: Participate in the national school
25 lunch program and have fifty percent or more of their students eligible
26 for free or reduced price meals under the federal national school lunch
27 act, 42 U.S.C. Sec. 1751 et seq.

28 (b) If any funds remain after all eligible priority applicant
29 schools have been awarded grants, the office of the superintendent of
30 public instruction may award grants to applicant schools having less
31 than fifty percent of the students eligible for free or reduced price
32 meals.

33 (6) The superintendent of public instruction may adopt rules to
34 carry out the grant program.

35 (7) With assistance from the department of health, the
36 superintendent of public instruction shall develop and track specific,
37 quantifiable outcome measures of the grant program such as the number
38 of students served by the program and the dollar value of purchase

1 orders to local farmers resulting from the program. With assistance
2 from the department of agriculture, the office of the superintendent of
3 public instruction shall track the development of farm-to-school
4 partnerships that extend beyond the cafeteria.

5 **Sec. 4.** RCW 43.19.1905 and 2002 c 299 s 5 and 2002 c 285 s 1 are
6 each reenacted and amended to read as follows:

7 The director of general administration shall establish overall
8 state policy for compliance by all state agencies, including
9 educational institutions, regarding the following purchasing and
10 material control functions:

11 (1) Development of a state commodity coding system, including
12 common stock numbers for items maintained in stores for reissue;

13 (2) Determination where consolidations, closures, or additions of
14 stores operated by state agencies and educational institutions should
15 be initiated;

16 (3) Institution of standard criteria for determination of when and
17 where an item in the state supply system should be stocked;

18 (4) Establishment of stock levels to be maintained in state stores,
19 and formulation of standards for replenishment of stock;

20 (5) Formulation of an overall distribution and redistribution
21 system for stock items which establishes sources of supply support for
22 all agencies, including interagency supply support;

23 (6) Determination of what function data processing equipment,
24 including remote terminals, shall perform in statewide purchasing and
25 material control for improvement of service and promotion of economy;

26 (7) Standardization of records and forms used statewide for supply
27 system activities involving purchasing, receiving, inspecting, storing,
28 requisitioning, and issuing functions, including a standard
29 notification form for state agencies to report cost-effective direct
30 purchases, which shall at least identify the price of the goods as
31 available through the division of purchasing, the price of the goods as
32 available from the alternative source, the total savings, and the
33 signature of the notifying agency's director or the director's
34 designee;

35 (8) Screening of supplies, material, and equipment excess to the
36 requirements of one agency for overall state need before sale as
37 surplus;

1 (9) Establishment of warehouse operation and storage standards to
2 achieve uniform, effective, and economical stores operations;

3 (10) Establishment of time limit standards for the issuing of
4 material in store and for processing requisitions requiring purchase;

5 (11) Formulation of criteria for determining when centralized
6 rather than decentralized purchasing shall be used to obtain maximum
7 benefit of volume buying of identical or similar items, including
8 procurement from federal supply sources;

9 (12) Development of criteria for use of leased, rather than state
10 owned, warehouse space based on relative cost and accessibility;

11 (13) Institution of standard criteria for purchase and placement of
12 state furnished materials, carpeting, furniture, fixtures, and nonfixed
13 equipment, in newly constructed or renovated state buildings;

14 (14) Determination of how transportation costs incurred by the
15 state for materials, supplies, services, and equipment can be reduced
16 by improved freight and traffic coordination and control;

17 (15) Establishment of a formal certification program for state
18 employees who are authorized to perform purchasing functions as agents
19 for the state under the provisions of chapter 43.19 RCW;

20 (16) Development of performance measures for the reduction of total
21 overall expense for material, supplies, equipment, and services used
22 each biennium by the state;

23 (17) Establishment of a standard system for all state organizations
24 to record and report dollar savings and cost avoidance which are
25 attributable to the establishment and implementation of improved
26 purchasing and material control procedures;

27 (18) Development of procedures for mutual and voluntary cooperation
28 between state agencies, including educational institutions, and
29 political subdivisions for exchange of purchasing and material control
30 services;

31 (19) Resolution of all other purchasing and material matters which
32 require the establishment of overall statewide policy for effective and
33 economical supply management;

34 (20) Development of guidelines and criteria for the purchase of
35 vehicles, high gas mileage vehicles, alternate vehicle fuels and
36 systems, equipment, and materials that reduce overall energy-related
37 costs and energy use by the state, including investigations into all
38 opportunities to aggregate the purchasing of clean technologies by

1 state and local governments, and including the requirement that new
2 passenger vehicles purchased by the state meet the minimum standards
3 for passenger automobile fuel economy established by the United States
4 secretary of transportation pursuant to the energy policy and
5 conservation act (15 U.S.C. Sec. 2002);

6 (21) Development of goals for state use of recycled or
7 environmentally preferable products through specifications for products
8 and services, processes for requests for proposals and requests for
9 qualifications, contractor selection, and contract negotiations; and

10 (22) Development of food procurement procedures and materials that
11 facilitate the purchase of Washington grown food products by state
12 agencies and institutions, institutions of higher education, and the
13 common schools to the maximum extent practicable. As used in this
14 subsection, "Washington grown food" means substances or products used
15 by humans as food or drink that are planted, cultivated, harvested,
16 raised, or collected within the state of Washington.

17 **Sec. 5.** RCW 43.19.1906 and 2006 c 363 s 1 are each amended to read
18 as follows:

19 Insofar as practicable, all purchases and sales shall be based on
20 competitive bids, and a formal sealed, electronic, or web-based bid
21 procedure, subject to RCW 43.19.1911, shall be used as standard
22 procedure for all purchases and contracts for purchases and sales
23 executed by the state purchasing and material control director and
24 under the powers granted by RCW 43.19.190 through 43.19.1939. This
25 requirement also applies to purchases and contracts for purchases and
26 sales executed by agencies, including educational institutions, under
27 delegated authority granted in accordance with provisions of RCW
28 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic,
29 or web-based competitive bidding is not necessary for:

30 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
31 sealed bidding procedure would prevent or hinder the emergency from
32 being met appropriately;

33 (2) Purchases not exceeding thirty-five thousand dollars, or
34 subsequent limits as calculated by the office of financial management:
35 PROVIDED, That the state director of general administration shall
36 establish procedures to assure that purchases made by or on behalf of
37 the various state agencies shall not be made so as to avoid the thirty-

1 five thousand dollar bid limitation, or subsequent bid limitations as
2 calculated by the office of financial management: PROVIDED FURTHER,
3 That the state purchasing and material control director is authorized
4 to reduce the formal sealed bid limits of thirty-five thousand dollars,
5 or subsequent limits as calculated by the office of financial
6 management, to a lower dollar amount for purchases by individual state
7 agencies if considered necessary to maintain full disclosure of
8 competitive procurement or otherwise to achieve overall state
9 efficiency and economy in purchasing and material control. Quotations
10 from three thousand dollars to thirty-five thousand dollars, or
11 subsequent limits as calculated by the office of financial management,
12 shall be secured from at least three vendors to assure establishment of
13 a competitive price and may be obtained by telephone or written
14 quotations, or both. The agency shall invite at least one quotation
15 each from a certified minority and a certified women-owned vendor who
16 shall otherwise qualify to perform such work. Immediately after the
17 award is made, the bid quotations obtained shall be recorded and open
18 to public inspection and shall be available by telephone inquiry. A
19 record of competition for all such purchases from three thousand
20 dollars to thirty-five thousand dollars, or subsequent limits as
21 calculated by the office of financial management, shall be documented
22 for audit purposes. Purchases up to three thousand dollars may be made
23 without competitive bids based on buyer experience and knowledge of the
24 market in achieving maximum quality at minimum cost;

25 (3) Purchases which are clearly and legitimately limited to a
26 single source of supply and purchases involving special facilities,
27 services, or market conditions, in which instances the purchase price
28 may be best established by direct negotiation;

29 (4) Purchases of insurance and bonds by the risk management
30 division under RCW 43.41.310;

31 (5) Purchases and contracts for vocational rehabilitation clients
32 of the department of social and health services: PROVIDED, That this
33 exemption is effective only when the state purchasing and material
34 control director, after consultation with the director of the division
35 of vocational rehabilitation and appropriate department of social and
36 health services procurement personnel, declares that such purchases may
37 be best executed through direct negotiation with one or more suppliers

1 in order to expeditiously meet the special needs of the state's
2 vocational rehabilitation clients;

3 (6) Purchases by universities for hospital operation or biomedical
4 teaching or research purposes and by the state purchasing and material
5 control director, as the agent for state hospitals as defined in RCW
6 72.23.010, and for health care programs provided in state correctional
7 institutions as defined in RCW 72.65.010(3) and veterans' institutions
8 as defined in RCW 72.36.010 and 72.36.070, made by participating in
9 contracts for materials, supplies, and equipment entered into by
10 nonprofit cooperative hospital group purchasing organizations;

11 (7) Purchases for resale by institutions of higher education to
12 other than public agencies when such purchases are for the express
13 purpose of supporting instructional programs and may best be executed
14 through direct negotiation with one or more suppliers in order to meet
15 the special needs of the institution;

16 (8) Purchases by institutions of higher education not exceeding
17 thirty-five thousand dollars: PROVIDED, That for purchases between
18 three thousand dollars and thirty-five thousand dollars quotations
19 shall be secured from at least three vendors to assure establishment of
20 a competitive price and may be obtained by telephone or written
21 quotations, or both. For purchases between three thousand dollars and
22 thirty-five thousand dollars, each institution of higher education
23 shall invite at least one quotation each from a certified minority and
24 a certified women-owned vendor who shall otherwise qualify to perform
25 such work. A record of competition for all such purchases made from
26 three thousand to thirty-five thousand dollars shall be documented for
27 audit purposes; ((and))

28 (9) Purchases by state agencies and institutions, and institutions
29 of higher education of Washington grown food products. However, under
30 this subsection the quality of available Washington grown food products
31 must be substantially equivalent or better than the quality of similar
32 food products that are not locally grown; a vendor must be able to
33 supply Washington grown food products in sufficient quantity; and the
34 price for the Washington grown food products must be reasonable and
35 able to be paid from the agency's existing budget without supplemental
36 appropriation. As used in this subsection, "Washington grown" has the
37 definition in RCW 43.19.1905; and

1 (10) Negotiation of a contract by the department of transportation,
2 valid until June 30, 2001, with registered tow truck operators to
3 provide roving service patrols in one or more Washington state patrol
4 tow zones whereby those registered tow truck operators wishing to
5 participate would cooperatively, with the department of transportation,
6 develop a demonstration project upon terms and conditions negotiated by
7 the parties.

8 Beginning on July 1, 1995, and on July 1 of each succeeding odd-
9 numbered year, the dollar limits specified in this section shall be
10 adjusted as follows: The office of financial management shall
11 calculate such limits by adjusting the previous biennium's limits by
12 the appropriate federal inflationary index reflecting the rate of
13 inflation for the previous biennium. Such amounts shall be rounded to
14 the nearest one hundred dollars. However, the three thousand dollar
15 figure in subsections (2) and (8) of this section may not be adjusted
16 to exceed five thousand dollars.

17 **Sec. 6.** RCW 28A.335.190 and 2005 c 346 s 2 and 2005 c 286 s 1 are
18 each reenacted and amended to read as follows:

19 (1) When, in the opinion of the board of directors of any school
20 district, the cost of any furniture, supplies, equipment, building,
21 improvements, or repairs, or other work or purchases, except books,
22 will equal or exceed the sum of fifty thousand dollars, complete plans
23 and specifications for such work or purchases shall be prepared and
24 notice by publication given in at least one newspaper of general
25 circulation within the district, once each week for two consecutive
26 weeks, of the intention to receive bids and that specifications and
27 other information may be examined at the office of the board or any
28 other officially designated location: PROVIDED, That the board without
29 giving such notice may make improvements or repairs to the property of
30 the district through the shop and repair department of such district
31 when the total of such improvements or repair does not exceed the sum
32 of forty thousand dollars. The cost of any public work, improvement or
33 repair for the purposes of this section shall be the aggregate of all
34 amounts to be paid for labor, material, and equipment on one continuous
35 or interrelated project where work is to be performed simultaneously or
36 in close sequence. The bids shall be in writing and shall be opened

1 and read in public on the date and in the place named in the notice and
2 after being opened shall be filed for public inspection.

3 (2) Every purchase of furniture, equipment or supplies, except
4 books, the cost of which is estimated to be in excess of forty thousand
5 dollars, shall be on a competitive basis. The board of directors shall
6 establish a procedure for securing telephone and/or written quotations
7 for such purchases. Whenever the estimated cost is from forty thousand
8 dollars up to seventy-five thousand dollars, the procedure shall
9 require quotations from at least three different sources to be obtained
10 in writing or by telephone, and recorded for public perusal. Whenever
11 the estimated cost is in excess of seventy-five thousand dollars, the
12 public bidding process provided in subsection (1) of this section shall
13 be followed.

14 (3) Any school district may purchase goods produced or provided in
15 whole or in part from class II inmate work programs operated by the
16 department of corrections pursuant to RCW 72.09.100, including but not
17 limited to furniture, equipment, or supplies. School districts are
18 encouraged to set as a target to contract, beginning after June 30,
19 2006, to purchase up to one percent of the total goods required by the
20 school districts each year, goods produced or provided in whole or in
21 part from class II inmate work programs operated by the department of
22 corrections.

23 (4) Every building, improvement, repair or other public works
24 project, the cost of which is estimated to be in excess of forty
25 thousand dollars, shall be on a competitive bid process. Whenever the
26 estimated cost of a public works project is one hundred thousand
27 dollars or more, the public bidding process provided in subsection (1)
28 of this section shall be followed unless the contract is let using the
29 small works roster process in RCW 39.04.155 or under any other
30 procedure authorized for school districts. One or more school
31 districts may authorize an educational service district to establish
32 and operate a small works roster for the school district under the
33 provisions of RCW 39.04.155.

34 (5) The contract for the work or purchase shall be awarded to the
35 lowest responsible bidder as defined in RCW 43.19.1911 but the board
36 may by resolution reject any and all bids and make further calls for
37 bids in the same manner as the original call. On any work or purchase

1 the board shall provide bidding information to any qualified bidder or
2 the bidder's agent, requesting it in person.

3 (6) In the event of any emergency when the public interest or
4 property of the district would suffer material injury or damage by
5 delay, upon resolution of the board declaring the existence of such an
6 emergency and reciting the facts constituting the same, the board may
7 waive the requirements of this section with reference to any purchase
8 or contract: PROVIDED, That an "emergency", for the purposes of this
9 section, means a condition likely to result in immediate physical
10 injury to persons or to property of the school district in the absence
11 of prompt remedial action.

12 (7) This section does not apply to the direct purchase of school
13 buses by school districts and educational services in accordance with
14 RCW 28A.160.195.

15 (8) This section does not apply to the purchase of Washington grown
16 food products as provided in RCW 43.19.1906(9). As used in this
17 subsection, "Washington grown" has the definition in RCW 43.19.1905.

18 (9) At the discretion of the board of directors, a school district
19 participating in the child nutrition program may elect to conduct a
20 formal bidding process following the procedures outlined in this
21 section, and may elect to apply a five percent bidder preference to any
22 purchase of food where the order consists entirely of products grown or
23 processed in Washington.

24 **Sec. 7.** RCW 43.19.1911 and 2006 c 363 s 3 are each amended to read
25 as follows:

26 (1) Preservation of the integrity of the competitive bid system
27 dictates that after competitive bids have been opened, award must be
28 made to that responsible bidder who submitted the lowest responsive bid
29 pursuant to subsections (~~((+7))~~) (8) and (~~((+9))~~) (10) of this section,
30 unless there is a compelling reason to reject all bids and cancel the
31 solicitation.

32 (2) Every effort shall be made to anticipate changes in a
33 requirement before the date of opening and to provide reasonable notice
34 to all prospective bidders of any resulting modification or
35 cancellation. If, in the opinion of the purchasing agency, division,
36 or department head, it is not possible to provide reasonable notice,
37 the published date for receipt of bids may be postponed and all known

1 bidders notified. This will permit bidders to change their bids and
2 prevent unnecessary exposure of bid prices. In addition, every effort
3 shall be made to include realistic, achievable requirements in a
4 solicitation.

5 (3) In any solicitation for a food procurement contract, the
6 department of general administration shall require prospective bidders
7 to provide information detailing their ability, anticipated sources,
8 and plans to make Washington grown and processed foods available
9 through the contract.

10 (4) After the opening of bids, a solicitation may not be canceled
11 and resolicited solely because of an increase in requirements for the
12 items being acquired. Award may be made on the initial solicitation
13 and an increase in requirements may be treated as a new acquisition.

14 ~~((+4))~~ (5) A solicitation may be canceled and all bids rejected
15 before award but after bid opening only when, consistent with
16 subsection (1) of this section, the purchasing agency, division, or
17 department head determines in writing that:

18 (a) Unavailable, inadequate, ambiguous specifications, terms,
19 conditions, or requirements were cited in the solicitation;

20 (b) Specifications, terms, conditions, or requirements have been
21 revised;

22 (c) The supplies or services being contracted for are no longer
23 required;

24 (d) The solicitation did not provide for consideration of all
25 factors of cost to the agency;

26 (e) Bids received indicate that the needs of the agency can be
27 satisfied by a less expensive article differing from that for which the
28 bids were invited;

29 (f) All otherwise acceptable bids received are at unreasonable
30 prices or only one bid is received and the agency cannot determine the
31 reasonableness of the bid price;

32 (g) No responsive bid has been received from a responsible bidder;
33 or

34 (h) The bid process was not fair or equitable.

35 ~~((+5))~~ (6) The agency, division, or department head may not
36 delegate his or her authority under this section.

37 ~~((+6))~~ (7) After the opening of bids, an agency may not reject all
38 bids and enter into direct negotiations to complete the planned

1 acquisition. However, the agency can enter into negotiations
2 exclusively with the lowest responsible bidder in order to determine if
3 the lowest responsible bid may be improved. Until December 31, 2009,
4 for purchases requiring a formal bid process the agency shall also
5 enter into negotiations with and may consider for award the lowest
6 responsible bidder that is a vendor in good standing, as defined in RCW
7 43.19.525. An agency shall not use this negotiation opportunity to
8 permit a bidder to change a nonresponsive bid into a responsive bid.

9 ~~((+7))~~ (8) In determining the lowest responsible bidder, the
10 agency shall consider any preferences provided by law to Washington
11 products and vendors and to RCW 43.19.704, and further, may take into
12 consideration the quality of the articles proposed to be supplied,
13 their conformity with specifications, the purposes for which required,
14 and the times of delivery.

15 ~~((+8))~~ (9) Each bid with the name of the bidder shall be entered
16 of record and each record, with the successful bid indicated, shall,
17 after letting of the contract, be open to public inspection. Bid
18 prices shall not be disclosed during electronic or web-based bidding
19 before the letting of the contract.

20 ~~((+9))~~ (10) In determining "lowest responsible bidder", in
21 addition to price, the following elements shall be given consideration:

22 (a) The ability, capacity, and skill of the bidder to perform the
23 contract or provide the service required;

24 (b) The character, integrity, reputation, judgment, experience, and
25 efficiency of the bidder;

26 (c) Whether the bidder can perform the contract within the time
27 specified;

28 (d) The quality of performance of previous contracts or services;

29 (e) The previous and existing compliance by the bidder with laws
30 relating to the contract or services;

31 (f) In bids submitted for food procurement contracts, the bidder's
32 plan to source and offer locally grown food products; and

33 (g) Such other information as may be secured having a bearing on
34 the decision to award the contract: PROVIDED, That in considering bids
35 for purchase, manufacture, or lease, and in determining the "lowest
36 responsible bidder," whenever there is reason to believe that applying
37 the "life cycle costing" technique to bid evaluation would result in
38 lowest total cost to the state, first consideration shall be given by

1 state purchasing activities to the bid with the lowest life cycle cost
2 which complies with specifications. "Life cycle cost" means the total
3 cost of an item to the state over its estimated useful life, including
4 costs of selection, acquisition, operation, maintenance, and where
5 applicable, disposal, as far as these costs can reasonably be
6 determined, minus the salvage value at the end of its estimated useful
7 life. The "estimated useful life" of an item means the estimated time
8 from the date of acquisition to the date of replacement or disposal,
9 determined in any reasonable manner. Nothing in this section shall
10 prohibit any state agency, department, board, commission, committee, or
11 other state-level entity from allowing for preferential purchase of
12 products made from recycled materials or products that may be recycled
13 or reused.

14 **Sec. 8.** RCW 43.19.706 and 2002 c 166 s 2 are each amended to read
15 as follows:

16 (1) The department of general administration, through the state
17 purchasing and material control director, shall ~~((encourage))~~ require
18 each state and local agency doing business with the department to
19 purchase ~~((Washington fruit, vegetables, and agricultural))~~ locally
20 grown food products when available at a price, quantity, and quality
21 substantially equivalent or better than similar food products that are
22 not locally grown.

23 (2) ~~((The department of general administration shall work with the~~
24 ~~department of agriculture and other interested parties to identify and~~
25 ~~recommend strategies to increase public purchasing of Washington fruit,~~
26 ~~vegetables, and agricultural products, and report back orally to the~~
27 ~~appropriate committees of the legislature in September 2002, and in~~
28 ~~January 2003))~~ By January 1, 2009, the department of general
29 administration shall review and, as necessary, modify the state's food
30 procurement materials and procedures to require the purchase of
31 Washington grown food products by state agencies and institutions, and
32 institutions of higher education to the maximum extent practicable and
33 allowed by law. Modifications shall be made to materials and
34 procedures including, but not limited to, product specifications,
35 solicitation processes, contractor selection criteria, and purchasing
36 guidelines.

1 **Sec. 9.** RCW 28B.10.029 and 2004 c 167 s 10 are each amended to
2 read as follows:

3 (1) An institution of higher education may exercise independently
4 those powers otherwise granted to the director of general
5 administration in chapter 43.19 RCW in connection with the purchase and
6 disposition of all material, supplies, services, and equipment needed
7 for the support, maintenance, and use of the respective institution of
8 higher education. Property disposition policies followed by
9 institutions of higher education shall be consistent with policies
10 followed by the department of general administration. Purchasing
11 policies and procedures followed by institutions of higher education
12 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and
13 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,
14 43.19.534, 43.19.685, 43.19.700 through ((43.19.704)) 43.19.706, and
15 43.19.560 through 43.19.637. The community and technical colleges
16 shall comply with RCW 43.19.450. Except for the University of
17 Washington, institutions of higher education shall comply with RCW
18 43.41.310, 43.41.290, and 43.41.350. If an institution of higher
19 education can satisfactorily demonstrate to the director of the office
20 of financial management that the cost of compliance is greater than the
21 value of benefits from any of the following statutes, then it shall be
22 exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any
23 institution of higher education that chooses to exercise independent
24 purchasing authority for a commodity or group of commodities shall
25 notify the director of general administration. Thereafter the director
26 of general administration shall not be required to provide those
27 services for that institution for the duration of the general
28 administration contract term for that commodity or group of
29 commodities.

30 (2) The council of presidents and the state board for community and
31 technical colleges shall convene its correctional industries business
32 development advisory committee, and work collaboratively with
33 correctional industries, to:

34 (a) Reaffirm purchasing criteria and ensure that quality, service,
35 and timely delivery result in the best value for expenditure of state
36 dollars;

37 (b) Update the approved list of correctional industries products
38 from which higher education shall purchase; and

1 (c) Develop recommendations on ways to continue to build
2 correctional industries' business with institutions of higher
3 education.

4 (3) Higher education and correctional industries shall develop a
5 plan to build higher education business with correctional industries to
6 increase higher education purchases of correctional industries
7 products, based upon the criteria established in subsection (2) of this
8 section. The plan shall include the correctional industries'
9 production and sales goals for higher education and an approved list of
10 products from which higher education institutions shall purchase, based
11 on the criteria established in subsection (2) of this section. Higher
12 education and correctional industries shall report to the legislature
13 regarding the plan and its implementation no later than January 30,
14 2005.

15 (4) Institutions of higher education shall set as a target to
16 contract, beginning not later than June 30, 2006, to purchase one
17 percent of the total goods and services required by the institutions
18 each year produced or provided in whole or in part from class II inmate
19 work programs operated by the department of corrections. Institutions
20 of higher education shall set as a target to contract, beginning not
21 later than June 30, 2008, to purchase two percent of the total goods
22 and services required by the institutions each year produced or
23 provided in whole or in part from class II inmate work programs
24 operated by the department of corrections.

25 (5) An institution of higher education may exercise independently
26 those powers otherwise granted to the public printer in chapter 43.78
27 RCW in connection with the production or purchase of any printing and
28 binding needed by the respective institution of higher education.
29 Purchasing policies and procedures followed by institutions of higher
30 education shall be in compliance with chapter 39.19 RCW. Any
31 institution of higher education that chooses to exercise independent
32 printing production or purchasing authority shall notify the public
33 printer. Thereafter the public printer shall not be required to
34 provide those services for that institution.

35 NEW SECTION. **Sec. 10.** A new section is added to chapter 15.04 RCW
36 to read as follows:

37 FARMERS MARKET TECHNOLOGY IMPROVEMENT PILOT PROGRAM. (1) The

1 Washington state farmers market technology improvement pilot program to
2 lend technological hardware to farmers markets is created in the
3 department of agriculture to assist farmers markets and Washington
4 farmers develop the capability to accept electronic payment cards,
5 including electronic benefits transfers. The purpose of this program
6 is to increase access to fresh fruits and vegetables and quality meat
7 and dairy for all Washington residents and to increase by one hundred
8 percent or more the total number of food stamp recipients using food
9 stamp benefits through electronic benefits transfer at farmers markets.

10 (2) The department shall work with farmers markets and appropriate
11 associations to determine criteria for participation, ensuring that the
12 program serves a balance of rural and urban farmers markets. Criteria
13 for participation shall prioritize the following factors:

14 (a) The applicant farmers market's ability to complete required
15 paperwork and implement participation requirements;

16 (b) The applicant's location with regard to the number of residents
17 in the area who are using food stamps; and

18 (c) The applicant's ability to establish partnerships with local
19 public and private organizations to further local outreach and to
20 coordinate with existing programs through the department of social and
21 health services and the department of health.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 15.04 RCW
23 to read as follows:

24 FARMERS TO FOOD BANKS PILOT PROGRAM. (1) The farmers to food banks
25 pilot program is created. In implementing this program, the department
26 shall conduct a request for proposals to select pilot site communities
27 statewide. Pilot communities shall be selected based on, but not
28 limited to, the following criteria:

29 (a) The percentage of the population suffering from hunger and food
30 insecurity;

31 (b) The existence and success of the local emergency food system;

32 (c) The potential to engage and contract with local farmers; and

33 (d) The capacity to leverage private sector funding and in-kind
34 contributions.

35 (2) Funds shall be used in pilot communities for the food bank
36 system to contract with local farmers to provide fruits, vegetables,

1 dairy, and meat products for distribution to low-income people at local
2 designated food banks.

3 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.41 RCW
4 to read as follows:

5 TRACKING. Beginning with the 2009 fiscal year, the office of
6 financial management shall work with the department of general
7 administration, the department of agriculture, and the office of the
8 superintendent of public instruction to create and implement an ongoing
9 mechanism for tracking purchases of locally grown foods, as defined in
10 RCW 43.19.1905, by state agencies and institutions, institutions of
11 higher education, and schools.

12 NEW SECTION. **Sec. 13.** This act may be known and cited as the
13 local farms-healthy kids and communities act.

14 NEW SECTION. **Sec. 14.** Captions used in this act are not any part
15 of the law.

16 NEW SECTION. **Sec. 15.** (1)(a) The sum of two hundred fifty
17 thousand dollars, or as much thereof as may be necessary, is
18 appropriated for the fiscal year ending June 30, 2009, from the general
19 fund to the center for sustainable agriculture at Washington State
20 University.

21 (b) Funds shall be used by the center for research and to recommend
22 options for improving producer access to processing, packaging,
23 storage, distribution, and other cooperative marketing services to
24 improve consumer access to affordable, locally produced and processed
25 foods. The center shall work with relevant state agencies, commodity
26 commissions, agricultural associations, and other stakeholders and
27 shall present its findings and recommendations to the governor and the
28 legislature by June 30, 2009.

29 (2) The sum of five hundred thousand dollars, or as much thereof as
30 may be necessary, is appropriated for the fiscal year ending June 30,
31 2009, from the general fund to the department of health solely to
32 provide access to the women, infants and children farmers market
33 nutrition program for twenty-five thousand additional participants.

1 (3) The sum of two hundred thirty thousand dollars, or as much
2 thereof as may be necessary, is appropriated for the fiscal year ending
3 June 30, 2009, from the general fund to the department of social and
4 health services solely to provide access to the senior farmers market
5 nutrition program for five thousand additional participants.

6 (4) The sum of two hundred fifty thousand dollars, or as much
7 thereof as may be necessary, is appropriated for the fiscal year ending
8 June 30, 2009, from the general fund to the department of agriculture
9 solely for the purposes of section 10 of this act.

10 (5) The sum of three hundred thousand dollars, or as much thereof
11 as may be necessary, is appropriated for the fiscal year ending June
12 30, 2009, from the general fund to the department of agriculture for
13 the purposes of section 2 of this act.

14 (6) The sum of two million fifty thousand dollars, or as much
15 thereof as may be necessary, is appropriated for the fiscal year ending
16 June 30, 2009, from the general fund to the office of the
17 superintendent of public instruction for the purpose of providing
18 grants to at least seventy-five schools to enable them to participate
19 in the Washington grown fresh fruit and vegetable grant program as
20 described in section 3 of this act. No more than ninety-nine thousand
21 dollars of this amount may be used by the superintendent of public
22 instruction for program administration, including tracking and
23 evaluating the benefits of the program.

24 (7) The sum of nine hundred seventy-five thousand dollars, or as
25 much thereof as may be necessary, is appropriated for the fiscal year
26 ending June 30, 2009, from the general fund to the department of
27 community, trade, and economic development in coordination with the
28 department of agriculture for the purpose of implementing the farmers
29 to food banks pilot program in section 11 of this act. No more than
30 seventy-five thousand dollars of the total allocation may be used by
31 the department to administer the program.

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