



Reprinted
April 9, 1999

ENGROSSED SENATE BILL No. 429

DIGEST OF SB 429 (Updated April 8, 1999 3:50 pm - DI 100)

Citations Affected: IC 5-3; IC 5-22.

Synopsis: Recycled materials purchasing preference. Provides that the recycled materials price preference for purchase of supplies by a governmental body must be set in rules adopted by the governmental body, in policies established by the purchasing agency, or in the solicitation. Requires the preference to be set to maximize the use of recycled materials when economically practical. Provides that the price preference may not exceed 15%. Removes statutory preferences that specify particular preference percentages and amounts of recycled materials. Provides Indiana small business a purchasing preference. Provides that a contract that contains a provision for escalation of the price of the contract may be renewed if the price escalation is computed using a commonly accepted index named in the contract or a formula set forth in the contract.

Effective: July 1, 1999.

Gard, Simpson

(HOUSE SPONSORS — KRUZAN, BOSMA)

January 13, 1999, read first time and referred to Committee on Environmental Affairs.
February 2, 1999, amended, reported favorably — Do Pass.
February 8, 1999, read second time, ordered engrossed. Engrossed.
February 9, 1999, read third time, passed. Yeas 29, nays 21.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Environmental Affairs.
March 25, 1999, reported — Do Pass.
March 29, 1999, read second time, call withdrawn.
April 8, 1999, reread second time, amended, call withdrawn; reread second time, amended, ordered engrossed.

ES 429—LS 6995/DI 75



C
O
P
Y

Reprinted
April 9, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 429

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 5-3-1-2 IS AMENDED TO READ AS FOLLOWS:
2 Sec. 2. (a) This section applies only when notice of an event is required
3 to be given by publication in accordance with IC 5-3-1.
4 (b) If the event is a public hearing or meeting concerning any matter
5 not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h)
6 notice shall be published one (1) time, at least ten (10) days before the
7 date of the hearing or meeting.
8 (c) If the event is an election, notice shall be published one (1) time,
9 at least ten (10) days before the date of the election.
10 (d) If the event is a sale of bonds, notes, or warrants, notice shall be
11 published two (2) times, at least one (1) week apart, with:
12 (1) the first publication made at least fifteen (15) days before the
13 date of the sale; and
14 (2) the second publication made at least three (3) days before the
15 date of the sale.
16 (e) If the event is the receiving of bids, notice shall be published two

ES 429—LS 6995/DI 75+



C
O
P
Y

1 (2) times, at least one (1) week apart, with the second publication made
 2 at least ~~ten (10)~~ **seven (7)** days before the date the bids will be
 3 received.

4 (f) If the event is the establishment of a cumulative or sinking fund,
 5 notice of the proposal and of the public hearing that is required to be
 6 held by the political subdivision shall be published two (2) times, at
 7 least one (1) week apart, with the second publication made at least
 8 three (3) days before the date of the hearing.

9 (g) If the event is the submission of a proposal adopted by a political
 10 subdivision for a cumulative or sinking fund for the approval of the
 11 state board of tax commissioners, the notice of the submission shall be
 12 published one (1) time. The political subdivision shall publish the
 13 notice when directed to do so by the state board of tax commissioners.

14 (h) If the event is the required publication of an ordinance, notice of
 15 the passage of the ordinance shall be published one (1) time within
 16 thirty (30) days after the passage of the ordinance.

17 (i) If the event is one about which notice is required to be published
 18 after the event, notice shall be published one (1) time within thirty (30)
 19 days after the date of the event.

20 (j) If the event is anything else, notice shall be published two (2)
 21 times, at least one (1) week apart, with the second publication made at
 22 least three (3) days before the event.

23 (k) In case any officer charged with the duty of publishing any
 24 notice required by law is unable to procure advertisement at the price
 25 fixed by law, or the newspaper refuses to publish the advertisement, it
 26 is sufficient for the officer to post printed notices in three (3) prominent
 27 places in the political subdivision, instead of advertisement in
 28 newspapers.

29 (l) If a notice of budget estimates for a political subdivision is
 30 published as required in IC 6-1.1-17-3, and the published notice
 31 contains an error due to the fault of a newspaper, the notice as
 32 presented for publication is a valid notice under this chapter.

33 (m) Notwithstanding subsection (j), if a notice of budget estimates
 34 for a political subdivision is published as required in IC 6-1.1-17-3, and
 35 if the notice is not published at least ten (10) days before the date fixed
 36 for the public hearing on the budget estimate due to the fault of a
 37 newspaper, the notice is a valid notice under this chapter if it is
 38 published one (1) time at least three (3) days before the hearing.

39 SECTION 2. IC 5-22-15-7 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) An offeror may
 41 claim one (1) of the following types of preference for which the offeror
 42 is eligible:

ES 429—LS 6995/DI 75+



C
O
P
Y

1 (1) An Indiana business preference under rules adopted under
2 section 20 of this chapter or IC 4-13.6-6-2.5.

3 (2) A preference for supplies as provided by sections 16, 17, 18,
4 and 19 of this chapter.

5 **(3) An Indiana small business preference as provided by**
6 **section 23 of this chapter.**

7 (b) An offeror may not claim more than one (1) preference as
8 provided by sections 16, 17, 18, and 19 of this chapter for a given
9 supply item.

10 (c) This section does not:

11 (1) apply to; or

12 (2) limit;

13 action of the Indiana department of administration under rules adopted
14 under section 21 of this chapter.

15 SECTION 3. IC 5-22-15-16 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) This section
17 does not apply when the purchase description is limited to a supply that
18 meets ~~one (1) or more of the descriptions~~ **description** set forth in
19 subsection (b).

20 (b) There is a price preference of ~~ten percent (10%)~~ for supplies that
21 ~~meet at least one (1) of the following descriptions:~~

22 (1) ~~At least fifty percent (50%) of the volume of the original~~
23 ~~components of the supplies consisted of recycled materials.~~

24 (2) ~~The cost of purchasing recycled materials constituted at least~~
25 ~~fifty percent (50%) of the cost of producing the supplies.~~

26 (3) ~~A percentage by weight or volume of recycled materials that~~
27 ~~the commissioner of the department of environmental~~
28 ~~management determines by rule is eligible for purchase~~
29 ~~preference under this chapter.~~

30 **contain recycled materials or post-consumer materials.**

31 (c) **The amount of the price preference and the recycled**
32 **materials' composition of the supplies must be set by one (1) of the**
33 **following:**

34 (1) **Rules adopted by the governmental body.**

35 (2) **Policies established by the purchasing agency.**

36 (3) **The solicitation.**

37 **The preference shall be set to maximize the use of recycled**
38 **materials when economically practical.**

39 (d) **A price preference set under subsection (c) may not be less**
40 **than ten percent (10%) or exceed fifteen percent (15%).**

41 SECTION 4. IC 5-22-15-23 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



C
O
P
Y

1 1, 1999]: (a) A governmental body shall give a fifteen percent
2 (15%) preference for supplies to an Indiana small business (as
3 defined in IC 5-22-14-1) that submits an offer for purchase under
4 this article.

5 (b) The governmental body may adopt rules to establish criteria
6 to carry out this section.

7 SECTION 5. IC 5-22-17-4 IS AMENDED TO READ AS
8 FOLLOWS: Sec. 4. (a) ~~This section does not apply to a~~ A contract that
9 contains ~~any~~ a provision for escalation of the price of the ~~contract.~~
10 **contract may be renewed under this section if the price escalation**
11 **is computed using:**

12 (1) a commonly accepted index named in the contract; or

13 (2) a formula set forth in the contract.

14 (b) Subject to section 5 of this chapter, with the agreement of the
15 contractor and the purchasing agency, a contract may be renewed any
16 number of times.

17 (c) The term of a renewed contract may not be longer than the term
18 of the original contract.

19 SECTION 6. IC 5-22-15-17 IS REPEALED [EFFECTIVE JULY 1,
20 1999].

C
O
P
Y



COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 429, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 16, delete "that have been used by an ultimate" and insert "**or post consumer**".

Page 2, line 17, delete "consumer of the".

and when so amended that said Bill do pass.

(Reference is to SB 429 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 0.

C
o
p
y



SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 429.

GARD

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 429, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STURTZ, Chair

Committee Vote: yeas 12, nays 0.

C
o
p
y



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 429 be amended to read as follows:

Page 1, between lines 8 and 9, begin a new line block indented and insert:

"(3) An Indiana small business preference as provided by section 23 of this chapter."

Page 2, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 3. IC 5-22-15-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: (a) **A governmental body shall give a fifteen percent (15%) preference for supplies to an Indiana small business (as defined in IC 5-22-14-1) that submits an offer for purchase under this article.**

(b) The governmental body may adopt rules to establish criteria to carry out this section."

Re-number all SECTIONS consecutively.

(Reference is to Engrossed SB 429 as printed March 26, 1999.)

FRIEND

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 429 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-3-1-2 IS AMENDED TO READ AS FOLLOWS: Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with IC 5-3-1.

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h) notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

(1) the first publication made at least fifteen (15) days before the date of the sale; and

ES 429—LS 6995/DI 75+



C
O
P
Y

(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least ~~ten (10)~~ **seven (7)** days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the state board of tax commissioners, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the state board of tax commissioners.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(I) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If the event is anything else, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event.

(k) In case any officer charged with the duty of publishing any notice required by law is unable to procure advertisement at the price fixed by law, or the newspaper refuses to publish the advertisement, it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of advertisement in newspapers.

(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.

(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing."

Page 2, line 25, after "not" insert "**be less than ten percent (10%)**"



C
O
P
Y

or".

Page 2, between lines 26 and 27, begin a new paragraph and insert:
"SECTION 4. IC 5-22-17-4 IS AMENDED TO READ AS FOLLOWS: Sec. 4. (a) ~~This section does not apply to a~~ **A** contract that contains ~~any~~ **a** provision for escalation of the price of the ~~contract~~. **contract may be renewed under this section if the price escalation is computed using:**

- (1) a commonly accepted index named in the contract; or**
- (2) a formula set forth in the contract.**

(b) Subject to section 5 of this chapter, with the agreement of the contractor and the purchasing agency, a contract may be renewed any number of times.

(c) The term of a renewed contract may not be longer than the term of the original contract."

Re-number all SECTIONS consecutively.

(Reference is to ESB429 as printed March 26, 1999.)

SCHOLER

C
O
P
Y

