

VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

CHAPTER 978

An Act to amend the Code of Virginia by adding sections numbered 2.1-457.2 and 2.1-457.3 and to repeal §§ 2.1-457 and 2.1-457.1 of the Code of Virginia, relating to surplus materials of the Commonwealth.

[H 590]

Approved April 17, 1996

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.1-457.2 and 2.1-457.3 as follows:

§ 2.1-457.2. Disposition of surplus materials.

A. "Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, but does not include property as defined in § 2.1-504 that is determined to be surplus. Surplus materials shall not include finished products which a mental health or mental retardation facility sells for the benefit of its patients or residents, provided that most of the supplies, equipment, or products have been donated to such facility, and whose patients or residents have substantially altered such supplies, equipment, or products in the course of occupational or other therapy, and such substantial alterations have resulted in a finished product.

B. The Department of General Services (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 public sales or auctions, provided that such procedures provide for sale to all political subdivisions any surplus materials prior to the public sale or auction;

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

4. 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;

5. Permit any dog especially trained for police work to be sold at an appropriate price to the handler who last was in control of such dog, which sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.);

6. 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;

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

8. Require that the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.1-180 and report the deposit to the State Comptroller.

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

D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may donate surplus materials only under the following circumstances: (i) emergencies declared in accordance with § 44-146.18:2 or § 44-146.28; (ii) as set forth in the budget bill as defined by § 2.1-399, provided that (a) the budget bill contains a description of the surplus materials, the method by which the surplus materials shall be distributed, and the anticipated recipients, and (b) such information shall be provided by the Department to the Department of Planning and Budget in sufficient time for inclusion in the budget bill; (iii) when the market value of the surplus materials, which shall be donated for a public purpose, is less than \$200; however, the total market value of all surplus materials so donated by any department, division, institution, or agency shall not exceed five percent of the revenue generated by such department's, division's, institution's, or agency's sale of surplus materials in the fiscal year; or (iv) during a local emergency, upon written request of the head of a local government or a political subdivision in the Commonwealth to the head of a department, division, institution, or agency.

E. On or before October 1 of every year, the Department shall prepare, and file with the Secretary of the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming fiscal year pursuant to subdivision B 4.

§ 2.1-457.3. Proceeds from the sale or recycling of surplus materials.

A. The proceeds from the sale or recycling of surplus materials pursuant to § 2.1-457.2 shall promptly be deposited into the state treasury and such deposit reported to the State Comptroller, along with a statement of total proceeds and the amount of such proceeds derived from the sale or recycling of surplus materials purchased in whole or in part from general fund appropriations.

B. At the end of each fiscal quarter, the State Comptroller shall (i) determine the total proceeds derived from the sale of surplus materials purchased in whole or in part from general fund appropriations and direct that the State Treasurer shall transfer fifty percent of the total of such proceeds to the Conservation Resources Fund and (ii) provide copies of the reports furnished to him pursuant to subsection A, or summaries thereof, to the Department of Planning and Budget.

C. Based on such reports, or summaries, the Department of Planning and Budget, pursuant to its authority in the Appropriation Act, may increase general fund appropriations to any department, division, institution, or agency of the Commonwealth by the amount of available proceeds derived from the sale or recycling of surplus materials pursuant to § 2.1-457.2. Such department, division, institution, or agency of the Commonwealth may use the additional appropriations to purchase materials, supplies, or equipment, or to defray the cost of disposing of surplus materials to the extent permitted pursuant to § 2.1-457.2.

D. Departments, divisions, institutions, or agencies may retain the full net profits from the sale of recycled materials provided that a report is filed with the State Comptroller on or before October 1 of each year.

E. Departments, divisions, institutions, or agencies meeting management standards prescribed by the Governor may retain the net proceeds from the surplus materials sold pursuant to § 2.1-457.2. Such retention shall be effective on July 1 following the determination that the department, division, institution, or agency meets the management standards.

2. That §§ 2.1-457 and 2.1-457.1 of the Code of Virginia are repealed.