

OPINION 8

OFFICIAL OPINION NO. 8

May 28, 1969

Hon. Kenneth B. Bays  
State Representative  
5425 Lewis Drive  
Anderson, Indiana 46013

Dear Representative Bays:

This is in reply to your request for an Official Opinion on the following question:

“Are all governing bodies and their sub-divisions in the state required to purchase articles presently manufactured by the Indiana Institutional Industries from them rather than purchasing such articles from a private supplier?”

It is my opinion that all governing bodies and their subdivisions are required to purchase articles manufactured by Indiana Institutional Industries when the purchase price is two thousand dollars (\$2,000) or less. Acts of 1917, Ch. 83, Sec. 2, as found in Burns' (1956 Repl.), Section 13-102. When purchases are in excess of two thousand dollars (\$2,000), the law requires the receiving of bids on the open market. Acts of 1945, Ch. 99, Sec. 1, as amended, as found in Burns' (1964 Repl.), Section 53-501.

There may appear to be a conflict between the provisions of the two governing Acts. The first Act, which specifically requires state sub-divisions to purchase certain articles from Indiana Institutional Industries, was written in 1917. The second Act, which provides for submission of bids on the open market on purchases exceeding two thousand dollars (\$2,000), was written in 1945.

The question is whether the latter general act repeals in part the former specific act.

But the Indiana Supreme Court, in *State of Indiana, et al. v. Larue's, Inc., et al.* (1958), 239 Ind. 56, 154 N. E. (2d) 708, stated:

“It is a recognized rule of statutory construction

that when specific provisions of a statute are irreconcilably inconsistent with general provisions of another statute with relation to the same subject matter, the specific provisions will prevail and this is true although the general provisions are passed subsequent to the act containing the specific provisions.”

The primary object of statutory construction is to ascertain and effectuate the intent of the Legislature as shown by the whole act, the law existing before its passage, the changes made, and the apparent motive for making them.

Acts of 1945, Ch. 99, Sec. 8, as amended, as found in Burns' (1964 Repl.), Section 53-508, provides in part:

“This act shall be deemed and construed as being supplemental to all existing laws concerning the purchase of material, equipment, goods and supplies by the state, counties, townships, cities or towns, payment for which is to be made from any appropriation of public funds made under the provisions of the budget laws \* \* \*”

Therefore, in my opinion the Legislature did not intend to repeal or supersede the earlier act relating to sale of products of Indiana Penal Institutions, when it provided for certain controls over public purchases. Its intention was to control certain large purchases where some regulation was not already in existence.