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# HOUSE BILL No. 1524

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-11.

**Synopsis:** Real property disposal by a political subdivision. Removes the requirement that when a political subdivision sells or leases surplus real property, the appraisers must make a joint appraisal. Provides that the disposing agent may sell or lease the surplus real property for a value that is less than 90% of the average of the two appraisals only after holding a public hearing. (Under current law, the disposing agent may sell or lease the property for less than 90% of the appraised value only after publishing an additional notice of sale.) Provides that in the case of a sale to promote an economic development project or to facilitate land use planning, real property may not be sold for less than the average of the two appraisals without a hearing.

**Effective:** July 1, 2011.

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## Steuerwald

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January 20, 2011, read first time and referred to Committee on Local Government.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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# HOUSE BILL No. 1524



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-1-11-4, AS AMENDED BY P.L.27-2008,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 4. (a) A disposing agent who wants to sell or  
4 transfer real property must comply with this section, except as  
5 permitted by section 4.1, 4.2, 5, 5.5, 5.7, 5.9, 8, 14, or 15 of this  
6 chapter.

7 (b) The disposing agent shall first have the property appraised by  
8 two (2) appraisers. The appraisers must be:

- 9 (1) professionally engaged in making appraisals;
- 10 (2) licensed under IC 25-34.1; or
- 11 (3) employees of the political subdivision familiar with the value
- 12 of the property.

13 ~~The appraisers shall make a joint appraisal of the property.~~

14 (c) After the property is appraised, the disposing agent shall publish  
15 a notice in accordance with IC 5-3-1 setting forth the terms and  
16 conditions of the sale and, when subsection (e) is employed, may  
17 engage an auctioneer licensed under IC 25-6.1 to advertise the sale and



1 to conduct a public auction. The advertising conducted by the  
2 auctioneer is in addition to any other notice required by law and shall  
3 include a detailed description of the property to be sold stating the key  
4 numbers, if any, of the tracts within that property. If the disposing agent  
5 determines that the best sale of the property can be made by letting the  
6 bidders determine certain conditions of the sale (such as required  
7 zoning or soil or drainage conditions) as a prerequisite to purchasing  
8 the property, the disposing agent may permit the bidders to specify  
9 those conditions. The notice must state the following:

- 10 (1) Bids will be received beginning on a specific date.
- 11 (2) The sale will continue from day to day for a period determined
- 12 by the disposing agent of not more than sixty (60) days.
- 13 (3) The property may not be sold to a person who is ineligible
- 14 under section 16 of this chapter.
- 15 (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must
- 16 identify each:
  - 17 (A) beneficiary of the trust; and
  - 18 (B) settlor empowered to revoke or modify the trust.

19 (d) A bid must be open to public inspection. A bidder may raise the  
20 bidder's bid, and subject to subsection (e), that raise takes effect after  
21 the board has given written notice of that raise to the other bidders.

22 (e) The disposing agent may also engage an auctioneer licensed  
23 under IC 25-6.1 to conduct a sale by public auction. The auction may  
24 be conducted either at the time for beginning the sale in accordance  
25 with the public notice or after the beginning of the sale. The disposing  
26 agent shall give each bidder who has submitted a bid written notice of  
27 the time and place of the auction.

28 (f) The disposing agent may, before expiration of the time set out in  
29 the notice, sell the property to the highest and best bidder. The highest  
30 and best bidder must have complied with any requirement under  
31 subsection (c)(4). ~~However, the disposing agent may sell the property~~  
32 ~~for less than ninety percent (90%) of the appraised value of the tracts~~  
33 ~~only after having an additional notice of the sale published in~~  
34 ~~accordance with subsection (c).~~ The disposing agent may reject all  
35 bids.

36 (g) If the disposing agent determines that, in the exercise of good  
37 business judgment, the disposing agent should hire a broker or  
38 auctioneer to sell the property, the disposing agent may do so and pay  
39 the broker or auctioneer a reasonable compensation out of the gross  
40 proceeds of the sale. However, the disposing agent must still comply  
41 with the procedural requirements of this section. The disposing agent  
42 may hire one (1) of the appraisers as the broker or auctioneer.

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1           **(h) The disposing agent may dispose of the real property for a**  
2 **value that is less than ninety percent (90%) of the average of the**  
3 **two (2) appraisals only after holding a public hearing with notice**  
4 **given in accordance with IC 5-3-1. Following the public hearing,**  
5 **bids may be rejected or the property may be sold to the highest and**  
6 **best bidder.**

7           SECTION 2. IC 36-1-11-4.2 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.2. (a) This section  
9 applies to a disposing agent who wants to sell or transfer real property  
10 not acquired through eminent domain procedures for any of the  
11 following purposes:

- 12           (1) To promote an economic development project.
- 13           (2) To facilitate compatible land use planning.
- 14           (b) The disposing agent shall first have the property appraised by  
15 two (2) appraisers. The appraisers must be:
  - 16           (1) professionally engaged in making appraisals;
  - 17           (2) licensed under IC 25-34.1; or
  - 18           (3) employees of the political subdivision familiar with the value  
19 of the property.

20 ~~The appraisers shall make a joint appraisal of the property.~~

- 21           (c) **Except as provided in subsection (d),** the disposing agent may:
    - 22           (1) negotiate a sale or transfer; and
    - 23           (2) dispose of the real property;
- 24 at a value that is not less than the appraised value determined under  
25 subsection (b).

26           **(d) The disposing agent may dispose of the real property for a**  
27 **value that is less than the average of the two (2) appraisals**  
28 **determined under subsection (b) only after holding a public**  
29 **hearing with notice given in accordance with IC 5-3-1. Following**  
30 **the public hearing, bids may be rejected or the property may be**  
31 **sold to the highest and best bidder.**

32           SECTION 3. IC 36-1-11-10 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A disposing  
34 agent may lease property rather than sell, transfer, or exchange it under  
35 this chapter only if the disposing agent determines that a lease rather  
36 than a sale, transfer, or exchange would be in the best interest of the  
37 disposing agent's political subdivision or agency and the public. Except  
38 as provided in section 12 of this chapter, the disposing agent must  
39 proceed under this section in leasing property.

- 40           (b) The disposing agent shall first have the property appraised in the  
41 manner prescribed in section 4(b) of this chapter, except that the  
42 appraisers shall determine the fair market rental value of the property.

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1 (c) The disposing agent shall receive bids in the manner prescribed  
 2 in section 4 of this chapter and lease the property to the highest and  
 3 best bidder. ~~However, the disposing agent may lease the property for~~  
 4 ~~less than ninety percent (90%) of the appraised fair market rental value~~  
 5 ~~only after having an additional notice of the lease published in~~  
 6 ~~accordance with section 4(c) of this chapter. **The disposing agent may**~~  
 7 ~~**reject all bids.**~~

8 (d) The disposing agent shall determine the terms and conditions of  
 9 any lease under this section, which may include options to renew and  
 10 options to purchase. The property may not be leased to a person who  
 11 is ineligible under section 16 of this chapter.

12 (e) The terms of a lease with option to purchase may provide that all  
 13 or part of the rental payments under the lease apply to the purchase  
 14 price. **Except as provided in subsection (g),** the purchase price must  
 15 be equal to at least the minimum sale price determined under section  
 16 ~~4(f)~~ **4(h)** of this chapter.

17 (f) Property owned by a political subdivision or agency may be  
 18 leased for a term longer than three (3) years if the lease is approved by  
 19 the fiscal body of the political subdivision.

20 **(g) The disposing agent may dispose of the real property under**  
 21 **this section for a value that is less than ninety percent (90%) of the**  
 22 **average of the two (2) appraisals determined under subsection (b)**  
 23 **only after holding a public hearing with notice given in accordance**  
 24 **with IC 5-3-1. Following the public hearing, bids may be rejected**  
 25 **or the property may be disposed of to the highest and best bidder.**

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