



THE ILLINOIS PILOT PROJECT

A NEW MODEL FOR STATE-LEVEL FOOD PROCUREMENT LEGISLATION

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An aerial photograph of a lush green landscape. On the left, there is a dense line of trees with vibrant green foliage. To the right of the trees is a large, open field covered in green grass and numerous small yellow wildflowers. Two distinct, parallel tracks, possibly from a tractor or vehicle, run diagonally across the field from the top right towards the bottom center. The overall scene is bright and natural.

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EXECUTIVE SUMMARY

We propose that through key legislative changes, an assessment of barriers, and the building of a strong coalition of supporters, the State of Illinois adopts progressive food procurement legislation that takes into account climate, animal welfare, worker protection, nutrition, and broader environmental sustainability goals. Building on the strong foundation at the municipal and county level set forth by organizations such as the The Center for Good Food Purchasing, we believe that it is possible and necessary for statewide action to prioritize, incentivize, and put resources behind more just practices in food systems. The ongoing climate crisis and the COVID-19 pandemic both cement the need for reform in farming and agriculture to ensure standards that protect both the environment and workers' rights, and the State of Illinois can be at the forefront of realizing this change.

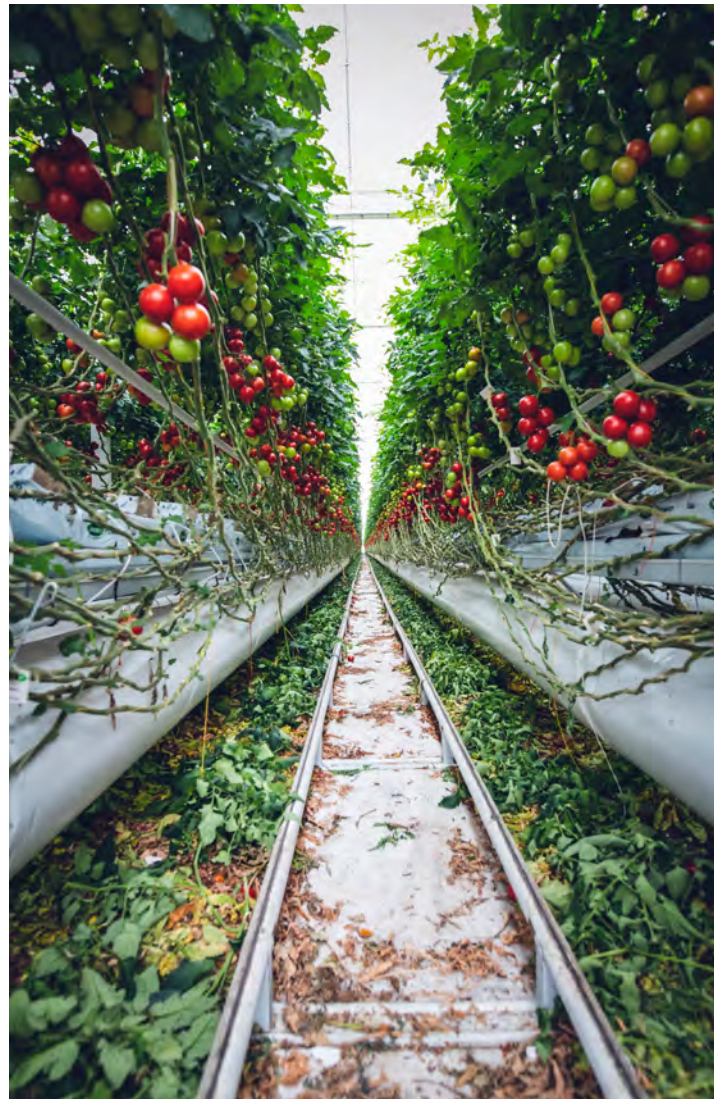


INTRODUCTION

This white paper analyzes how Illinois state agencies and institutions can improve their food procurement policies to more holistically and effectively prioritize and purchase ethical, equitable, and environmentally sustainable food options. While legislative efforts in several states around the country have made strides towards prioritizing and supporting local food,¹ this report considers how a more precise and comprehensive rubric could be applied to assess food purchasing. The State of Illinois is a prime candidate for comprehensive statewide food procurement legislation for several reasons. Illinois has been a leader in the food procurement space, becoming one of the first states to adopt statewide food procurement legislation with the Food, Farms, and Jobs Act of 2007. The legislation, which focused primarily on local purchasing, encouraged state agencies to procure 20 percent of food locally and entities funded in-part by the State to procure 10 percent of food locally by 2020.² These targets mean that the timing is right for our proposed intervention; with the 2020 target date here, progress should be evaluated, and new, more aggressive targets should be set. Additionally, given the limited scope of the 2007 legislation—targets are focused solely on local procurement—there is an opportunity to expand the scope of new legislation beyond local economic development to include a more diverse set of indicators. Finally, despite limited statewide progress tracking, there is significant progress being

made at the local level, with both the City of Chicago³ and Cook County⁴ adopting Good Food Purchasing Program (GFPP) standards in recent years.

The wider impact of food systems on climate change is being increasingly recognized, and estimates indicate that food systems contribute between 19 and 29 percent of greenhouse gas emissions globally.⁵





Concentrated animal feeding operations (CAFOs) have become hotbeds of both animal suffering and public health risks, including contamination of waterways, the spread of pathogens, and the cause of antibiotic resistance.⁶ Additionally, the rights of contract farmers and farm workers are not sufficiently protected and farm workers often face harsh and dangerous conditions on the job.⁷ These issues are interrelated and need to be addressed holistically to drive structural transformation. While there is a need for federal lawmaking to tackle many of the overarching problems, states can use their institutional power to incentivize change and better behavior among farmers by putting public resources behind more just practices. Moreover, states can help to

create networks, coordinated systems, and funding streams for municipal and regional government agencies that have already started implementing comprehensive food procurement laws. Local input and community organization involvement in shaping a food procurement policy are also critical for its implementation success. This white paper will focus on Illinois as a pilot project for a new state-level procurement policy. The local groundwork and procurement rubrics developed by organizations such as the Center for Good Food Purchasing and Friends of the Earth can also help to shape and inform state-level comprehensive food procurement reform.

WHAT IS PROCUREMENT LEGISLATION?

Broadly speaking, procurement legislation includes a set of enacted rules, which are designed to ensure that money is not misappropriated or spent unwisely when agents sign contracts for the purchase of goods for public purposes.⁸ Such legislation generally codifies norms of competitive bidding.⁹ Under a competitive bidding scheme, private vendors compete amongst each other by presenting bids to the state or municipal purchasing agent, who is required to select the lowest-cost bidder.¹⁰ However, some state and municipal procurement legislation does allow for the consideration of alternate criteria under that jurisdiction's procurement regime. For instance, some

jurisdictions allow purchasing agents to weigh additional criteria, such as whether the vendor is a minority owned business or whether the vendor is a "local" producer, when prioritizing submitted bids.¹¹

Additionally, state and municipal procurement legislation has largely been held constitutional by the courts under current Commerce Clause jurisprudence. This is the case so long as the state itself is acting as a "participant in the market" rather than as a "regulator of the market." In such¹² circumstances, in-state or local procurement preference, amongst other procurement policies, pass constitutional muster.¹³



STATE LEGISLATIVE LANDSCAPE ACROSS THE U.S.

There is currently little to no comprehensive procurement legislation that accounts for a multitude of sustainability factors in any state in the U.S.,¹⁴ and existing legislation is often overly broad with vague statutory language.¹⁵ Further, states that have adopted procurement legislation place an overarching emphasis on developing programs to prioritize “local” procurement.¹⁶ For instance, state legislation may require a certain percentage of food contracts to be sourced from local vendors, loosen requirements on competitive bidding for local vendors, or strengthen infrastructure for farm-to-school programs.¹⁷ Prioritizing local food has become a trend and can provide critical financial support for small-scale farmers and food producers. Local food, however, is not always more ecologically farmed, or better for the environment, animals, or people,¹⁸ despite perceptions to the contrary.¹⁹ Depending on the jurisdiction’s specifications, local vendors could potentially include concentrated animal feeding operations (CAFOs) and other food conglomerates. Additionally, there is no consensus amongst different jurisdictions as to what constitutes local food, even though eligibility for some Department of Agriculture grant programs sets a geographic ceiling.²⁰ The USDA has a set definition of a 400-mile radius but this range encompasses too large an area to provide meaningful emissions benefits and often reaches across several state borders.²¹ As such, procurement legislation prioritizing local food remains a highly variable and problematic procurement

metric. By passing food procurement legislation that both prioritizes “local” food and considers broader, more comprehensive environmental and workers’ rights standards at the same time, state governments and state institutions, such as state agencies, hospitals, schools, prisons, and state parks, can use their significant spending power in food purchasing to both keep public dollars in-state and incentivize better practices among farmers and food producers that will help improve climate, animal welfare, nutrition, workers' rights, and environmental protection standards. Thereby, progressive state food procurement policies can help ensure that nutritious, ethical, and environmentally-sourced food is available to inmates, patients, and government employees that eat at public institutions.



THE ILLINOIS PILOT PROJECT

The Illinois Pilot Project is a proposal to revise the 2007 Illinois Local Food, Farms, and Jobs Act to create a holistic and innovative food procurement law for the State of Illinois. Drawing policy solutions from leaders in each field, our proposed legislation contains procurement measures that address climate and the environment, animal welfare, food and nutrition, and workers' rights. In addition, the project includes suggested infrastructure the State can create to support the enactment of these policies.



LEGISLATION OVERVIEW

Our proposed legislation revises the Illinois Local Food, Farms, and Jobs Act in order to develop a holistic food procurement program that focuses on improving purchasing across four key areas: climate and the environment, animal welfare, food and nutrition, and workers' rights.²² Specifically, our proposed legislation attaches criteria to these realms that would be required for government and public institutions' food purchases. Much of our proposed criteria extends to the state level the standards that the Center for Good Food Purchasing created for city and institutional procurement through their Good Food Purchasing Program (GFPP).²³ Our

legislation adds additional criteria in areas we believe GFPP's standards can be effectively extended to produce a broader impact. In addition, our proposed legislation is only a first step toward creating draft legislation that will be friendly to animals and the environment, improve the sustainability of the food system, and support workers' rights. Our next, and most important step, is to workshop our suggested criteria with community groups, NGOs, and other activists in Illinois' environmental and food justice movements to produce legislation that is responsive to the needs of the local community.



CLIMATE AND THE
ENVIRONMENT



ANIMAL WELFARE



FOOD AND
NUTRITION



WORKERS' RIGHTS

PROPOSED PROCUREMENT CRITERIA

	RECOMMENDED CRITERIA	EXPLANATION
 <p>CLIMATE & THE ENVIRONMENT</p>	<p>State agencies will set targets that are both ambitious and achievable for reducing the carbon and water footprints of their food purchases</p>	<p>GFFP's standards suggest reducing the carbon footprint of food purchases by 20 percent over a five year period. Our proposed revision applies this concept to the broader scale of state-level legislation. Rather than providing a numerical target, our criteria allows state agencies to adopt their own rigorous emissions reduction criteria providing flexibility for the complex needs of different agencies and opening the door for reductions even larger than 20 percent</p>
 <p>ANIMAL WELFARE</p>	<p>Require that animal products purchased by state agencies and state-owned facilities, meet levels 4 or 5 of the Global Animal Partnership standard²⁴ or are Animal Welfare Approved²⁵</p>	<p>Illinois' 2007 procurement legislation does not address animal welfare. Our proposed legislation supports animal welfare by requiring that animal products purchased meet one of two of the country's most meaningful standards for animal products</p>
 <p>FOOD AND NUTRITION</p>	<ul style="list-style-type: none"> Require state agencies and state-owned facilities to purchase 30 percent of their food from in-state sources Encourage local municipalities to purchase 20 percent of their food from local sources Require food purchasing to meet USDA nutrition standards²⁶ 	<p>Illinois' 2007 procurement legislation mandated that 20 percent of food purchasing by state agencies and state-owned facilities come from local farms by 2020. Our proposed revision takes this commitment a step further by encouraging state agencies to devote a greater share of their purchasing to in-state foods. Additionally, existing legislation does not include nutritional standards, which are important for improving health outcomes for individuals receiving food from state institutions</p>
 <p>WORKERS' RIGHTS</p>	<ul style="list-style-type: none"> Build on elements of ordinances from Boston²⁷ and Seattle²⁸ that protects workers' rights Rights should include freedom of association, safe and healthy working environments, fair compensation, health insurance, and child care The legislation should also include increased access to opportunity for women and minority business owners and workplaces that operate under the fair labor code of conduct 	<p>Workers' rights and protections are not addressed in Illinois' current procurement legislation. In addition, the highest level of GFFP's valued workforce criteria requires that vendors and suppliers have union contracts with their employees or are a worker cooperative. Boston and Seattle's legislation highlight critical protections and rights for workers that must be included for a just food system</p>

ACTION STEPS FOR ILLINOIS

In order for the full benefits of the updated food purchasing criteria to be realized, there are a number of action items that we propose at both the state and municipal level. These actions can help develop the infrastructure needed to support a statewide program of this scale.

STATE-LEVEL ACTIONS

At the state level, we propose replacing the inactive Local Food, Farms, and Jobs Council—which was established in conjunction with the 2007 Local Food, Farms, and Jobs Act—with a new, comprehensive statewide Food Policy Council. While the Local Food, Farms, and Jobs Council was primarily focused on expanding the local farm and food product economy,²⁹ the new Food Policy Council could help support food system development across our four key procurement areas. In order to provide effective technical assistance and support, we recommend expanding council membership to include representation from experts in the environmental, animal welfare, and labor sectors. We also recognize that in order for comprehensive procurement legislation to be successful, particularly across multiple procurement categories, a plan needs to be established for how progress will be monitored and evaluated over time. One of the challenges with the 2007 legislation was that it lacked a formal process for tracking progress towards procurement goals. While a new Food Policy Council will play a prominent role in organizing an implementation plan, it is critical that there is active participation from state agency

staff as well. We recommend that a full-time staff member at the Department of Commerce and Economic Opportunity be dedicated to coordinating with the Food Policy Council and other state agencies to ensure procurement goals are met. Finally, we recommend that the legislation establish a Food Hub Network to increase collaboration between food hubs, create distribution regions, and provide technical assistance to current and emerging food hubs. This network, which could be overseen by the Food Policy Council, would support important aggregation and distribution infrastructure for small-scale producers.

WHAT IS A FOOD HUB?

According to the USDA, a food hub is *“a centrally located facility with a business management structure facilitating the aggregation, storage, processing, distribution, and/or marketing of locally/regionally produced food products.”*³⁰

OVERCOMING BARRIERS

We recognize several potential barriers to introducing effective food procurement legislation at the state level. Importantly, most barriers we anticipate are common to all forms of legislation, making the challenges we face familiar to those of legislators and policy analysts. Outlined below, these possible barriers present opportunities to understand other forces at play and communicate effective messaging to encourage responsible food procurement.

STAFFING

Upon the creation of statewide food procurement standards of the kind we propose, public servants will be required to spend some amount of time implementing procedural changes, identifying compliant suppliers, and measuring and reporting on procurement outcomes. While limited staff availability could create a barrier to successful implementation, we propose spreading this work across several stakeholders by forming an Illinois Food Policy Council; this approach is aligned to successful implementation of the GFPP standards in the City of Chicago and Cook County. By convening food procurement stakeholders from across state offices and augmenting their ranks with complementary staffing and partner organizations, meaningful progress is in reach.



FINANCE

We recognize that increasingly ethical food purchasing could result in higher procurement costs for state agencies. While we believe you should not put a price on making a moral or ethical decision, we also recognize the benefit of purchasing from in-state suppliers. Studies show that dollars spent locally stay local, generating 70 percent greater economic activity compared to dollars spent at national alternatives.³¹ As noted elsewhere in this paper, we do not believe ‘local’ is the appropriate sole metric for food procurement, but when it comes to money, Illinois has a high incentive to keep as much as possible in-state. Over time, market forces will adjust, more local food suppliers will comply with enhanced procurement standards, and food purchasing costs may go down.

UNFUNDED MANDATE

The State of Illinois cannot enforce municipal-level changes unless they are cost neutral or the State provides funding. While funding better food procurement across municipalities statewide seems out of scope for Illinois today, we recommend an approach similar to Cook County's implementation of GFPP where municipalities are encouraged to comply with the new standards, but are not required.³²



SPECIAL INTEREST LOBBYING

Special interest lobbying is a potential barrier to better food procurement legislation at the state level. Companies—particularly large-scale, inexpensive food suppliers—may face increased compliance costs based on our proposal. Therefore, it is critical that we build a coalition of supporters greater in size and voice than that of policy detractors. Given the support of GFPP in Chicago and Cook County, as well as among several prominent nonprofits throughout Illinois, we are confident that we can garner this support.

Finally, it is important that the legislation is targeted at specific state committees that would be more likely to support this type of legislation. While the Assembly Agriculture and Conservation Committee, for example, may push back on procurement overhaul due to concerns from large-scale agricultural producers, the Senate Commerce Committee and the Senate Local Government Committee may be more amenable to a more comprehensive procurement strategy.

A NOTE ON COVID-19

The ongoing pandemic creates significant uncertainty in market forces and state solvency. While food procurement will not fix these issues in Illinois, our policy proposal creates several important economic benefits for Illinoisans at this critical juncture. First, enhanced farming standards and a focus on environmental innovation generates better jobs in Illinois, putting people to work. Second, in-state purchasing keeps existing farmers at work and promotes state food security at a time when it has become clear that free trade is not always reliable. Third, cleaner farming practices will buoy property values for Illinoisans living nearby. While these benefits are inherent in our proposal, it is prescient that this pandemic highlights many of the flaws in our existing food system.

CONCLUSION

As this paper has hopefully made clear, there is significant work to be done to modernize agriculture and create ethical, equitable, and environmentally sustainable food policy. Our proposed legislation for Illinois advances these causes and extends the programmatic gains achieved by Chicago and Cook County through their adoption of the Good Food Purchasing Program guidelines, as well as the State of Illinois' existing procurement policies which benefit in-state farmers.

Our review of the food procurement policy landscape provides context invaluable to the Illinois Pilot Project and food policy organizations nationwide. We show that state-level food procurement policy, if it exists, focuses on “local,” and we demonstrate why that is not a comprehensive metric. We also explore municipal-level procurement policies and find specifically that local agency adoption of GFPP guidelines stand out as some of the most comprehensive and impactful standards implemented to date.

The Illinois Pilot Project draws on state-of-the-art policy solutions to usher in a new era of food procurement at the state level. The climate and environment are protected by setting “ambitious and achievable” targets for carbon and water footprints in food

procurement, which draws on language from the Clean Air Act Standard. Animal welfare requirements are raised by requiring compliance with nationally recognized, best-practice certifications that meaningfully improve the wellbeing of livestock and poultry. Greater emphasis is placed on nutrition, by requiring compliance with USDA nutrition standards, and additional support is provided to local farmers by encouraging 30 percent of food purchases from in-state farms. Additionally, agricultural workers are afforded rights and protections congruent with innovative policies from the cities of Seattle and Boston.

We recognize that this is only the beginning. Achieving success in updating state-level food procurement policy will require strong coalitions, formed both with community groups and agricultural organizations across the state and with expert partners nationwide. We invite you to join this cause. Agitate for better food procurement by reaching out to your state representative, connecting with your local food policy council (or other local interest groups), and communicating the need for reform across your network. Your collective support is critical to creating a better, more just and ethical food system, right here in Illinois.



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This report was researched and written in spring 2020 by a team of Yale graduate and professional school students in the **Climate, Animal, Food & Environmental Law & Policy Lab (“CAFE Lab”)**, an initiative of the **Law, Ethics & Animals Program at Yale Law School**.

The CAFE Lab’s mission is to develop novel strategies to compel industrial food producers to pay the currently uncounted, externalized costs of industrial agriculture for people, animals, and the environment. For more information about the Program and the CAFE Lab and to access its publications, please visit: law.yale.edu/animals.



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