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HOUSE BILL NO. 1838

Offered January 14, 2009

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A BILL to amend and reenact § 2.2-1124 of the Code of Virginia, relating to the Department of General Services; disposition of surplus materials; participation by local public bodies.

Patrons—Dance, Herring and Howell, A.T.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-1124 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-1124. Disposition of surplus materials.

A. "Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, but shall not include property as defined in § 2.2-1147 that is determined to be surplus. Surplus materials shall not include finished products that a mental health or mental retardation facility sells for the benefit of its patients or residents, provided that (i) most of the supplies, equipment, or products have been donated to the facility; (ii) the patients or residents of the facility have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

B. The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;

2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions, provided that the procedures provide for sale to all political subdivisions and any volunteer rescue squad or volunteer fire department established pursuant to § 15.2-955 any surplus materials prior to such public sale or auction;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler who last was in control of the dog, which sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch program;

13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations located in the state and other nonprofit organizations approved for the distribution of federal surplus materials;

14. Permit a public institution of higher education to dispose of its surplus materials at the location where the surplus materials are held and to retain any proceeds from such disposal, provided that the institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of

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59 whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of
60 Chapter 4.10 of Title 23); and

61 15. Require, to the extent practicable, the recycling and disposal of computers and other information
62 technology assets. Additionally, for computers or information technology assets that may contain
63 confidential state data or personal identifying information of citizens of the Commonwealth, the
64 Department shall ensure all policies for the transfer or other disposition of computers or information
65 technology assets are consistent with data and information security policies developed by the Virginia
66 Information Technologies Agency.

67 C. The Department shall dispose of surplus materials pursuant to the procedures established in
68 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose
69 of its surplus materials consistent with the procedures so established. No surplus materials shall be
70 disposed of without prior consent of the head of the department, division, institution, or agency of the
71 Commonwealth in possession of such surplus materials or the Governor.

72 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may
73 donate surplus materials only under the following circumstances:

74 1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

75 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains
76 a description of the surplus materials, the method by which the surplus materials shall be distributed,
77 and the anticipated recipients, and (b) such information shall be provided by the Department to the
78 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

79 3. When the market value of the surplus materials, which shall be donated for a public purpose, is
80 less than \$500; however, the total market value of all surplus materials so donated by any department,
81 division, institution, or agency shall not exceed 25 percent of the revenue generated by such
82 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these
83 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia
84 public schools; or

85 4. During a local emergency, upon written request of the head of a local government or a political
86 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

87 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of
88 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming
89 fiscal year pursuant to subdivision B 6.

90 *F. The Department may make available to any local public body of the Commonwealth the services*
91 *or facilities authorized by this section; however, the furnishing of any such services shall not limit or*
92 *impair any services normally rendered any department, division, institution or agency of the*
93 *Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus*
94 *Property Program under the guidelines established pursuant to this section and the surplus property*
95 *policies and procedures of the Department. Proceeds from the sale of the surplus property shall be*
96 *returned to the local body minus a service fee. The service fee charged by the Department shall be*
97 *consistent with the fee charged by the Department to state public bodies.*