

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION
RATIFIED BILL

CHAPTER 256
SENATE BILL 58

AN ACT TO ESTABLISH A PROCUREMENT POLICY THAT PROMOTES THE PURCHASE OF MATERIALS AND SUPPLIES WITH RECYCLED CONTENT BY THE STATE, THE UNIVERSITY SYSTEM, COMMUNITY COLLEGES, AND PUBLIC SCHOOLS AND TO ESTABLISH CERTAIN GOALS FOR THE PURCHASE OF RECYCLED PAPER AND PAPER PRODUCTS.

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 materials and supplies with recycled content, 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 authorize any department, institution or agency to purchase or contract for such services.

When the award of any contract for contractual services exceeding a cost of one hundred thousand dollars (\$100,000) requires negotiation with prospective contractors, the Secretary shall request and the Attorney General shall assign a representative of the office of the Attorney General to assist in negotiation for the award of the contract. It shall be the duty of such representative to assist and advise in obtaining the most favorable contract for the State, to evaluate all proposals available from prospective contractors for that purpose, to interpret proposed contract terms and to advise the Secretary or his representatives of the liabilities of the State and validity of the contract to be awarded. All contracts and drafts of such contracts shall be prepared by the office of the Attorney General and copies thereof shall be retained



by such office for a period of three years following the termination of such contracts. The term 'contractual services' as used in this subsection shall mean work performed by an independent contractor requiring specialized knowledge, experience, expertise or similar capabilities wherein the service rendered does not consist primarily of acquisition by this State of equipment or materials and the rental of equipment, materials and supplies. The term 'negotiation' as used herein shall not be deemed to refer to contracts entered into or to be entered into as a result of a competitive bidding process.

(4) To have general supervision of all storerooms and stores operated by the State government, or any of its departments, institutions or agencies and to have supervision of inventories of all tangible personal property belonging to the State government, or any of its departments, institutions or agencies. The duties imposed by this subdivision shall not relieve any department, institution or agency of the State government from accountability for equipment, materials, supplies and tangible personal property under its control.

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

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

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

§ 143-58.2. State policy; bid procedures and specifications; identification of products.

(a) It is the policy of this State to encourage and promote the purchase of products with recycled content. All State departments, institutions, agencies, community colleges, and local school administrative units shall, to the extent economically practicable, purchase and use, or require the purchase and use of, products with recycled content.

(b) No later than January 1, 1995, the Secretary of Administration and each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies or to contract for services shall

review and revise its bid procedures and specifications for the purchase or use of materials and supplies to eliminate any procedures and specifications that explicitly discriminate against materials and supplies with recycled content, except where procedures and specifications are necessary to protect the health, safety, and welfare of the citizens of this State.

(c) The Secretary of Administration and each State department, institution, agency, community college, and local school administrative unit shall review and revise its bid procedures and specifications on a continuing basis to encourage the purchase or use of materials and supplies with recycled content and to the extent economically practicable, the use of materials and supplies with recycled content.

(d) The Department of Administration, in cooperation with the Office of Waste Reduction, Department of Environment, Health, and Natural Resources, shall identify materials and supplies with recycled content that meet appropriate standards for use by State departments, institutions, agencies, community colleges, and local school administrative units.

(e) A list of materials and supplies with recycled content that are identified pursuant to subsection (d) of this section and that are available for purchase under a statewide term contract shall be distributed annually to each State agency authorized to purchase materials and supplies for use by its departments, institutions, agencies, community colleges, or local school administrative units.

(f) Beginning October 1, 1994, each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies shall report annually to the Office of Waste Reduction, Department of Environment, Health, and Natural Resources, the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and its progress toward reaching the goals under G.S. 143-58.3. The Office of Waste Reduction shall prepare a summary of these reports and submit the summary annually to the Joint Legislative Commission on Governmental Operations.

(g) The Department of Administration and the Department of Environment, Health, and Natural Resources shall develop guidelines for minimum content standards for materials and supplies with recycled content and may recommend appropriate goals in addition to those goals set forth in G.S. 143-58.3, for types of materials and supplies with recycled content to be purchased by the State.

(h) The Secretary of Administration may adopt rules to implement the provisions of this section and G.S. 143-58.3.

§ 143-58.3. Purchase of recycled paper and paper products; goals.

In furtherance of the State policy, it is the goal of the State that each department, institution, agency, community college, and local school administrative unit purchase paper and paper products with recycled content according to the following schedule:

- (1) At least ten percent (10%) by June 30, 1994;
- (2) At least twenty percent (20%) by June 30, 1995;
- (3) At least thirty-five percent (35%) by June 30, 1996; and
- (4) At least fifty percent (50%) by June 30, 1997, and the end of each subsequent fiscal year,

of the total amount spent for the purchase of paper and paper products during that fiscal year."

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

§ 136-28.8. Use of ~~recyclable~~ recycled materials in construction.

(a) It is the intent of the General Assembly that the Department of Transportation continue to expand its ~~current~~ use of recovered recycled materials in its construction programs.

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

- (1) ~~Ground rubber~~ Rubber from tires in road ~~resurfacing or subbase materials, and pavements, subbase materials, or other appropriate applications; and~~
- (2) ~~Recycled mixed plastic~~ materials for guard rail posts, right-of-way fence posts, and sign ~~supports~~ supports

so long as these materials meet all appropriate engineering standards.

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

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

(e) The Department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of ~~products and materials with recycled content~~ recycled materials in construction and shall, ~~in developing new procedures and specifications, encourage the use of products and materials with recycled content~~, to the extent economically practicable, require the use of recycled materials.

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

(g) Beginning October 1, 1994, the Department shall report annually to the Office of Waste Reduction, Department of Environment, Health, and Natural Resources, the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. The Office of Waste Reduction shall prepare a summary of this report and submit the summary annually to the Joint Legislative Commission on Governmental Operations.

(h) The Department, in consultation with the Department of Environment, Health, and Natural Resources, shall determine minimum content standards for recycled materials.

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

(j) The Department may adopt rules to implement this section."

Sec. 4. G.S. 143-170.1 reads as rewritten:

"§ 143-170.1. Statement of cost of public documents; chief administrator charged with compliance.

(a) Every agency of this State publishing a public document, other than one published for the principal purpose of sale to the public, shall cause the following statement to be printed adjacent to the identification of the agency responsible for the publication:

'(Number of copies) copies of this public document were printed at a cost of \$....., or \$..... per copy.'

For the purposes of this Article the term 'cost' shall include printing costs in the form of labor and materials, and other identifiable design, typesetting, and binding costs.

(a1) Any public document without a statement of cost shall not be mailed or distributed at public expense.

(a2) Whenever a public document that is published by an agency of this State is printed on recycled paper, the document shall contain a printed statement or symbol indicating that the document was printed on recycled paper.

(b) The chief administrator of the agency authorizing the printing is charged with agency compliance with the provisions of this Article."

Sec. 5. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 1st day of July, 1993.

DENNIS A. WICKER

Dennis A. Wicker
President of the Senate

DANIEL BLUE JR

Daniel Blue, Jr.
Speaker of the House of Representatives