

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 85*

Short Title: State Purchase of Recycled Goods.

(Public)

Sponsors: Representatives Hightower, R. Thompson, Barnhill, Bowen, DeVane; Bowman, Hackney, Kuczmariski, Luebke, Smith, and Wright.

Referred to: State Government.

February 9, 1993

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A STATE PROCUREMENT POLICY THAT REQUIRES THE STATE TO PURCHASE PRODUCTS CONTAINING RECYCLED MATERIALS AND ESTABLISHES CERTAIN GOALS FOR THE PURCHASE OF GOODS AND SUPPLIES MADE FROM RECYCLED MATERIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-49 reads as rewritten:

"§ 143-49. Powers and duties of Secretary.

The Secretary of Administration shall have power and authority, and it shall be his duty, subject to the provisions of this Article:

- (1) To canvass sources of supply, including sources of supply of products containing recycled materials, and to purchase or to contract for the purchase, lease and lease-purchase of all supplies, materials, equipment and other tangible personal property required by the State government, or any of its departments, institutions or agencies under competitive bidding or otherwise as hereinafter provided.
- (2) To establish and enforce specifications which shall apply to all supplies, materials and equipment to be purchased or leased for the use of the State government or any of its departments, institutions or agencies.
- (3) To purchase or to contract for, by sealed, competitive bidding or other suitable means, all contractual services and needs of the State government, or any of its departments, institutions, or agencies; or to

1 authorize any department, institution or agency to purchase or contract
2 for such services.

3 When the award of any contract for contractual services exceeding a
4 cost of one hundred thousand dollars (\$100,000) requires negotiation
5 with prospective contractors, the Secretary shall request and the
6 Attorney General shall assign a representative of the office of the
7 Attorney General to assist in negotiation for the award of the contract.
8 It shall be the duty of such representative to assist and advise in
9 obtaining the most favorable contract for the State, to evaluate all
10 proposals available from prospective contractors for that purpose, to
11 interpret proposed contract terms and to advise the Secretary or his
12 representatives of the liabilities of the State and validity of the contract
13 to be awarded. All contracts and drafts of such contracts shall be
14 prepared by the office of the Attorney General and copies thereof shall
15 be retained by such office for a period of three years following the
16 termination of such contracts. The term 'contractual services' as used
17 in this subsection shall mean work performed by an independent
18 contractor requiring specialized knowledge, experience, expertise or
19 similar capabilities wherein the service rendered does not consist
20 primarily of acquisition by this State of equipment or materials and the
21 rental of equipment, materials and supplies. The term 'negotiation' as
22 used herein shall not be deemed to refer to contracts entered into or to
23 be entered into as a result of a competitive bidding process.

- 24 (4) To have general supervision of all storerooms and stores operated by
25 the State government, or any of its departments, institutions or
26 agencies; to provide for transfer or exchange to or between all State
27 departments, institutions and agencies, or to sell all supplies, materials
28 and equipment which are surplus, obsolete or unused; and to have
29 supervision of inventories of all tangible personal property belonging
30 to the State government, or any of its departments, institutions or
31 agencies. All receipts from the transfer or sale of such surplus,
32 obsolete or unused equipment of State departments, institutions and
33 agencies which are supported by appropriations from the general fund,
34 except where such receipts have been anticipated for, or budgeted
35 against the cost or replacements, shall be placed by the Secretary in an
36 equipment reserve fund from which expenditures may be made only
37 with prior approval of the Director of the Budget. The duties imposed
38 by this subdivision shall not relieve any department, institution or
39 agency of the State government from accountability for equipment,
40 materials, supplies and tangible personal property under its control.
41 Prior to taking any action under this subdivision concerning
42 expenditures from the equipment reserve fund, the Secretary may
43 consult with the Advisory Budget Commission.

- 1 (5) To make provision for or to contract for all State printing, including all
2 printing, binding, paper ~~stock and supplies~~ stock, recycled paper stock,
3 supplies, and supplies containing recycled materials, or materials in
4 connection with the same.
- 5 (6) To make available to nonprofit corporations operating charitable
6 hospitals, to local nonprofit community sheltered workshops or centers
7 that meet standards established by the Division of Vocational
8 Rehabilitation of the Department of Human Resources, to private
9 nonprofit agencies licensed or approved by the Department of Human
10 Resources as child placing agencies or residential child-care facilities,
11 and to counties, cities, towns, governmental entities and other
12 subdivisions of the State and public agencies thereof in the expenditure
13 of public funds, the services of the Department of Administration in
14 the purchase of materials, supplies and equipment under such rules,
15 regulations and procedures as the Secretary of Administration may
16 adopt. In adopting rules and regulations any or all provisions of this
17 Article may be made applicable to such purchases and contracts made
18 through the Department of Administration, and in addition the rules
19 and regulations shall contain a requirement that payment for all such
20 purchases be made in accordance with the terms of the contract. Prior
21 to adopting rules and regulations under this subdivision, the Secretary
22 of Administration may consult with the Advisory Budget
23 Commission."

24 Sec. 2. Article 3 of Chapter 143 of the General Statutes is amended by
25 adding the following sections:

26 **"§ 143-58.2. State policy; cooperation in promoting the purchase of products made**
27 **from recycled materials; procurement goals.**

28 (a) It is the policy of this State to encourage and promote the purchase of
29 products made from recycled materials. All State departments, institutions, and
30 agencies shall cooperate with the Department of Administration and all other State
31 departments, institutions, and agencies in efforts to encourage the purchase of products
32 made from recycled content and, to the extent practicable, to require the use of supplies
33 and materials containing recycled materials when purchasing goods and services.

34 (b) Subject to subsection (c) of this section, it shall be the goal of State
35 government to increase its purchase of goods and supplies made from recycled materials
36 as compared to the goods and supplies made from recycled materials that were
37 purchased during the 1993-94 fiscal year, by at least the following percentages:

- 38 (1) Twenty percent (20%) by June 30, 1995;
39 (2) Twenty-five percent (25%) by June 30, 1996;
40 (3) Thirty percent (30%) by June 30, 1997; and
41 (4) Forty percent (40%) by June 30, 1998.

42 (c) For each State department, institution, and agency, the total cost of those
43 goods and supplies purchased to satisfy its goal under subsection (b) of this section shall

1 not exceed by more than ten percent (10%) the total cost of goods and supplies made
2 from virgin materials."

3 **"§ 143-58.3. Requirement to use recycled paper; identification of products made**
4 **from recycled materials; minimum content standards.**

5 (a) The Secretary of Administration and each State agency authorized to
6 purchase products for use by its departments, institutions, or agencies, shall purchase
7 and use recycled paper for all reports, memoranda, and other documents, unless a
8 written authorization to purchase or use paper made from virgin materials is submitted
9 to the Department of Administration and the Office of Waste Reduction, Department of
10 Environment, Health, and Natural Resources, from the agency head or a designee.

11 (b) No later than January 1, 1994, the Secretary of Administration and each State
12 agency authorized to purchase products or to contract for services shall review and
13 revise its bid procedures and specifications that are in current use, and, to the extent
14 practicable, require the use of supplies and materials containing recycled materials. The
15 Department of Administration, in cooperation with the Office of Waste Reduction,
16 Department of Environment, Health, and Natural Resources, shall identify, to the extent
17 practicable, products made from recycled materials that meet appropriate standards for
18 use by State departments, institutions, and agencies.

19 (c) A list of products made from recycled materials that are identified pursuant to
20 subsection (b) of this section and that are available for purchase under a State
21 purchasing contract shall be published semiannually. The Department of
22 Administration shall distribute this list semiannually to each State agency authorized to
23 purchase products for use by its departments, institutions, or agencies.

24 (d) Beginning October 1, 1993, each State department, institution, or agency
25 authorized to purchase products shall report to the Office of Waste Reduction,
26 Department of Environment, Health, and Natural Resources, the amounts and types of
27 products made from recycled materials that were purchased during the previous fiscal
28 year. The Office of Waste Reduction shall prepare a summary of these reports and
29 submit the summary annually to the Joint Legislative Commission on Governmental
30 Operation.

31 (e) The Department of Administration and the Department of Environment,
32 Health, and Natural Resources shall develop guidelines for minimum content standards
33 for products made from recycled materials.

34 (f) The Secretary of Administration shall adopt rules to implement the provision
35 of this section."

36 Sec. 3. G.S. 136-28.8 reads as rewritten:

37 **"§ 136-28.8. Use of recyclable materials in construction.**

38 (a) It is the intent of the General Assembly that the Department of
39 Transportation continue to expand its current use of recovered materials in its
40 construction ~~programs.~~ programs and, to the extent practicable, require the use of
41 supplies and materials containing recycled materials when purchasing goods and
42 services. It shall be the goal of the Department of Transportation to increase its
43 purchase of supplies and materials made from recycled materials as compared to the

1 supplies and materials made from recycled materials that were purchased during the
2 1993-94 fiscal year, by at least the following percentages:

- 3 (1) Twenty percent (20%) by June 30, 1995;
- 4 (2) Twenty-five percent (25%) by June 30, 1996;
- 5 (3) Thirty percent (30%) by June 30, 1997; and
- 6 (4) Forty percent (40%) by June 30, 1998.

7 Provided, however, the total cost of those goods and supplies purchased to satisfy these
8 goals shall not exceed by more than ten percent (10%) the total cost of goods and
9 supplies made from virgin materials.

10 (b) The General Assembly declares it to be in the public interest to find
11 alternative ways to use certain recyclable materials that currently are part of the solid
12 waste stream and that contribute to problems of declining space in landfills. ~~To~~
13 ~~determine the feasibility of using recyclable materials for highway construction, the~~
14 ~~Department shall undertake a literature search to evaluate the potential for using:~~ To the extent
15 practicable, the Department shall use:

- 16 (1) Ground rubber from tires in road resurfacing or subbase materials; and
- 17 (2) Recycled ~~mixed-plastic~~ materials for guard rail posts, right-of-way
18 fence posts, and sign supports.

19 (c) As a part of its scheduled projects, the Department ~~may~~ shall conduct ~~such~~
20 additional ~~research as it determines to be warranted,~~ research, which may include
21 demonstration projects, on the use or recyclable materials in highway construction.

22 (d) The Department shall review and revise existing bid procedures and
23 specifications for the purchase or use of products and materials to eliminate any
24 procedures and specifications that explicitly discriminate against products and materials
25 with recycled content, except where the procedures and specifications are necessary to
26 protect the health, safety, and welfare of the people of this State.

27 (e) The Department shall review and revise its bid procedures and specifications
28 on a continuing basis to encourage the use of products containing recycled materials and
29 recyclable materials with recycled content and shall, in developing new procedures and
30 specifications, encourage the use of products and materials with recycled ~~content~~
31 content, and, to the extent practicable, require the use of such products and materials.

32 (f) All agencies shall cooperate with the Department in carrying out the
33 provisions of this section.

34 (g) Beginning October 1, 1993, the Department shall report to the Office of
35 Waste Reduction, Department of Environment, Health, and Natural Resources, the
36 amounts and types of products made from recycled materials that were purchased
37 during the previous fiscal year. The Office of Waste Reduction shall prepare a
38 summary of this report and submit the summary annually to the Joint Legislative
39 Commission on Governmental Operation.

40 (h) The Department of Administration and the Department of Environment,
41 Health, and Natural Resources shall develop guidelines for minimum content standards
42 for products made from recycled materials.

43 (i) This section is broadly applicable to all procurements by the Department if
44 the quality of the product is consistent with the requirements of the bid specifications.

- 1 (j) The Department shall adopt rules to implement this section."
2 Sec. 4. This act becomes effective July 1, 1993.