S T A T E O F N E W Y O R K

961

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:

Section 1. Legislative intent. The legislature hereby finds and declares that waste reduction and recycling are the highest priorities for solid waste management in New York state and that the state's interest is served when the state government can make more efficient use of natural resources by maximizing recycling whenever possible. The state government's participation in and promotion of waste reduction and recycling activities can significantly reduce the volume of material entering the waste stream, thereby conserving landfill disposal capacity and reducing expenses. The use of recycled paper with post-consumer content by the state government can spur private sector development of new recycling markets and technologies, thereby creating business and employment opportunities and enhancing state and local economies. The legislature further finds that New York state has led the nation in the purchase of post-consumer recycled content paper and that state purchases of recycled paper with post-consumer content will bolster and enhance the recent federal executive order requiring all federal agencies to purchase such paper. Chlorinated compounds are linked to serious health risks including endocrine dysfunction, developmental impairment, birth defects, immunosuppression and cancer and the American Public Health Association and the International Joint Commission on the Great Lakes recommend phasing out chlorine and chlorine compounds in manufacturing processes to reduce or eliminate these health risks. The legislature finally finds that alternative bleaching processes for bleaching in the pulp and paper industry are in widespread use in Europe and have been 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

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

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

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

(A) "CHLORINE-FREE RECYCLED PAPER" MEANS PAPER IN WHICH ANY POST-CONSUMER AND/OR PRE-CONSUMER MATERIAL COMPONENTS ARE PROCESSED FOR RECYCLING WITHOUT THE USE OF CHLORINE OR CHLORINE-CONTAINING COMPOUNDS, AND ANY VIRGIN COMPONENT OF SUCH PAPER IS PROCESSED WITHOUT THE USE OF ANY CHLORINE OR CHLORINE-CONTAINING COMPOUNDS.

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

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

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

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

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

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

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

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

(D) ENSURE THAT SPECIFICATIONS ARE NOT OVERLY STRINGENT FOR A PARTICULAR END USE OR PERFORMANCE STANDARD.

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

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

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

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

(C) WHERE A SUPPLIER IS OFFERING CHLORINE-FREE RECYCLED PAPER AND PAPER PRODUCTS FROM THE LISTING BELOW THAT MEETS THE MINIMUM POST-CONSUMER CONTENT STANDARDS SET FORTH IN 6 NEW YORK CODES, RULES AND REGULATIONS PART 368, STATE AGENCIES SHALL PURCHASE THE CHLORINE-FREE RECYCLED PAPER AND PAPER PRODUCTS BEGINNING JANUARY FIRST, TWO THOUSAND TEN. FOR PURPOSES OF THIS PARAGRAPH, PAPER AND PAPER PRODUCTS INCLUDE NEWSPRINT, COATED PRINTING AND WRITING PAPERS, TISSUE PRODUCTS, PACKAGING AND PAPERBOARD AS DEFINED IN 6 NEW YORK CODES, RULES AND REGULATIONS ("NYCRR") PART 368.

(D) THE DECISION BY AN AGENCY NOT TO SATISFY THE REQUIREMENTS OF PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION SHALL BE BASED SOLELY ON A WRITTEN DETERMINATION BY THE HEAD OF THE AGENCY THAT IT IS NOT PRACTICABLE TO DO SO AS DEFINED IN THIS SECTION. SUCH WRITTEN DETERMINATIONS SHALL BE SUBMITTED TO THE STATE ENVIRONMENTAL EXECUTIVE ESTABLISHED UNDER SUBDIVISION SIX OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) COORDINATING ALL ENVIRONMENTAL PROGRAMS IN THE AREAS OF PROCUREMENT AND ACQUISITION, STANDARDS AND SPECIFICATION REVIEW, AND RECYCLING;

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

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

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

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

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

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

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

(5) A DESCRIPTION OF WASTE REDUCTION ACTIVITIES UNDERTAKEN BY THE AGENCY, INITIATIVES PROPOSED FOR FUTURE IMPLEMENTATION, SCHEDULES FOR IMPLEMENTATION AND EXPECTED LEVELS OF WASTE PREVENTION RESULTING THEREFROM;

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

(7) A DESCRIPTION OF WASTE RECYCLING MEASURES IMPLEMENTED BY THE AGENCY AND QUANTITIES DIVERTED FROM THE WASTE STREAM;

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

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

S 3. This act shall take effect immediately.