

Senate Bill No. 827

CHAPTER 816

An act to amend Sections 12162, 12205, 12305.5, and 12310 of the Public Contract Code, and to amend Section 42701 of the Public Resources Code, relating to recycling.

[Approved by Governor October 8, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 827, Sher. Recycled materials.

(1) The State Assistance for Recycling Markets Act of 1989 requires the Department of General Services to set a goal for the purchase of recycled paper products by state agencies of at least 50% of paper products purchased. All state agencies are required to submit to the department and the California Integrated Waste Management Board a plan to meet this goal. The board was required to implement a pilot program, if adequate funds were available, from January 1, 1994, to January 1, 1997, for funding claims submitted by state agencies for providing price preferences to certain recycled paper products. The act also requires the Legislature and all state agencies to meet certain goals for the procurement or purchase of recycled products, as defined, by specified dates. The board is also authorized to 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. Existing law requires the Legislature, if a recycled product costs more than the same product made with virgin material, to purchase fewer of those more costly products or apply cost savings, if any, gained from buying other recycled products towards the purchase of those more costly products.

These provisions would be repealed, under existing law, on January 1, 2001.

This bill would provide that purchasing recycled products is a requirement rather than a goal, and would delete the requirement that state agencies submit plans related to their recycled paper product purchasing. The bill would also delete the provisions regarding the pilot program.

The bill would delete the repeal of those provisions, would make conforming changes, and would delete obsolete provisions.

(2) Existing law requires the State Procurement Officer, in purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agency that provides road construction and repair services, to make

contracts available for items that utilize recycled materials in paving materials and base, subbase, and previous backfill material, if the price of those items is competitive for the purposes intended.

This bill, instead, would require the officer to make those contracts available unless the Director of Transportation determines that the use of the materials is not cost-effective based on specified factors.

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

SECTION 1. Section 12162 of the Public Contract Code is amended to read:

12162. (a) At least 50 percent of the total dollar amount of paper products purchased or procured shall be a recycled paper product, as defined in Section 12161. In addition, at least 25 percent of the total fine writing and printing paper purchased or procured shall be a recycled paper product, as defined in Section 12161.

(b) All state agencies shall report to the department and to the board on their progress in meeting the requirements of subdivision (a) and Section 12205. The department shall develop a uniform reporting procedure which state agencies shall follow. If at any time a requirement has not been met, the department, in consultation with the board, shall review procurement policies and shall make recommendations for immediate revisions to ensure that the requirement is met. The department, in consultation with the board, shall present its recommendations on these procurement policies to the Legislature in the department's annual report pursuant to Section 12225.

(c) (1) All state agencies shall give a price preference, not to exceed 10 percent, to recycled paper products, if the product's fitness, quality, and availability are comparable to nonrecycled products. The board, in consultation with the department, shall establish, on or before May 1, 1994, and every two years thereafter, price preferences for the purposes of meeting the goals set forth in this section and Section 12205 for recycled products. For those priority commodities, as defined by the board, the price preference established by the board shall not be less than 5 percent. The board shall publish the established price preferences annually in the board's report to the Legislature pursuant to Section 40507 of the Public Resources Code.

(2) In establishing the price preferences, the board shall take into consideration all of the following factors:

(A) Materials that comprise the largest percentage of the state's solid waste stream.

(B) Materials that have the highest percentage of postconsumer material.

(C) Materials that require expanded markets.

(D) Any other market factors as determined by the board.



(3) The combined dollar amount of preference granted pursuant to this section and any other provision of law shall not exceed one hundred thousand dollars (\$100,000).

(d) Notwithstanding paragraph (1) of subdivision (c), the recycled paper bidder preference shall not exceed fifty thousand dollars (\$50,000) if a preference exceeding that amount would preclude an award to a small business that offers nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code.

SEC. 2. 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 requirements 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 requirements 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 requirements 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 cocompost 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 requirements 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) On and after January 1, 2000, at least 50 percent of state purchases are of recycled products.

(4) The requirements 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 requirements are specified in Section 12162.

(f) The purchases of the state agencies shall meet each requirement 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 requirements for, or the total dollar amount of, any other category listed in this section or Section 12157, 12162, 12301, or 12305.

SEC. 3. Section 12305.5 of the Public Contract Code is amended to read:

12305.5. If a recycled product costs more than the same product made with virgin material, the Legislature shall purchase fewer of those more costly products or apply cost savings, if any, gained from buying other recycled products towards the purchase of those more costly products.

SEC. 4. Section 12310 of the Public Contract Code is amended to read:

12310. (a) On and after January 1, 1997, at least 50 percent of the total dollar amount of paper products purchased or procured by the Legislature shall be purchased as a recycled paper product, as defined in Section 12301. In addition, at least 25 percent of the total fine writing and printing paper purchased by the Legislature shall be recycled paper products, as defined in Section 12301.



If at any time the requirement for recycled products has not been met, the Legislature and the department, in consultation with the board, shall review the procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each requirement is met. Revisions include, but are not limited to, raising the purchasing preference and altering the requirements for each or all recycled products. 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 biennial report pursuant to Section 12225.

(b) When contracting with the Legislature for the sale of recycled paper products, the contractor shall certify in writing to the contracting officer or his or her representative, that the recycled materials offered contain the minimum percentage of waste materials required by subdivision (c) of Section 12301. The contractor shall specify the minimum, if not the exact, percentage of recycled product in the paper product, including both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(c) The Legislature may, in consultation with the board, print a symbol on paper products selected by the Legislature. The symbol shall be similar to the following:

Printed on recycled paper. This symbol shall be printed only on paper products meeting the definition of recycled paper products in Section 12301.

(d) This section shall not prevent the Legislature from using existing stocks of paper products.

SEC. 5. Section 42701 of the Public Resources Code is amended to read:

42701. (a) In purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agencies that provide road construction and repair services, the State Procurement Officer shall make contracts available for those items that utilize recycled materials in paving materials and base, subbase, and pervious backfill materials, unless the Director of Transportation determines that the use of the materials is not cost-effective. In determining the cost-effectiveness of the materials subject to this section, the factors that the director shall consider include the following:

(1) The lifespan and durability of the pavement containing the materials.

(2) The maintenance cost of the pavement containing the materials.

(b) This section also applies to any person who contracts with the Department of General Services or with any other state agency to provide these construction and repair services.



(c) The recycled materials shall include, but are not limited to, recycled asphalt, crushed concrete subbase, foundry slag, and paving materials utilizing crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on the standards of the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials.

