

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to requiring the use of chlorine-free recycled paper

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that waste reduction and recycling are the highest priorities
3 for solid waste management in New York state and that the state's inter-
4 est is served when the state government can make more efficient use of
5 natural resources by maximizing recycling whenever possible. The state
6 government's participation in and promotion of waste reduction and recy-
7 cling activities can significantly reduce the volume of material enter-
8 ing the waste stream, thereby conserving landfill disposal capacity and
9 reducing expenses. The use of recycled paper with post-consumer content
10 by the state government can spur private sector development of new recy-
11 cling markets and technologies, thereby creating business and employment
12 opportunities and enhancing state and local economies. The legislature
13 further finds that New York state has led the nation in the purchase of
14 post-consumer recycled content paper and that state purchases of recy-
15 cled paper with post-consumer content will bolster and enhance the
16 recent federal executive order requiring all federal agencies to
17 purchase such paper. Chlorinated compounds are linked to serious health
18 risks including endocrine dysfunction, developmental impairment, birth
19 defects, immunosuppression and cancer and the American Public Health
20 Association and the International Joint Commission on the Great Lakes
21 recommend phasing out chlorine and chlorine compounds in manufacturing
22 processes to reduce or eliminate these health risks. The legislature
23 finally finds that alternative bleaching processes for bleaching in the
24 pulp and paper industry are in widespread use in Europe and have been
25 undertaken at several mills in the United States, demonstrating that

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06304-01-9

1 pollution prevention benefits both the economy and the environment. New
2 York state's purchase of chlorine-free paper and paper products will
3 encourage manufacturers to invest in safer production processes and
4 products.

5 S 2. The state finance law is amended by adding a new section 167-a to
6 read as follows:

7 S 167-A. CHLORINE-FREE RECYCLED PAPER. 1. FOR PURPOSES OF THIS
8 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

9 (A) "CHLORINE-FREE RECYCLED PAPER" MEANS PAPER IN WHICH ANY POST-CON-
10 SUMER AND/OR PRE-CONSUMER MATERIAL COMPONENTS ARE PROCESSED FOR RECYCL-
11 ING WITHOUT THE USE OF CHLORINE OR CHLORINE-CONTAINING COMPOUNDS, AND
12 ANY VIRGIN COMPONENT OF SUCH PAPER IS PROCESSED WITHOUT THE USE OF ANY
13 CHLORINE OR CHLORINE-CONTAINING COMPOUNDS.

14 (B) "PRACTICABLE" MEANS CAPABLE OF BEING USED OR IMPLEMENTED WITHOUT
15 VIOLATING THE FOLLOWING CRITERIA: REASONABLE PERFORMANCE STANDARDS,
16 AVAILABILITY WITHIN A REASONABLE PERIOD OF TIME AND MAINTENANCE OF A
17 SATISFACTORY LEVEL OF COMPETITION IN THE BIDDING PROCESS.

18 (C) "PRE-CONSUMER MATERIAL" MEANS MATERIAL AND BY-PRODUCTS WHICH HAVE
19 NOT REACHED A BUSINESS OR CONSUMER FOR AN INTENDED END USE AND HAVE BEEN
20 RECOVERED OR DIVERTED FROM THE WASTE STREAM, INCLUDING BUT NOT LIMITED
21 TO INDUSTRIAL SCRAP MATERIAL, OVERSTOCK OR OBSOLETE INVENTORIES FROM
22 DISTRIBUTORS, WHOLESALERS AND OTHER COMPANIES.

23 (D) "POST-CONSUMER MATERIAL" MEANS ONLY THOSE PRODUCTS, PACKAGES OR
24 MATERIALS GENERATED BY A BUSINESS OR CONSUMER WHICH HAVE SERVED THEIR
25 INTENDED END USE AS CONSUMER ITEMS AND WHICH HAVE BEEN SEPARATED OR
26 DIVERTED FROM THE WASTE STREAM FOR THE PURPOSES OF COLLECTION AND RECY-
27 CLING AS A SECONDARY MATERIAL FEEDSTOCK, BUT SHALL NOT INCLUDE WASTE
28 MATERIAL GENERATED DURING OR AFTER THE COMPLETION OF A MANUFACTURING OR
29 CONVERTING PROCESS.

30 (E) "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BOARD, BUREAU, DIVISION
31 OR OTHER ENTITY OF THE STATE, ANY PUBLIC AUTHORITY OR PUBLIC BENEFIT
32 CORPORATION, THE JUDICIARY AND THE STATE LEGISLATURE.

33 2. STATE AGENCIES SHALL, WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE
34 OF THIS SECTION, MAKE SUCH CHANGES IN THE PROCUREMENT SPECIFICATIONS AND
35 PRACTICES AS ARE NECESSARY TO:

36 (A) ELIMINATE SPECIFICATION CLAUSES AND PRACTICES WHICH EXCLUDE THE
37 USE OF PAPER OR PAPER PRODUCTS MANUFACTURED FROM POST-CONSUMER MATERIALS
38 OR WHICH REQUIRE THAT PAPER OR PAPER PRODUCTS BE MANUFACTURED SOLELY
39 FROM VIRGIN MATERIALS OR MATERIALS THAT ARE NOT RECYCLABLE.

40 (B) REVISE OR ELIMINATE ANY STANDARDS OR SPECIFICATIONS UNRELATED TO
41 PERFORMANCE THAT PRESENT BARRIERS TO THE PURCHASE OF PAPER OR PAPER
42 PRODUCTS MADE BY PRODUCTION PROCESSES THAT MINIMIZE EMISSIONS OF DIOXIN
43 AND OTHER HARMFUL BY-PRODUCTS. THIS EVALUATION SHALL INCLUDE A REVIEW
44 OF UNNECESSARY BRIGHTNESS AND STOCK CLAUSE PROVISIONS, SUCH AS LINING
45 CONTENT AND CHEMICAL PULP REQUIREMENTS.

46 (C) ENSURE THAT PERFORMANCE STANDARDS, SPECIFICATIONS AND A PRODUCT'S
47 INTENDED END USE ARE RELATED AND CLEARLY IDENTIFIED WHEN FEASIBLE.

48 (D) ENSURE THAT SPECIFICATIONS ARE NOT OVERLY STRINGENT FOR A PARTIC-
49 ULAR END USE OR PERFORMANCE STANDARD.

50 (E) ENSURE THAT SPECIFICATIONS AND PRACTICES INCORPORATE OR REQUIRE
51 THE USE OF POST-CONSUMER MATERIALS TO THE MAXIMUM EXTENT PRACTICABLE.

52 3. (A) ALL PURCHASES OF PRINTING AND WRITING PAPER BY STATE AGENCIES
53 SHALL MEET OR EXCEED THE FOLLOWING MINIMUM CONTENT STANDARDS: FOR HIGH
54 SPEED COPIER PAPER, OFFSET PAPER, FORMS BONDS, COMPUTER PRINTOUT PAPER,
55 CARBONLESS PAPER, FILE FOLDERS AND WHITE WOVEN ENVELOPES, AND OTHER
56 UNCOATED PRINTING AND WRITING PAPER, SUCH AS WRITING AND OFFICE PAPER,

1 BOOK PAPER, COTTON FIBER PAPER AND COVER STOCK, THE MINIMUM CONTENT
2 STANDARD SHALL BE NO LESS THAN TWENTY PERCENT POST-CONSUMER MATERIALS BY
3 FIBER CONTENT BEGINNING WITHIN TWELVE MONTHS AFTER THE EFFECTIVE DATE OF
4 THIS SECTION. THIS MINIMUM POST-CONSUMER CONTENT STANDARD SHALL INCREASE
5 TO THIRTY PERCENT BEGINNING DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE.

6 (B) WHERE THE PURCHASE PRICE FROM A SUPPLIER OF CHLORINE-FREE RECYCLED
7 PRINTING AND WRITING PAPER THAT MEETS THE STANDARDS SET FORTH IN PARA-
8 GRAPH (A) OF THIS SUBDIVISION IS EQUAL TO OR LESS THAN THE PRICE OFFERED
9 BY THE LOWEST RESPONSIBLE BIDDER FOR RECYCLED PAPER ALSO MEETING THE
10 STANDARDS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION, STATE AGENCIES
11 SHALL PURCHASE THE CHLORINE-FREE RECYCLED PAPER BEGINNING JANUARY FIRST,
12 TWO THOUSAND TEN.

13 (C) WHERE A SUPPLIER IS OFFERING CHLORINE-FREE RECYCLED PAPER AND
14 PAPER PRODUCTS FROM THE LISTING BELOW THAT MEETS THE MINIMUM POST-CON-
15 SUMER CONTENT STANDARDS SET FORTH IN 6 NEW YORK CODES, RULES AND REGU-
16 LATIONS PART 368, STATE AGENCIES SHALL PURCHASE THE CHLORINE-FREE RECY-
17 CLED PAPER AND PAPER PRODUCTS BEGINNING JANUARY FIRST, TWO THOUSAND TEN.
18 FOR PURPOSES OF THIS PARAGRAPH, PAPER AND PAPER PRODUCTS INCLUDE NEWS-
19 PRINT, COATED PRINTING AND WRITING PAPERS, TISSUE PRODUCTS, PACKAGING
20 AND PAPERBOARD AS DEFINED IN 6 NEW YORK CODES, RULES AND REGULATIONS
21 ("NYCRR") PART 368.

22 (D) THE DECISION BY AN AGENCY NOT TO SATISFY THE REQUIREMENTS OF PARA-
23 GRAPH (A), (B) OR (C) OF THIS SUBDIVISION SHALL BE BASED SOLELY ON A
24 WRITTEN DETERMINATION BY THE HEAD OF THE AGENCY THAT IT IS NOT PRACTICA-
25 BLE TO DO SO AS DEFINED IN THIS SECTION. SUCH WRITTEN DETERMINATIONS
26 SHALL BE SUBMITTED TO THE STATE ENVIRONMENTAL EXECUTIVE ESTABLISHED
27 UNDER SUBDIVISION SIX OF THIS SECTION.

28 (E) ALL SUPPLIERS SUBMITTING BIDS TO A STATE AGENCY TO PROVIDE RECY-
29 CLED PAPER AND PAPER PRODUCTS PURSUANT TO THIS SECTION SHALL MAINTAIN
30 RECORDS DOCUMENTING THE SOURCE AND AMOUNT BY FIBER CONTENT OF THE POST-
31 CONSUMER MATERIAL USED IN THE MANUFACTURE OF SUCH PAPER AND PAPER
32 PRODUCTS, SHALL SUBMIT A SIGNED STATEMENT OF CERTIFICATION FROM THE
33 MANUFACTURER WITH EACH BID ATTESTING TO THE SOURCE AND AMOUNT BY FIBER
34 CONTENT OF THE POST-CONSUMER MATERIAL, AND SHALL PROVIDE DOCUMENTATION
35 TO THE STATE AGENCY WHEN REQUIRED. SUCH RECORDS SHALL BE MAINTAINED FOR
36 A PERIOD OF THREE YEARS FROM THE DATE OF THE SUBMISSION OF ANY BID.

37 4. (A) ALL BIDS, PROPOSALS, REPORTS AND STUDIES SUBMITTED TO STATE
38 AGENCIES BY CONTRACTORS, CONSULTANTS AND GRANTEEES IN FULFILLMENT OF
39 CONTRACT OBLIGATIONS SHALL MEET THE MINIMUM CONTENT AND CHLORINE-FREE
40 REQUIREMENTS SPECIFIED UNDER PARAGRAPHS (A), (B) AND (C) OF SUBDIVISION
41 THREE OF THIS SECTION. IN ADDITION, ALL REPORTS AND STUDIES SUBMITTED TO
42 THE STATE BY CONTRACTORS, CONSULTANTS AND GRANTEEES SHALL USE BOTH SIDES
43 OF THE PAPER SHEETS.

44 (B) ANY BIDS, PROPOSALS, REPORTS AND STUDIES SUBMITTED TO STATE AGEN-
45 CIES THAT DO NOT MEET THE REQUIREMENTS UNDER PARAGRAPHS (A), (B) AND (C)
46 OF SUBDIVISION THREE OF THIS SECTION SHALL BE ACCOMPANIED BY A WRITTEN
47 DETERMINATION BY THE CONTRACTOR, CONSULTANT OR GRANTEE AND APPROVED BY
48 THE PROCURING AGENCY THAT IT IS NOT PRACTICABLE TO DO SO AS DEFINED IN
49 THIS ORDER.

50 5. ALL BIDS, PROPOSALS, REPORTS, STUDIES, AND OTHER DOCUMENTS EXCEED-
51 ING TWENTY PAGES IN LENGTH GENERATED BY STATE AGENCIES SHALL BE PRINTED
52 ON BOTH SIDES OF THE PAPER SHEETS.

53 6. (A) A STATE ENVIRONMENTAL EXECUTIVE SHALL BE DESIGNATED BY THE
54 GOVERNOR FROM AMONG THE EXISTING STAFF WITHIN THE STATE DEPARTMENT OF
55 ENVIRONMENTAL CONSERVATION TO BE THE COORDINATOR OF THIS SECTION. THE
56 STATE ENVIRONMENTAL EXECUTIVE SHALL TAKE ALL ACTIONS NECESSARY TO ENSURE

1 THAT STATE AGENCIES COMPLY WITH THE REQUIREMENTS OF THIS SECTION. STATE
2 AGENCIES ARE REQUESTED TO MAKE THEIR SERVICES, PERSONNEL AND FACILITIES
3 AVAILABLE TO THE STATE ENVIRONMENTAL EXECUTIVE TO THE MAXIMUM EXTENT
4 PRACTICABLE FOR THE PERFORMANCE OF FUNCTIONS UNDER THIS SECTION.

5 (B) WITHIN THIRTY MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
6 FOR EACH YEAR THEREAFTER, THE STATE ENVIRONMENTAL EXECUTIVE SHALL
7 PREPARE AND SUBMIT TO THE GOVERNOR, THE SENATE MINORITY LEADER, THE
8 SENATE MAJORITY LEADER, THE SPEAKER OF THE ASSEMBLY, THE ASSEMBLY MINOR-
9 ITY LEADER, THE CHAIRS OF THE ENVIRONMENTAL CONSERVATION COMMITTEES OF
10 THE STATE SENATE AND ASSEMBLY, THE COMMISSIONER OF THE DEPARTMENT OF
11 ENVIRONMENTAL CONSERVATION, THE COMMISSIONER OF THE OFFICE OF GENERAL
12 SERVICES AND THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT,
13 A REPORT ON THE ACTIONS TAKEN BY STATE AGENCIES TO COMPLY WITH THE
14 REQUIREMENTS OF THIS SECTION IN THE PRECEDING CALENDAR YEAR. SUCH REPORT
15 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

16 (1) A SUMMARY OF THE TOTAL QUANTITIES PURCHASED, DOLLAR AMOUNT SPENT,
17 AND POST-CONSUMER CONTENT PERCENTAGES FOR EACH RECYCLED CONTENT PAPER
18 AND PAPER PRODUCT PROCURED BY STATE AGENCIES;

19 (2) A SUMMARY OF THE TOTAL QUANTITIES PURCHASED AND DOLLAR AMOUNT
20 SPENT FOR EACH CHLORINE-FREE RECYCLED PAPER AND PAPER PRODUCT PROCURED
21 BY STATE AGENCIES;

22 (3) A STATEMENT OF THE TOTAL QUANTITIES OF POST-CONSUMER CONTENT AND
23 CHLORINE-FREE PAPER AND PAPER PRODUCTS AS PERCENTAGES OF TOTAL ANNUAL
24 PAPER AND PAPER PRODUCT PURCHASES;

25 (4) A SUMMARY OF ANY CHANGES IN PROCUREMENT PRACTICES TO ENCOURAGE THE
26 PURCHASE OF RECYCLED PAPER AND PAPER PRODUCTS WHICH MEET THE STANDARDS
27 SET FORTH IN THIS SECTION;

28 (5) SUMMARY DATA INDICATING THE SOURCES OF THE POST-CONSUMER MATERIAL
29 USED IN THE MANUFACTURE OF THE RECYCLED PAPER PURCHASED PURSUANT TO THIS
30 SECTION; AND

31 (6) A SUMMARY OF WASTE REDUCTION AND RECYCLING MEASURES IMPLEMENTED BY
32 STATE AGENCIES IN THE PRECEDING YEAR.

33 (C) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE HEAD
34 OF EACH STATE AGENCY SHALL DESIGNATE AN AGENCY ENVIRONMENTAL EXECUTIVE
35 FROM EXISTING STAFF WHO WILL BE RESPONSIBLE FOR:

36 (1) COORDINATING ALL ENVIRONMENTAL PROGRAMS IN THE AREAS OF PROCURE-
37 MENT AND ACQUISITION, STANDARDS AND SPECIFICATION REVIEW, AND RECYCLING;

38 (2) ESTABLISHING INCENTIVES, PROVIDING GUIDANCE AND COORDINATING
39 APPROPRIATE EDUCATIONAL PROGRAMS FOR AGENCY EMPLOYEES; AND

40 (3) REVIEWING AGENCY PROGRAMS TO ENSURE COMPLIANCE WITH THIS SECTION
41 AND REPORTING SUCH INFORMATION TO THE STATE ENVIRONMENTAL EXECUTIVE ON
42 AN ANNUAL BASIS.

43 (D) WITHIN TWENTY-FOUR MONTHS AFTER THE EFFECTIVE DATE OF THIS
44 SECTION, AND FOR EACH YEAR THEREAFTER, EACH AGENCY ENVIRONMENTAL EXECU-
45 TIVE SHALL PREPARE AND SUBMIT TO THE STATE ENVIRONMENTAL EXECUTIVE, THE
46 COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE
47 COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, A REPORT ON THE ACTIONS
48 TAKEN BY THAT AGENCY TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION IN
49 THE PRECEDING CALENDAR YEAR. SUCH REPORT SHALL INCLUDE, BUT NEED NOT BE
50 LIMITED TO:

51 (1) THE TOTAL QUANTITIES PURCHASED, DOLLAR AMOUNT SPENT, AND POST-CON-
52 SUMER CONTENT PERCENTAGES FOR EACH RECYCLED CONTENT PAPER AND PAPER
53 PRODUCT PURCHASED DIRECTLY BY THAT AGENCY;

54 (2) THE TOTAL QUANTITIES PURCHASED AND DOLLAR AMOUNT SPENT FOR EACH
55 CHLORINE-FREE RECYCLED PAPER AND PAPER PRODUCT PURCHASED DIRECTLY BY
56 THAT AGENCY;

1 (3) A SUMMARY OF ANY CHANGES IN AGENCY PROCUREMENT PRACTICES TO
2 ENCOURAGE THE PURCHASE OF RECYCLED PAPER AND PAPER PRODUCTS WHICH MEET
3 THE STANDARDS SET FORTH IN THIS SECTION;

4 (4) SUMMARY DATA INDICATING THE SOURCES OF THE POST-CONSUMER MATERIAL
5 USED IN THE MANUFACTURE OF THE RECYCLED PAPER PURCHASED DIRECTLY BY THE
6 AGENCY PURSUANT TO THIS SECTION;

7 (5) A DESCRIPTION OF WASTE REDUCTION ACTIVITIES UNDERTAKEN BY THE
8 AGENCY, INITIATIVES PROPOSED FOR FUTURE IMPLEMENTATION, SCHEDULES FOR
9 IMPLEMENTATION AND EXPECTED LEVELS OF WASTE PREVENTION RESULTING THERE-
10 FROM;

11 (6) THE ASSOCIATED SAVINGS DUE TO THE AVOIDED MANAGEMENT, STORAGE,
12 REPLACEMENT AND PURCHASING COSTS ENGENDERED BY THE WASTE PREVENTION
13 PROCUREMENT MEASURES IMPLEMENTED;

14 (7) A DESCRIPTION OF WASTE RECYCLING MEASURES IMPLEMENTED BY THE AGEN-
15 CY AND QUANTITIES DIVERTED FROM THE WASTE STREAM;

16 (8) A DESCRIPTION OF INCENTIVES AND DISINCENTIVES TO WASTE REDUCTION
17 AND RECYCLING; AND

18 (9) RECOMMENDATIONS FOR ADDITIONAL MEASURES TO ENCOURAGE WISE USE OF
19 THE STATE'S RESOURCES.

20 S 3. This act shall take effect immediately.