

1 S.63

2 Introduced by Senators Ashe, Carris, Doyle and Illuzzi

3 Referred to Committee on

4 Date:

5 Subject: Government purchasing; local and socially responsible businesses

6 Statement of purpose: This bill proposes to authorize government procurement  
7 preferences for local and socially responsible businesses.

8 An act relating to state purchasing from local and socially responsible  
9 businesses

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

11 Sec.1. FINDINGS

12 The general assembly finds:

13 (1) The state of Vermont is a large purchaser of goods and services. As  
14 a result, the purchasing policies of the state of Vermont both influence the  
15 practices of vendors and have a fiscal impact on the state.

16 (2) When purchasing goods and services, the state of Vermont follows a  
17 procurement process detailed in 29 V.S.A. chapter 49. Although multiple  
18 factors are considered, Vermont often selects the lowest bids for goods and  
19 services contracts and does not consistently account for the true economic

1 costs of procurement from out-of-state providers relative to local and socially  
2 responsible providers.

3 (3) This policy fails to account for the fact that procurement decisions  
4 based on a bid price alone do not necessarily account for the total fiscal impact  
5 to the state of the bid award. Among the fiscal impacts to the state inherent in  
6 bid proposals are: the amount of wages paid to Vermont resident employees,  
7 the local spending effect of earned wages and profits in the Vermont economy  
8 by Vermont residents, revenue effects of purchasing of goods and services  
9 from other Vermont businesses in support of the primary vendor's submitting  
10 the bid, the possible reduction of Vermont unemployment, and the possible  
11 reduction in public assistance programs that result from earned wages.

12 (4) In recognition of the total fiscal impacts of state procurement  
13 practices, new procurement policies are required to ensure that the state of  
14 Vermont makes sound financial decisions that reflect the whole cost of  
15 contracts.

16 Sec. 2. 29 V.S.A. § 929 is added to read:

17 § 929. GOVERNMENT CONTRACTS; PREFERENCES FOR LOCAL

18 CONTRACTORS AND SOCIALLY RESPONSIBLE BUSINESSES

19 (a) Notwithstanding any provision of law to the contrary, the state or its  
20 instrumentalities, when entering into a contract for a project or the purchase of  
21 goods or services, shall:

1           (1)(A) Accept the bid of a local contractor which exceeds by up  
2 to 2.5 percent the lowest good faith bid for the contract, unless the bid of a  
3 local contractor is the same or higher than a bid submitted by a socially  
4 responsible business as determined under subdivision (2) of this section.

5           (B) For the purposes of this section, a “local contractor” means  
6 either:

7                   (i) a sole proprietor whose primary residence is Vermont; or

8                   (ii) a Vermont-domiciled business organization registered with the  
9 secretary of state, at least 50 percent of the controlling interest of which  
10 business organization is held by one or more persons domiciled or residing in  
11 Vermont, and at least 50 percent of the employees are Vermont residents.

12           (2) Accept the bid of a socially responsible business which exceeds by  
13 up to five percent the lowest good faith bid for the contract. For the purposes  
14 of this subdivision, “socially responsible business” means any person that:

15                   (A) is a Vermont-domiciled benefit corporation; or

16                   (B) meets all of the following criteria:

17                           (i) is a “local contractor” under subdivision (1) of this  
18 subsection (a);

19                           (ii) spends at least eight percent of its total payroll on employee  
20 health benefits;

1           (iii) pays a livable wage, as defined by the joint fiscal committee  
2 in its biannual report pursuant to 2 V.S.A. § 505, to 75 percent or more of its  
3 employees;

4           (b) When a contract would otherwise be awarded to an out-of-state person  
5 who is the lowest responsible bidder for a contract under this section, the  
6 commissioner shall allow a Vermont-domiciled bidder the same preference  
7 that the out-of-state bidder would receive for a state procurement contract with  
8 the state of its domicile.

9           (c) The preferences described under this section shall only be applied if the  
10 person bidding is in current compliance with applicable unemployment  
11 insurance and workers' compensation obligations under Vermont and federal  
12 law.

13           (d) The commissioner of buildings and general services may utilize an  
14 econometric model developed and maintained by the legislative joint fiscal  
15 office to evaluate the net costs of contracts. Upon adoption of this model, the  
16 commissioner may adopt by rule preferences for local contractors and socially  
17 responsible businesses equal to or greater than the preferences described in  
18 subsections (a) and (b) of this section.

19           (e) On or before January 15, 2013, and annually thereafter, the agency of  
20 administration shall report to the general assembly regarding purchases from  
21 local contractors and socially responsible businesses. The report shall identify

1 specific improvements for spending preferences in the next year for all state  
2 dollars and state agencies. The agency shall also review purchasing  
3 specifications and identify barriers that prevent local contractors and socially  
4 responsible businesses from obtaining state contracts.

5 (f) The agency of administration shall work with Vermont businesses,  
6 organizations, and other interested parties to develop outreach and education  
7 programs in order to increase state procurement from local contractors and  
8 socially responsible businesses.

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on passage.