

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 116

Short Title: State to Buy Recycled Goods.

(Public)

Sponsors: Senators Speed; Barker, Block, Cobb, Daniel, Guy, Hardin, Hunt of Moore, Martin of Guilford, Odom, Smith, Swain, Taft, Tally, and Ward.

Referred to: State Government.

February 6, 1989

A BILL TO BE ENTITLED

AN ACT TO DECLARE THAT IT IS A POLICY OF THIS STATE TO PROMOTE THE USE OF PRODUCTS WITH RECYCLED CONTENT IN STATE PURCHASING, AND TO GIVE PREFERENCE TO THE PURCHASE OF PRODUCTS WITH RECYCLED CONTENT AND TO CONTRACTORS WHO USE PRODUCTS WITH RECYCLED CONTENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-48 reads as rewritten:

"§ 143-48. State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose.

It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors, and the use of products with recycled content, in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small, minority, physically handicapped and women contractors, and the use of products with recycled content, in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration."

Sec. 2. 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 (1) To canvass sources of supply, including the sources of the supply of products
2 with recycled content, and to purchase or to contract for the purchase, lease and lease-
3 purchase of all supplies, materials, equipment and other tangible personal property
4 required by the State government, or any of its departments, institutions or agencies
5 under competitive bidding or otherwise as hereinafter provided.

6 (1a) To adopt rules and regulations to implement G.S. 143-58.2.

7 (2) To establish and enforce specifications which shall apply to all supplies,
8 materials and equipment to be purchased or leased for the use of the State government
9 or any of its departments, institutions or agencies.

10 (3) To purchase or to contract for, by sealed, competitive bidding or other
11 suitable means, all contractual services and needs of the State government, or any of its
12 departments, institutions, or agencies; or to authorize any department, institution or
13 agency to purchase or contract for such services.

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

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

1 action under this subdivision concerning expenditures from the equipment reserve fund,
2 the Secretary may consult with the Advisory Budget Commission.

3 (5) To make provision for or to contract for all State printing, including all
4 printing, binding, paper stock and supplies or materials in connection with the same.

5 (6) To make available to nonprofit corporations operating charitable hospitals, to
6 local nonprofit community sheltered workshops or centers that meet standards
7 established by the Division of Vocational Rehabilitation of the Department of Human
8 Resources, and to counties, cities, towns, governmental entities and other subdivisions
9 of the State and public agencies thereof in the expenditure of public funds, the services
10 of the Department of Administration in the purchase of materials, supplies and
11 equipment under such rules, regulations and procedures as the Secretary of
12 Administration may adopt. In adopting rules and regulations any or all provisions of this
13 Article may be made applicable to such purchases and contracts made through the
14 Department of Administration, and in addition the rules and regulations shall contain a
15 requirement that payment for all such purchases be made in accordance with the terms
16 of the contract. Prior to adopting rules and regulations under this subdivision, the
17 Secretary of Administration may consult with the Advisory Budget Commission."

18 Sec. 3. Article 3 of Chapter 143 is amended by adding a section to read:

19 "**§ 143-58.2. Preference given to the purchase of products with recycled content.**

20 (a) The Secretary of Administration shall review and modify all bid and product
21 specifications so that the specifications do not discriminate against products with
22 recycled content. The Secretary of Administration shall give preference:

23 (1) In the purchase of products, to products with recycled content, and

24 (2) In contracting for services, to contractors who use products with
25 recycled content

26 to the extent practicable. A preference shall be deemed practicable if the added cost of
27 using a product with recycled content rather than virgin material is not more than ten
28 percent (10%). The greatest preference shall be given to:

29 (1) Those products, and

30 (2) Those contractors who use products

31 with the highest percentage of post-consumer waste material.

32 (b) Each State agency authorized to purchase products or to contract for services
33 for use by its departments, institutions, or agencies, or for any county, city, town,
34 governmental entity or other subdivision of the State and public agency thereof in the
35 expenditure of State funds shall:

36 (1) Request information on supplies that are products with recycled
37 content on solicitations for supplies that could be products with
38 recycled content, including paper products, oil, plastic products, auto
39 parts, compost materials, aggregate, insulation, solvents, and rubber
40 products; and

41 (2) Require contractors to certify the percentage of post-consumer waste
42 material in supplies.

1 (c) The total dollar amount of recycled paper or recycled paper products
2 purchased by the State shall be not less than ten percent (10%) of the paper or paper
3 products purchased on or after January 1, 1991.

4 (d) Any person who believes that a particular product or material with recycled
5 content may be beneficially used instead of another product or material may request the
6 Secretary of Administration to evaluate that product or material. The Secretary shall
7 review each reasonable proposal to determine its merit and, if it finds that the product or
8 material may be used beneficially, it may incorporate that product or material into its
9 procurement procedures.

10 (e) The Secretary of Administration shall review and revise its procedures and
11 specifications on a continuing basis to encourage the use of products and materials with
12 recycled content and shall, in developing new procedures and specifications, encourage
13 the use of products and materials with recycled content.

14 (f) All State agencies that have been authorized to make purchases or to contract
15 for services for departments, institutions, or agencies, or for any county, city, town,
16 governmental entity or other subdivision of the State and public agencies thereof in the
17 expenditure of State funds, shall cooperate with the Secretary in carrying out the
18 provisions of this section, and shall report to the Secretary within 90 days after the end
19 of the fiscal year. The Secretary shall report to Department of Human Resources within
20 180 days after the end of the fiscal year. A report under this subsection shall provide
21 information concerning:

22 (1) The quantity of procurements of supplies made from recovered
23 materials;

24 (2) The percentage of post-consumer waste material in those supplies; and

25 (3) Other relevant information about the implementation of this section.

26 (g) For the purposes of this section, the following definitions shall apply, unless
27 the context indicates otherwise:

28 (1) 'Recycled content' means materials that have been recycled that are
29 contained in the products or materials to be procured. The term does
30 not include internally generated scrap that is commonly used in
31 industrial or manufacturing processes or waste or scrap purchased
32 from another manufacturer who manufactures the same or a closely
33 related product.

34 (2) 'Post-consumer waste material' means any product that:

35 a. Is generated by a business or a consumer;

36 b. Has served its intended end use;

37 c. Has been separated from solid waste for the purposes of
38 collection, recycling, and disposition; and

39 d. Does not include secondary waste material."

40 Sec. 4. G.S. 143-135.5 reads as rewritten:

41 "**§ 143-135.5. State policy; cooperation in promoting the use of small, minority,**
42 **physically handicapped and women contractors, and the use of products**
43 **with recycled content; purpose.**

1 It is the policy of this State to encourage and promote the use of small, minority,
2 physically handicapped and women contractors, and the use of products with recycled
3 content, in State construction projects. All State agencies, institutions and political
4 subdivisions shall cooperate with the Department of Administration and all other State
5 agencies, institutions and political subdivisions in efforts to encourage and promote the
6 use of small, minority, physically handicapped and women contractors, and the use of
7 products with recycled content, in achieving the purpose of this Article, which is the
8 effective and economical construction of public buildings."

9 Sec. 5. Article 8 of Chapter 143 of the General Statutes is amended by
10 adding a section to read:

11 "**§ 143-135.6. Preference given to the purchase of products with recycled content.**

12 (a) The Secretary of Administration shall review and modify all bid and product
13 specifications so that the specifications do not discriminate against products with
14 recycled content. Any board or governing body of the State, or of any institution of the
15 State government, or of any county, city, town, or other subdivision of the State, that
16 contracts for the purchase of products or for services, including the construction,
17 alteration, or repair of any building, pursuant to this Article shall give preference:

18 (1) In the purchase of products, to products with recycled content, and

19 (2) In contracting for services, to contractors who use products with
20 recycled content

21 to the extent practicable. A preference shall be deemed practicable if the added cost of
22 using a product with recycled content rather than virgin material is not more than ten
23 percent (10%). The greatest preference shall be given to:

24 (1) Those products, and

25 (2) Those contractors who use products

26 with the highest percentage of post-consumer waste material.

27 (b) Any board or governing body of the State, or of any institution of the State
28 government, or of any county, city, town, or other subdivision of the State, that
29 contracts for the purchase of products or for services, including the construction,
30 alteration, or repair of any building, pursuant to this Article shall:

31 (1) Request information on supplies that are products with recycled
32 content on solicitations for supplies that could be products with
33 recycled content, including paper products, oil, plastic products, auto
34 parts, compost materials, aggregate, insulation, solvents, and rubber
35 products; and

36 (2) Require contractors to certify the percentage of post-consumer waste
37 material in supplies.

38 (c) The total dollar amount of recycled paper or recycled paper products
39 purchased pursuant to this Article shall be not less than ten percent (10%) of the paper
40 or paper products purchased on or after January 1, 1991.

41 (d) Any person who believes that a particular product or material with recycled
42 content may be beneficially used instead of another product or material may request the
43 Secretary of Administration to evaluate that product or material. The Secretary shall
44 review each reasonable proposal to determine its merit and, if it finds that the product or

1 material may be used beneficially, it may incorporate that product or material into its
2 procurement procedures.

3 (e) The Secretary of Administration shall review and revise its procedures and
4 specifications on a continuing basis to encourage the use of products and materials with
5 recycled content and shall, in developing new procedures and specifications, encourage
6 the use of products and materials with recycled content.

7 (f) Any board or governing body of the State, or of any institution of the State
8 government, or of any county, city, town, or other subdivision of the State, that
9 contracts for the purchase of products or for services, including the construction,
10 alteration, or repair of any building, pursuant to this Article shall cooperate with the
11 Secretary in carrying out the provisions of this section, and shall report to the Secretary
12 within 90 days after the end of the fiscal year. The Secretary shall report to the
13 Department of Human Resources within 180 days after the end of the fiscal year. A
14 report under this subsection shall provide information concerning:

15 (1) The quantity of procurements of supplies made from recovered
16 materials;

17 (2) The percentage of post-consumer waste material in those supplies; and

18 (3) Other relevant information about the implementation of this section.

19 (g) For the purposes of this section, the following definitions shall apply, unless
20 the context indicates otherwise:

21 (1) 'Recycled content' means materials that have been recycled that are
22 contained in the products or materials to be procured. The term does
23 not include internally generated scrap that is commonly used in
24 industrial or manufacturing processes or waste or scrap purchased
25 from another manufacturer who manufactures the same or a closely
26 related product.

27 (2) 'Post-consumer waste material' means any product that:

28 a. Is generated by a business or a consumer;

29 b. Has served its intended end use;

30 c. Has been separated from solid waste for the purposes of
31 collection, recycling, and disposition; and

32 d. Does not include secondary waste material."

33 Sec. 6. G.S. 136-28.4 reads as rewritten:

34 "**§ 136-28.4. State policy; cooperation in promoting the use of small, minority,**
35 **physically handicapped and women contractors, and the use of products**
36 **with recycled content.**

37 It is the policy of this State to encourage and promote the use of small, minority,
38 physically handicapped and women contractors and the use of products with recycled
39 content, in the construction, alteration and maintenance of State roads, streets,
40 highways, and bridges and in the procurement of materials for such projects. All State
41 agencies, institutions and political subdivisions shall cooperate with the Department of
42 Transportation and all other State agencies, institutions and political subdivisions in
43 efforts to encourage and promote the use of small, minority, physically handicapped and

1 women contractors and the use of products with recycled content in such State
2 construction, alteration, maintenance and procurement."

3 Sec. 7. Article 2 of Chapter 136 of the General Statutes is amended by
4 adding a section to read:

5 **"§ 136-28.5. Preference given to the purchase of products with recycled content.**

6 (a) The Department of Transportation shall review and modify all bid and
7 product specifications so that the specifications do not discriminate against products
8 with recycled content. The Department of Transportation shall give preference:

9 (1) In the purchase of products, to products with recycled content, and

10 (2) In contracting for the construction, alteration, and maintenance of State
11 roads, streets, highways, and bridges, to contractors who use products
12 with recycled content

13 to the extent practicable. A preference shall be deemed practicable if the added cost of
14 using a product with recycled content rather than virgin material is not more than ten
15 percent (10%). The greatest preference shall be given to:

16 (1) Those products, and

17 (2) Those contractors who use products

18 with the highest percentage of post-consumer waste material.

19 (b) The Department of Transportation shall:

20 (1) Request information on supplies that are products with recycled
21 content on solicitations for supplies that could be products with
22 recycled content, including paper products, oil, plastic products, auto
23 parts, compost materials, aggregate, insulation, solvents, and rubber
24 products; and

25 (2) Require contractors to certify the percentage of post-consumer waste
26 material in supplies.

27 (c) The total dollar amount of recycled paper or recycled paper products
28 purchased by the Department of Transportation shall be not less than ten percent (10%)
29 of the paper or paper products purchased on or after January 1, 1991.

30 (d) Any person who believes that a particular product or material with recycled
31 content may be beneficially used instead of another product or material may request the
32 Department of Transportation to evaluate that product or material. The Secretary shall
33 review each reasonable proposal to determine its merit and, if it finds that the product or
34 material may be used beneficially, it may incorporate that product or material into its
35 procurement procedures.

36 (e) The Department of Transportation shall review and revise its procedures and
37 specifications on a continuing basis to encourage the use of products and materials with
38 recycled content and shall, in developing new procedures and specifications, encourage
39 the use of products and materials with recycled content.

40 (f) The Department of Transportation shall report to the Department of Human
41 Resources within 180 days after the end of the fiscal year. A report under this
42 subsection shall provide information concerning:

43 (1) The quantity of procurements of supplies made from recovered
44 materials;

1 (2) The percentage of post-consumer waste material in those supplies; and
2 (3) Other relevant information about the implementation of this section.

3 (g) For the purposes of this section, the following definitions shall apply, unless
4 the context indicates otherwise:

5 (1) 'Recycled content' means materials that have been recycled that are
6 contained in the products or materials to be procured. The term does
7 not include internally generated scrap that is commonly used in
8 industrial or manufacturing processes or waste or scrap purchased
9 from another manufacturer who manufactures the same or a closely
10 related product.

11 (2) 'Post-consumer waste material' means any product that:

12 a. Is generated by a business or a consumer;

13 b. Has served its intended end use;

14 c. Has been separated from solid waste for the purposes of
15 collection, recycling, and disposition; and

16 d. Does not include secondary waste material."

17 Sec. 8. This act shall become effective October 1, 1989.