

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970



ENROLLED

HOUSE BILL No. 757

(By Mr. Watson and Mr. Seibert)



PASSED Feb. 12, 1970

In Effect Jan Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 2-17-70

757

ENROLLED
House Bill No. 757
(By MR. WATSON and MR. SEIBERT)

[Passed February 12, 1970; in effect from passage.]

AN ACT to repeal sections forty-four and forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said chapter by adding thereto a new article, designated article eight, relating to the creation of a new division within the department of finance and administration which division shall be known as the state agency for surplus property, providing for the regulation and control of the acquisition of surplus property acquired from the federal government and for its distribution to donable state agencies and institutions.

Be it enacted by the Legislature of West Virginia:

That sections forty-four and forty-five, article three, chapter five-a of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, be repealed; and that said chapter be amended by adding thereto a new article, designated article eight, to read as follows:

ARTICLE 8. STATE AGENCY FOR SURPLUS PROPERTY.

§5A-8-1. State agency for surplus property created as division.

1 There is hereby established within the department of
2 finance and administration a division to be known as the
3 state agency for surplus property.

§5A-8-2. Commissioner of finance and administration director of state agency for surplus property; duties.

1 The commissioner of finance and administration is
2 hereby designated as the director of the state agency for
3 surplus property, and with respect to the acquisition of
4 federal surplus property, the agency shall be subject to
5 the supervision and direction of the commissioner of
6 finance and administration. He, as director of the agency,
7 shall prescribe the duties which shall be assigned to the
8 personnel of the state agency for surplus property.

§5A-8-3. Authority and duties of the state agency for surplus property.

1 (a) The state agency for surplus property is hereby
2 authorized and empowered (1) to acquire from the United

3 States of America such property, including equipment,
4 materials, books or other supplies under the control of
5 any department or agency of the United States of Amer-
6 ica as may be usable and necessary for educational pur-
7 poses or public health purposes, including research;
8 (2) to warehouse property acquired; and (3) to dis-
9 tribute the property to tax supported medical institutions,
10 hospitals, clinics, health centers, school systems, schools,
11 colleges and universities within the state, and to other
12 nonprofit medical institutions, hospitals, clinics, health
13 centers, schools, colleges and universities within the
14 state which have been held exempt from taxation under
15 section 101 (6) of the United States Internal Revenue
16 Code.

17 (b) For the purpose of executing its authority under
18 this article, the state agency for surplus property is
19 authorized and empowered to adopt, amend or rescind
20 rules and regulations as may be deemed necessary, and
21 take other action necessary and suitable in the admin-
22 istration of this article, including the enactment and
23 promulgation of rules and regulations necessary to bring

24 this article and its administration into conformity with
25 any federal statutes or rules and regulations promul-
26 gated under federal statutes for the acquisition and dis-
27 position of surplus property.

28 (c) The state agency for surplus property is author-
29 ized and empowered to appoint advisory boards or com-
30 mittees necessary to the end that this article and the
31 rules and regulations promulgated hereunder conform
32 with federal statutes and rules and regulations pro-
33 mulgated under federal statutes for the acquisition and
34 disposition of surplus property.

35 (d) The state agency for surplus property is au-
36 thorized and empowered to take action, make expendi-
37 tures and enter into contracts, agreements and under-
38 takings for and in the name of the state, require reports,
39 and make investigations as may be required by law or
40 regulation of the United States of America in connec-
41 tion with the receipt, warehousing and distribution of
42 property received by the state agency for surplus prop-
43 erty from the United States of America.

44 (e) The state agency for surplus property is au-

45 thorized and empowered to act as a clearing house of
46 information for the public and private nonprofit insti-
47 tutions and agencies referred to in subsection (a) of this
48 section, to locate property available for acquisition from
49 the United States of America, to ascertain the terms
50 and conditions under which the property may be ob-
51 tained, to receive requests from the above-mentioned
52 institutions and agencies and to transmit to them all
53 available information in reference to the property, and
54 to aid and assist the institutions and agencies in every
55 way possible in the consummation or acquisition or trans-
56 actions hereunder.

57 (f) The state agency for surplus property, in the ad-
58 ministration of this article, shall cooperate to the fullest
59 extent consistent with the provisions of this article, with
60 the departments or agencies of the United States of
61 America and shall make reports in the form and con-
62 taining the information the United States of America or
63 any of its departments or agencies may from time to time
64 require, and it shall comply with the laws of the United
65 States of America and the rules and regulations of any

66 of the departments or agencies of the United States of
67 America governing the allocation, transfer, use or ac-
68 counting for property donable or donated to the state.

**§5A-8-4. Power of department of finance and administration
and director to delegate authority.**

1 The commissioner of finance and administration, as
2 director of the state agency for surplus property, may
3 delegate to any employee of the agency such power and
4 authority as he deems reasonable and proper for the
5 effective administration of this article. The director of
6 the agency may, in his discretion, bond any person in
7 the employ of the state agency for surplus property,
8 handling moneys, signing checks or receiving or distrib-
9 uting property from the United States of America under
10 authority of this article.

§5A-8-5. Warehousing, transfer, etc., charges.

1 Any charges made or fees assessed by the state agency
2 for surplus property for the acquisition, warehousing,
3 distribution or transfer of any property acquired by
4 donation from the United States of America for edu-
5 cational purposes or public health purposes, including

6 research, shall be limited to those reasonably related
7 to the costs of care and handling in respect to its acquisi-
8 tion, receipts, warehousing, distribution or transfer by
9 the state agency for surplus property. All charges desig-
10 nated herein shall be used by the state agency for surplus
11 property to defray the general operating expenses of such
12 state agency for surplus property.

**§5A-8-6. Department of agriculture and other agencies ex-
empted from application of article.**

1 Notwithstanding any provisions or limitations of this
2 article, the state department of agriculture and any other
3 state departments or agencies hereafter so designated
4 are authorized and empowered to distribute food, food
5 stamps, surplus commodities and agricultural products
6 under contracts and agreements with the federal gov-
7 ernment or any of its departments or agencies, and the
8 state department of agriculture and any other state
9 departments or agencies hereafter so designated are
10 authorized and empowered to adopt rules and regulations
11 in order to conform with federal requirements and stan-
12 dards for such distribution and also for the proper dis-

13 tribution of such food, food stamps, commodities and
14 agricultural products. To the extent set forth above and
15 in this section, the provisions of this article shall not
16 apply to the state department of agriculture and any
17 other state departments or agencies hereafter so desig-
18 nated for the purposes set forth in this section.

§5A-8-7. Severability.

1 If any provision of this article is declared unconstitu-
2 tional or invalid by a court of competent jurisdiction,
3 that decision shall not affect the validity of the remaining
4 provisions of this article or the article in its entirety,
5 and to that end the provisions of this article are severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompa
Chairman Senate Committee

Chapin C. Dawkins
Chairman House Committee

Originated in the House.

Takes effect from passage.

Edward Neegas
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Blair Jackson
President of the Senate

Sam F. Bowersley
Speaker House of Delegates

The within approved this the 16th
day of February, 1970.

Arch A. Shae Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 2/14/70
Time 2:47 p.m.

CH-2-100

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