Therefore, in answer to your question, it is my opinion in view of the well considered principles of law above cited, that the State Personnel Board has no power to make any provision by rule or otherwise limiting, abolishing, or amending the statutes concerning legal holidays, and that as to such legal holidays for your departments, the Personnel Board has no jurisdiction.

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STATE BOARD OF ACCOUNTS: Discussion of Chapters 129 and 199 of the Acts of 1943 with respect to notice required in the case of bidding on a public contract.

June 18, 1943.

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection Supervision Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

I am in receipt of your letter of June 3rd, 1943, requesting an interpretation of Chapters 129 and 199 of the Acts of 1943. Your specific questions are as follows:

"1. In the event of a conflict of the provisions of Chapter 199 of the Acts of 1943, and the provisions of Chapter 129 of the Acts of 1943, which act would take precedence and control?

"2. In the event articles costing in excess of $100.00, are omitted from specifications and contract awarded under Chapter 199, would the purchaser be required to comply with the provision of Chapter 129 before ordering such omitted articles?

"3. If the requirements of Chapter 129 for the issuance and delivery of a purchase order applies to a contract awarded under Chapter 199, wherein the articles contracted for are to be delivered during the year as needed should such purchase order be issued:

"(a) Within thirty days after the acceptance of the bid and contract?"
"(b) At the time of the order for the delivery of the articles?

"4. When the provisions of either law provide for letting the contract according to class of supplies, may the contract be legally awarded by items in a class instead of the class as a whole?"

In answering your questions the following well settled rules of statutory construction must be applied to these two acts, which rules are as follows:

1. Where two or more statutes are enacted at the same session of the Legislature they must be construed together, if possible; but, if they be irreconcilable in any respect, the latter supersedes the earlier.

Shea v. City of Muncie, 148 Ind. 14;
Wright v. Board of Commissioners Tipton County, 82 Ind. 335;
Peoples etc. v. Hennessey, 106 Ind. App. 257;
State ex rel. v. Board of Commissioners, 170 Ind. 595;
Metsker v. Whitsell, 181 Ind. 126;
Fleenor v. State ex rel., 200 Ind. 165.

2. Where two statutes enacted at the same session of the Legislature are necessarily inconsistent, the one dealing with the common subject matter in a more minute way will prevail over the one of a more general character.

Peoples etc. v. Hennessey, 106 Ind. App. 257.

Where there are general and special laws relating to the same subject matter the special act controls and must be followed instead of the general act.

Temperly v. City of Indianapolis, 189 Ind. 292;
Daly v. Carr, 206 Ind. 554;
Kingsan etc. v. Ossam, 190 Ind. 554.

Applying the above rules of construction to Chapter 129 and Chapter 199, Acts of 1943, we find that Chapter 129, Acts of 1943, is entitled:
“An act concerning purchases of materials, equipment, goods and supplies with public funds of the state, county, township, city or town; prescribing the method therefor; * * *.”

This Act was approved by the Governor on March 5th, 1943, and was filed with the Secretary of State on March 5th, 1943, at 2:20 P. M. Section 14 of said Act declared an emergency for the immediate taking effect of the Act and provided that the same shall be in full force and effect from and after May 1, 1943. Section 9 provides that the Act shall be deemed and construed as being supplemental to all existing laws concerning the purchase of material, equipment, goods and supplies, and Section 13 repeals all laws and parts of laws in conflict therewith.

Said Chapter 129 is a general act and applies to all purchases of materials and supplies by any person, officer, board, commissioner, department or purchasing agent authorized and empowered by law to make purchases of materials, equipment, goods and supplies, payment for which is to be made from money appropriated from public funds made under the provisions of the budget law.

Chapter 199, Acts of 1943, amends Section 36 of Chapter 154 of the Acts of 1889, as last amended by Chapter 156 of the Acts of 1933, being Burns' R. S. 1933, Section 26-536, and is an act concerning county business and applies specifically to the awarding of annual or quarterly contracts for the purchase of supplies and materials for all county offices, departments and institutions by the board of county commissioners. Section 3 of Chapter 199, Acts of 1943, repeals all laws and parts of laws in conflict therewith, and Section 4 of said act declared an emergency for the immediate taking effect of the act. Chapter 199 of the Acts of 1943 was approved by the Governor on March 8, 1943, and was filed with the Secretary of State on March 8, 1943, at 10:45 o'clock P. M., and therefore is a later act than Chapter 129, Acts of 1943, which was approved March 5, 1943, as heretofore stated.

Applying the rules of construction heretofore stated, to your specific questions, it is my opinion that Chapter 129 and Chapter 199 must be construed in pari materia and both
given effect if it is possible so to do; but in the event of an irreconcilable conflict between the provisions of Chapter 199, Acts of 1943, and the provisions of Chapter 129, Acts of 1943, the provisions of Chapter 199, Acts of 1943, would take preference over and control all purchases of supplies and materials for all county offices, departments and institutions made by the board of county commissioners, for the reason that it is a specific act dealing minutely with a specific subject and is a later act passed by the same session of the Legislature.

Answering your second question, it is my opinion that in the event articles costing in excess of $100.00 are omitted from the specifications and contract awards under Chapter 199, the purchaser would be required to comply with the provisions of Chapter 129, Acts of 1943, before ordering such omitted articles.

With reference to your third question, it is my opinion that the requirements of Chapter 129 for the issuance and delivery of a purchase order for articles contracted for and to be delivered during the calendar year as needed, under a contract awarded pursuant to Chapter 199, Acts of 1943, would be complied with if the purchase order is delivered within thirty (30) days from the time the order for the delivery of the articles is made.

With reference to your fourth and final question, it is my opinion that under the provisions of either law providing for the letting of contracts according to class of supplies, the contract should be awarded by the class as a whole and not by separate items in a class.