

**Senate Bill No. 1174**

CHAPTER 427

An act to amend Sections 12153, 12157, 12200, 12205, 12301, 12305, and 12320 of the Public Contract Code, relating to public contracts.

[Approved by Governor August 10, 1995. Filed with Secretary of State August 11, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1174, Killea. Public purchases: recycled steel.

(1) Existing law requires the Legislature and all state agencies to meet certain goals for the procurement or purchase of recycled products, as defined, by specified dates. Existing law requires the purchases of state agencies to be applied to the total dollar amount of each specified product category.

This bill would include flat steel products with specified percentages of total weight consisting of secondary and postconsumer material within the definition of "recycled product" for these purposes. It would also prohibit the purchase of a recycled-content product from one category from being applied toward the goals for, or the total dollar amount of, any other category specified for procurement or purchase by state agencies or the Legislature.

(2) Existing law requires contractors contracting with the Legislature or state agencies to certify in writing whether the materials, goods, or supplies offered contain the minimum percentage of recycled product required by law, under the penalty of perjury.

This bill would make contracts for the provision of steel products defined as recycled products subject to this requirement.

By creating a new crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12153 of the Public Contract Code is amended to read:

12153. The Legislature finds and declares all of the following:



(a) It is the policy of the state to conserve and protect resources for future citizens as well as the current population of the state.

(b) It is in the best interest of the people of the state that the state alter its perception of solid waste to instead look upon this waste as resources that can be recovered and reused.

(c) It is in the best interest of reducing the increasing burden on communities disposing of the state's solid waste for the state to take a role in developing an integrated state solid waste management policy, which includes source reduction, recycling, composting, market development, incineration, and landfills. Since recycling is a necessary component of this policy, the state shall encourage the use of recycled products to ensure that the state's industries have sufficient and adequate markets for products regeneratively utilizing the state's solid waste as recycled resources.

(d) It is the policy of the state to encourage the expansion of businesses located in California and, to whatever extent possible, to look favorably on California businesses in the recycling industry, which include, but are not limited to, those California businesses that manufacture, distribute, or act as brokers for, recycled products.

(e) Market development is the key to moving beyond the uneven collection of recyclable materials to stable resource recovery and reuse. Because of existing local collection programs, significant quantities of recycled resources such as the following are today available for purchase: fine grades of paper, high-quality paper products, plastics, retreaded automobile tires, rerefined lubricating oil, reused automotive parts, reclaimed solvents, recycled asphalt, recycled concrete, carpet or geotextiles composed of recycled plastics, compost and co-compost products, and steel products.

(f) In making these findings, the Legislature declares that the policy and intent of this chapter is to set an example for the state and nation to encourage the purchase of products utilizing recycled resources.

(g) It is the intent of the Legislature, whenever economically feasible and as markets allow, to continually expand the policies of the state to utilize recycled resources in the daily operations of the state. This includes, but is not limited to, the procurement and purchase of recycled materials, the use of recycled resources in the performance of a service or project for the state, and the purchase of equipment used for the collection and sale of waste materials generated by the state.

(h) It is the intent of the Legislature that the Department of General Services work with all state departments, agencies, the Legislature, the California Integrated Waste Management Board, and the Department of Conservation to draft, establish, and implement policies that ensure the procurement and use of recycled resources.



(i) It is also the intent of the Legislature to encourage local public agencies and private companies to adopt policies to maximize the use of recycled resources.

SEC. 2. Section 12157 of the Public Contract Code is amended to read:

12157. This chapter applies to the procurement and purchase of the following materials, goods, and supplies, or products containing the following recycled resources and meeting the specified recycled content requirements pursuant to Section 12161, 12181, 12182, or 12200, whichever is applicable:

(a) Recycled paper products, which include, but are not limited to, fine grades of paper, corrugated boxes, newsprint, tissue, and toweling.

(b) Compost and co-compost products.

(c) Glass.

(d) Oil.

(e) Plastic.

(f) Solvents and paint, including water-based paint.

(g) Tires.

(h) Steel.

SEC. 3. Section 12200 of the Public Contract Code is amended to read:

12200. For the purpose of this article:

(a) (1) Except as provided in paragraph (2), “recycled product” means all materials, goods, and supplies, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form.

(2) “Recycled product” also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and postconsumer material, with not less than 10 percent of total weight consisting of postconsumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

(b) “Postconsumer material” means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.

(c) “Secondary material” means fragments of finished products or finished products of a manufacturing process that has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.



SEC. 4. Section 12205 of the Public Contract Code is amended to read:

12205. (a) All state agencies shall require all contractors to certify in writing the minimum percentage, if not the exact percentage, of postconsumer and secondary material in the materials, goods, or services provided or used. This certification shall be furnished under penalty of perjury.

(b) The department, in consultation with the board, shall review and revise the procurement specifications used by state agencies in order to eliminate restrictive specifications and discrimination against the procurement or purchase of recycled products. Fitness and quality being equal, all state agencies shall purchase recycled products instead of nonrecycled products whenever recycled products are available at the same total cost as nonrecycled products. All state agencies shall allow a price preference as determined by the board pursuant to Section 12162. In determining procurement specifications, with the exception of any specifications that have been established to preserve the public health and safety, all state procurement and purchasing specifications shall be established in a manner that results in the maximum state procurement and purchase of recycled products.

(c) (1) To assist the state in meeting the goals of subdivision (a) of Section 12162 and subdivision (e) of this section, the department, in consultation with the board, may also establish recycled-content disclosure, recycled product-only bids, cooperative purchasing arrangements, or conduct an analysis of solid waste diversion from disposal facilities, to meet the goals for recycled products and to encourage the maximum state procurement and purchase of recycled products. All state agencies shall, if feasible, implement recycled product-only bids for recycled products as defined in subdivision (a) of Section 12200, in order to meet the goals for recycled products set forth in this section and Section 12162.

(2) This subdivision applies to the procurement or purchase of the following materials, goods, and supplies, or products containing the following recycled resources:

(A) Paper products, which include, but are not limited to, fine papers, such as xerographic and envelope papers and form bond, corrugated boxes, newsprint, tissue, and toweling.

(B) Compost and co-compost products.

(C) Glass.

(D) Oil.

(E) Plastic.

(F) Solvents and paint, including water-based paint.

(G) Tires.

(H) Steel.



(d) All state agencies shall, if feasible, establish purchasing practices that ensure the purchase of materials, goods, and supplies that may be recycled or reused when discarded.

(e) The department shall set the following goals for purchases made by state agencies:

(1) By January 1, 1996, at least 20 percent of state purchases are of recycled products.

(2) By January 1, 1998, at least 30 percent of state purchases are of recycled products.

(3) By January 1, 2000, at least 50 percent of state purchases are of recycled products.

(4) The goals specified in this subdivision shall be applied to the purchases of state agencies for products listed in this section, except in subparagraph (A) of paragraph (2) of subdivision (c) for which goals are specified in Section 12162.

(f) The purchases of the state agencies shall meet each goal for, and be applied to the total dollar amount of, each specified product category as defined in this section. The purchase of a recycled-content product from one category may not be applied toward the goals for, or the total dollar amount of, any other category listed in this section or Section 12157, 12162, 12301, or 12305.

(g) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute which is chaptered prior to that date extends or deletes that date.

SEC. 5. Section 12301 of the Public Contract Code is amended to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

(b) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

(c) "Recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.



For fine grades of paper such as uncoated printing and writing grades, “recycled paper” means either of the following:

(1) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight consisting of postconsumer material.

(2) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both paragraphs (1) and (2), the postconsumer material content shall be increased to 30 percent of fiber weight.

(d) (1) Except as provided in paragraph (2), “recycled product” means all materials, goods, and supplies, excluding paper products, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. “Postconsumer material” means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. “Secondary material” means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

(2) “Recycled product” also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and postconsumer material, with not less than 10 percent of total weight consisting of postconsumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

SEC. 6. Section 12305 of the Public Contract Code is amended to read:

12305. This chapter applies to the procurement and purchase of the following materials, goods, and supplies, or products containing the following recycled resources, and meeting the specified content requirements pursuant to either subdivision (c) or (d) of Section 12301, whichever is applicable:

(a) Paper products, which include, but are not limited to, fine grades of paper, corrugated boxes, newsprint, tissue, and toweling.

(b) Glass.

(c) Oil.

(d) Plastic.

(e) Solvents and paint, including water-based paint.



- (f) Tires.
- (g) Steel.

SEC. 7. Section 12320 of the Public Contract Code is amended to read:

12320. (a) The Legislature shall require contractors to certify in writing to the contracting officer, or his or her representative, whether the materials, goods, or supplies offered contain the minimum percentage of recycled product required by subdivision (d) of Section 12301. The contractor shall specify the minimum, if not exact, percentage of recycled product in the product, both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(b) The Legislature, in consultation with the department and the board, shall review and revise the procurement specifications used by the Legislature in order to eliminate discrimination against the procurement or purchase of recycled products whenever quality of a recycled product is reasonably equal to the same product manufactured with virgin resources. In determining procurement specifications, with the exception of any specifications that have been established to preserve the public health and safety, all legislative procurement and purchasing specifications shall be established in a manner that results in the maximum legislative procurement and purchase of recycled products.

(c) The Legislature, in consultation with the board, shall establish purchasing practices that ensure, to the maximum extent feasible, the purchase of materials, goods, and supplies that may be recycled or reused when discarded.

(d) The Legislature shall give purchase preference to recycled products when all of the following apply:

- (1) The product meets applicable standards.
- (2) The product can be substituted for a comparable nonrecycled product.
- (3) The product costs no more than a comparable nonrecycled product.

(e) To encourage the use of postconsumer waste, the Legislature's specifications shall require recycled product contracts to be awarded to the bidder whose product contains the greater percentage of postconsumer material if the fitness and quality and price meet the requirements in subdivision (d) of Section 12301 and Section 12310.

(f) The Legislature shall set the following goals for purchases made by the Legislature or any individual or group of individuals purchasing on behalf of the Legislature:

- (1) By January 1, 1991, at least 10 percent of legislative purchases are of recycled products.
- (2) By January 1, 1993, at least 20 percent of legislative purchases are of recycled products.



(3) By January 1, 1995, at least 40 percent of legislative purchases are of recycled products.

(4) The goals specified in this subdivision shall be applied to the purchase by the Legislature of products described in subdivisions (b), (c), (d), (e), (f), and (g) of Section 12305 and shall be applied to the total dollar amount of the combined purchases of those products.

Each specified goal shall be met for each product listed pursuant to Section 12305. If at any time a goal has not been met, the Legislature and the department, in consultation with the board, shall review procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, raising the purchasing preference and altering the goals for all or each recycled product. The department, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's annual report pursuant to Section 12225.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

