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HOUSE BILL NO. 1124

House Amendments in [] — February 12, 2004

A BILL to amend and reenact §§ 2.2-1153 and 2.2-1156 of the Code of Virginia, relating to the Division of Engineering and Buildings; surplus real property.

Patron Prior to Engrossment—Delegate McDonnell

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-1153 and 2.2-1156 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-1153. State agencies and institutions to notify Division of property not used or required; criteria.

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned property that is not being used or is not required for the programs of the department, agency or institution, it shall so notify the Division. *At least annually*, the Division shall ~~periodically~~ inquire of all departments, agencies, or institutions as to the current and proposed use of all state-owned property under their control to determine whether the property should be declared surplus to the needs of the Commonwealth. The Division shall then determine whether the property, including property in its possession and control, is surplus.

Until permanent disposition of the property determined to be surplus is effected, the property shall continue to be maintained by the department, agency or institution possessing or controlling it, unless upon the recommendation of the Department, the Governor authorizes the transfer of the property to the possession or control of the Department. In this event, the department, agency or institution formerly possessing or controlling the property shall have no further interest in it.

B. The Division shall establish criteria for ascertaining whether property under the control of a department, agency or institution should be classified as "surplus" to its current or proposed needs.

C. Notwithstanding the provisions of subsection A, the property known as College Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property has been declared surplus pursuant to this section, shall not be transferred or disposed of without the approval of the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The General Assembly shall also approve the disposal or transfer.

§ 2.2-1156. Sale or lease of surplus property.

Except when a department, agency or institution notifies the Department of a need for property which has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property, the Department may dispose of the property as provided in this section.

A. After it determines the property to be surplus to the needs of the Commonwealth, the Department shall request the written opinion of the Secretary of Natural Resources as to whether the property to be sold is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural Resources shall provide this review within ~~fifteen~~ 15 business days of receipt of full information from the Department. ~~Thereafter~~ Within [~~90~~ 120] days of receipt of the Secretary's review, the Department ~~may~~ shall, with the prior written approval of the Governor, proceed to sell the property. The sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least ~~thirty~~ 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$50,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

B. The Department shall have the right to reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property or if a need has been found for the property. If the Department deems the bid or offer fair and adequate in relation to the value of the property, and if no other need for the property has been found, the Department shall recommend acceptance of the bid or offer to the Governor for approval. In lieu of the sale of any such

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59 property, the Department may, with the approval of the Governor, lease it to any responsible person,
60 firm or corporation on such terms as are fair and adequate in relation to the value of the property. The
61 provisions of this section requiring disposition of property through the medium of sealed bids, public
62 auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although
63 such procedures may be followed in the discretion of the Department. The deed or lease to the property
64 shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney
65 General. Notwithstanding any law to the contrary and notwithstanding how title to the property was
66 acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the
67 Department or his designee, and such action shall not create a cloud on the title to the property. The
68 terms of the sale or lease shall be subject to the written approval of the Governor.

69 C. An exception to sale by sealed bids, public auction, or listing the property with a licensed real
70 estate broker may be granted by the Governor if the property is landlocked and inaccessible from a
71 public road or highway. In such cases, the Department shall notify all adjacent landowners of the
72 Commonwealth's desire to dispose of the property. After the notice has been given, the Department may
73 begin negotiations for the sale of the property with each interested adjacent landowner. The Department,
74 with the approval of the Governor, may accept any offer which it deems to be fair and adequate
75 consideration for the property. In all cases, the offer shall be the best offer made by any adjacent
76 landowner. The terms of all negotiations shall be public information.

77 D. Fifty percent of the proceeds from all sales or leases, or from the conveyance of any interest in
78 property under the provisions of this article, above the costs of the transaction, which costs shall include
79 fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid,
80 subject to any contrary provisions of law, into the Conservation Resources Fund, so long as the sales or
81 leases pertain to general fund agencies or the property involved was originally acquired through the
82 general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining ~~fifty~~
83 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the
84 transactions, shall be deposited in the general fund of the state treasury. The Department of Planning
85 and Budget shall develop guidelines which allow, with the approval of the Governor, any portion of the
86 deposit in the general fund to be credited to the agency, department or institution having control of the
87 property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited
88 to an agency, department or institution may be used, upon appropriation, to supplement maintenance
89 reserve funds or capital project appropriations, or for the acquisition, construction or improvement of
90 real property or facilities. Net proceeds from sales or leases of special fund agency properties or
91 property acquired through a gift for a specific purpose shall be retained by the agency or used in
92 accordance with the original terms of the gift.

93 E. When the Department deems it to be in the best interests of the Commonwealth, it may, with the
94 approval of the Governor, authorize the department, institution or agency in possession or control of the
95 property to dispose of surplus property in accordance with the procedures set forth in this section.