

## HOUSE BILL No. 1139

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DIGEST OF HB1139 (Updated January 26, 1998 5:16 pm - DI 84)

**Citations Affected:** IC 4-13; IC 5-22.

**Synopsis:** Public purchasing. Makes the following changes to the public purchasing statute: (1) Permits the award of contracts by lines or classes of supplies or services contained in a solicitation. (2) Provides that a purchasing agent may award a contract for an unspecified number of items at a fixed price per unit. Permits use of a formula for escalation of the unit price. (3) Permits small purchases to be made using a quotation procedure for purchases of at least \$25,000 but not more than \$75,000 (4) Permits a purchasing agent to make a special purchase from a public utility if the purchase or lease price is a negotiated price that considers the results of two independent appraisals. (5) Permits the purchasing agent for a board of aviation commissioners or an airport authority to make a special purchase for petroleum products for resale to the public. (6) Permits a county to award sand, gravel, asphalt paving materials, or crushed stone contracts  
(Continued next page)

**Effective:** July 1, 1998.

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**Scholer, Kruzan, Porter, Goeglein**

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January 8, 1998, read first time and referred to Committee on Economic Growth and Regulatory Relief.

January 21, 1998, amended, reported — Do Pass.

January 26, 1998, read second time, ordered engrossed.

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HB 1139—LS 7110/DI 75



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to more than one offeror by geographic area. (7) States the procedure for political subdivisions to deliver contracts or purchase orders to the successful offeror. (8) Makes technical changes. (9) Repeals superseded statutes.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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## HOUSE BILL No. 1139

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-22-8-1, AS ADDED BY P.L.49-1997, SECTION  
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 1998]: Sec. 1. (a) This chapter applies only to a purchase expected by  
4 the purchasing agent to be less than ~~twenty-five~~ **seventy-five** thousand  
5 dollars ~~(\$25,000)~~. **(\$75,000)**.

6 (b) Purchase requirements may not be artificially divided so as to  
7 constitute a small purchase under this chapter.

8 SECTION 2. IC 5-22-8-2, AS ADDED BY P.L.49-1997, SECTION  
9 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
10 1998]: Sec. 2. (a) **This section applies only if the purchasing agent**  
11 **expects the purchase to be less than twenty-five thousand dollars**  
12 **(\$25,000)**.

13 (b) A purchasing agent may make a purchase under small purchase  
14 policies established by the purchasing agency or under rules adopted  
15 by the governmental body.

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1 SECTION 3. IC 5-22-8-3 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 1998]: **Sec. 3. (a) This section applies only if the purchasing agent  
 4 expects the purchase to be:**

5 (1) at least twenty-five thousand dollars (\$25,000); and

6 (2) not more than seventy-five thousand dollars (\$75,000).

7 (b) A purchasing agent may purchase supplies under this section  
 8 by inviting quotes from at least three (3) persons known to deal in  
 9 the lines or classes of supplies to be purchased.

10 (c) The purchasing agent shall mail an invitation to quote to the  
 11 persons described in subsection (b) at least seven (7) days before  
 12 the time fixed for receiving quotes.

13 (d) If the purchasing agent receives a satisfactory quote, the  
 14 purchasing agent shall award a contract to the lowest responsible  
 15 and responsive offeror for each line of class of supplies required.

16 (e) The purchasing agent may reject all quotes.

17 (f) If the purchasing agent does not receive a quote from a  
 18 responsible and responsive offeror, the purchasing agent may  
 19 purchase the supplies under IC 5-22-10-10.

20 SECTION 4. IC 5-22-10-19 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 22 1, 1998]: **Sec. 19. A purchasing agent may make a special purchase  
 23 from a public utility if the purchase or lease price is a negotiated  
 24 price that considers the results of an independent appraisal that the  
 25 purchasing agency obtains and an independent appraisal that the  
 26 public utility obtains.**

27 SECTION 5. IC 5-22-10-20 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29 1, 1998]: **Sec. 20. (a) This section applies to the purchase of  
 30 petroleum products by:**

31 (1) a board of aviation commissioners under IC 8-22-2; or

32 (2) an airport authority under IC 8-22-3.

33 (b) A purchasing agent may make a special purchase of  
 34 petroleum products if the petroleum products are for resale to the  
 35 general public.

36 SECTION 6. IC 5-22-15-12, AS ADDED BY P.L.49-1997,  
 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 1998]: **Sec. 12. Award of a contract under section 11 of this  
 39 chapter is subject to the following:**

40 (1) A requirement of an applicable statute to award a contract to  
 41 a responsible and responsive bidder.

42 (2) A requirement of an applicable statute to award a contract:

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- 1 (A) to the best bidder; or  
 2 (B) in the case of a purchase under IC 5-22-9, to the offeror  
 3 whose offer is most advantageous to the governmental body.  
 4 (3) The authority of the purchasing agent under ~~an applicable law~~  
 5 **IC 5-22-17-12** to award contracts separately or for a combination  
 6 of a line or class of supplies.

7 SECTION 7. IC 5-22-17-11 IS ADDED TO THE INDIANA CODE  
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 9 1, 1998]: **Sec. 11. A county may award a sand, gravel, asphalt**  
 10 **paving materials, or crushed stone contract to more than one (1)**  
 11 **responsible and responsive offeror if both of the following apply:**

12 (1) **The specifications allow for offers to be based upon service**  
 13 **to specific geographic areas.**

14 (2) **The contracts are awarded by geographic area.**

15 **The county is not required to describe the geographic areas in the**  
 16 **specifications.**

17 SECTION 8. IC 5-22-17-12 IS ADDED TO THE INDIANA CODE  
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 19 1, 1998]: **Sec. 12. (a) A solicitation may provide that offers will be**  
 20 **received and contracts will be awarded separately or for any**  
 21 **combination of a line or a class of supplies or services contained in**  
 22 **the solicitation.**

23 (b) **If the solicitation does not indicate how separate contracts**  
 24 **might be awarded, the purchasing agent may award separate**  
 25 **contracts to different offerors under this section only if the**  
 26 **purchasing agent makes a written determination showing that the**  
 27 **award of separate contracts is in the interest of efficiency or**  
 28 **economy.**

29 (c) **If the purchasing agent awards a contract for a line or class**  
 30 **of supplies or services, or any combination of lines or classes, to an**  
 31 **offeror other than the lowest offeror, the purchasing agent must**  
 32 **make a written determination stating the reasons for awarding a**  
 33 **contract to that offeror.**

34 SECTION 9. IC 5-22-17-13 IS ADDED TO THE INDIANA CODE  
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 36 1, 1998]: **Sec. 13. A solicitation may provide that the purchasing**  
 37 **agent will award a contract for supplies or services for an**  
 38 **unspecified number of items at a fixed price per unit. Such a**  
 39 **contract may include a formula or a method for escalation of the**  
 40 **unit price.**

41 SECTION 10. IC 5-22-18-5 IS ADDED TO THE INDIANA CODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 1998]: **Sec. 5. (a) This section applies only to a political**  
2 **subdivision.**

3 (b) **Within thirty (30) days after the acceptance of an offer, the**  
4 **purchasing agent shall deliver in person or by first class mail to the**  
5 **successful offeror the original of each purchase order or lease,**  
6 **retain a copy for the purchasing agent's records, and file a copy for**  
7 **public record and inspection as follows:**

8 (1) **When a purchase or lease is made for a county or**  
9 **municipality, the copy of the purchase order or lease must be**  
10 **filed with the fiscal officer of the unit.**

11 (2) **When a purchase or lease is made for a township, the copy**  
12 **of the purchase order or lease must be filed with the fiscal**  
13 **officer of the county.**

14 (3) **When a purchase or lease is made for a school corporation**  
15 **or a quasi-public corporation, the copy of the purchase order**  
16 **or lease must be filed with the records of the corporation.**

17 SECTION 11. IC 5-22-22-8, AS ADDED BY P.L.49-1997,  
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 1998]: Sec. 8. (a) If the property is worthless, it may be  
20 demolished or junked.

21 (b) For purposes of this ~~subsection~~, **section and**  
22 **IC 5-22-21-6(4)(B),** property may be considered worthless **or of no**  
23 **market value** if the value of the property is less than the estimated  
24 costs of the sale and transportation of the property.

25 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE  
26 JULY 1, 1998]: IC 4-13-2-12.6; IC 4-13-2-12.7.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Economic Growth, to which was referred House Bill 1139, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, reset in roman "(a) This chapter applies only to a purchase expected by".

Page 1, line 4, reset in roman "the purchasing agent to be less than".

Page 1, line 4, after "twenty-five" insert "**seventy-five**".

Page 1, line 4, reset in roman "thousand dollars".

Page 1, line 5, after "(\$25,000)." insert "**(\$75,000)**".

Page 1, line 6, reset in roman "(b)".

Page 2, line 3, delete "to a purchase that" and insert "**if the purchasing agent expects the purchase to be:**

**(1) at least twenty-five thousand dollars (\$25,000); and**

**(2) not more than seventy-five thousand dollars (\$75,000).**".

Page 2, delete lines 4 through 13.

Page 3, line 12, delete "IC 22-17-12" and insert "**IC 5-22-17-12**".

and when so amended that said bill do pass.

(Reference is to House Bill 1139 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 1.

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