

HOUSE BILL No. 2748

AN ACT concerning surplus property; transferring certain functions to the secretary of administration; amending K.S.A. 27-311, 27-314, 75-52,125, 75-6601, 75-6602, 75-6603, 75-6604, 75-6606 and 75-6608 and K.S.A. 2003 Supp. 75-6605 and repealing the existing sections; also repealing K.S.A. 75-52,118.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The surplus property programs provided for in K.S.A. 27-311 *et seq.*, and K.S.A. 75-6601 *et seq.*, and amendments thereto, are hereby transferred from the department of corrections to the department of administration in accordance with this act. All of the powers, duties and functions of the secretary of corrections, the director of Kansas correctional industries and the surplus property officer that relate to these surplus property programs are hereby transferred to and imposed upon the secretary of administration.

(b) Whenever the secretary of corrections, the director of Kansas correctional industries or the surplus property officer, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference is in regard to any of the powers, duties or functions transferred to the secretary of administration by this section, such reference or designation shall be deemed to apply to the secretary of administration. Whenever the department of corrections or words of like effect are referred to or designated by a statute, contract or other document, and such reference is in regard to any of the powers, duties or functions transferred to the department of administration by this section, such reference or designation shall be deemed to apply to the department of administration.

(c) All rules and regulations, orders and directives of the secretary of corrections, the director of Kansas correctional industries or the surplus property officer that relate to the functions transferred by this section and which are in effect on the effective date of this act shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of administration until revised, amended, revoked or nullified pursuant to law.

(d) The secretary of administration shall succeed to all property, property rights and records pertaining to the surplus property programs transferred by this act. Any conflict as to the proper disposition of property, personnel or records arising under this act shall be determined by the governor, whose decision shall be final.

(e) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(f) On the effective date of this act, the balances of all funds or accounts thereof appropriated or reappropriated for the department of corrections that are attributable to the powers, duties and functions transferred by this act are hereby transferred within the state treasury to the department of administration and shall be used only for the purpose for which the appropriation was originally made.

(g) On the effective date of this act, liability for all accrued compensation or salaries of officers and employees who are transferred to the department of administration under this act shall be assumed and paid by the department of administration.

(h) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this act, such conflict shall be resolved by the governor, whose decision shall be final. No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

(i) All officers and employees of the department of corrections or Kansas correctional industries within the department of corrections who, immediately prior to the effective date of this act, are engaged solely in the exercise and performance of the powers, duties and functions transferred by this act are hereby transferred to the department of adminis-

tration. All classified employees so transferred shall retain their status as classified employees.

(j) Officers and employees of the department of corrections transferred by this act shall retain all retirement benefits and leave balances and rights that had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed prior to the date of transfer by the department of corrections.

Section 2. K.S.A. 27-311 is hereby amended to read as follows: 27-311. (a) ~~The secretary of corrections of the department of corrections administration shall be responsible for the administration of the act of which this section is amendatory K.S.A. 27-311 et seq., and amendments thereto. The secretary of corrections shall appoint a surplus property officer to carry out the functions herein prescribed. The surplus property officer~~ *The secretary of administration or the secretary's designee is authorized to do the following:*

(1) To acquire from the United States of America under and in conformance with the provisions of the federal property and administrative services act of 1949, as amended, hereinafter referred to as the "act," such property, including equipment, materials and books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for the purposes of education, public health, or civil defense, or for research for any such purpose, and for such other purposes as may now or hereafter be authorized by the act;

(2) to warehouse such property; and

(3) to distribute such property within the state to *one or more of the following entities:*

(A) Tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, ~~and or~~ *universities* within the state; ~~to;~~

(B) other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges ~~and or~~ *universities which that* have been held exempt from taxation under section 501 (c) (3) of the United States internal revenue code of 1954, ~~to;~~

(C) civil defense organizations of the state or political subdivisions ~~and or~~ *instrumentalities thereof, which that* are established pursuant to state law, ~~and to; or~~

(D) such other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property.

(b) ~~The surplus property officer~~ *secretary of administration or the secretary's designee* is authorized to receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the ~~same applications,~~ *obtain expression of views respecting such comments regarding the* applications from the appropriate health or educational authorities of the state, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, ~~and~~ *the* suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under section 203 (k) of the act.

(c) The secretary of ~~corrections~~ *administration* may adopt rules and regulations for the administration of this act and to assure maximum utilization by and benefit to health and educational institutions within the state from property distributed under this act.

(d) ~~The surplus property officer~~ *secretary of administration or the secretary's designee* is authorized to *take the following actions:*

(1) Make ~~such~~ *such* certifications, take ~~such action~~ *actions*, make ~~such~~ *such* expenditures and enter into ~~such~~ *such* contracts, agreements and undertakings for and in the name of the state, including cooperative agreements with any federal agencies providing for utilization by and exchange between them of ~~the~~ *the* property, facilities, personnel and services ~~of each by the other;~~

(2) require ~~such~~ reports and make ~~such~~ investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property; and ~~the receipt, warehousing, and distribution of~~

(3) ~~receive, warehouse and distribute~~ personal property received by the ~~surplus property section officer~~ *secretary of administration or the secretary's designee* from the United States of America.

(e) The ~~surplus property officer~~ *secretary of administration or the secretary's designee* is authorized to *do the following*:

(1) Act as a clearinghouse of information *regarding federal surplus property* for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section and other institutions eligible to acquire federal surplus real property; ~~to~~;

(2) locate both real and personal property available for acquisition from the United States of America; ~~to~~;

(3) ascertain the terms and conditions under which such property may be obtained; ~~to~~;

(4) receive requests *for federal surplus property* from the above mentioned institutions and agencies ~~and to~~;

(5) transmit to them all available information in reference to such property; ~~and to~~

(6) aid and assist such institutions and agencies in every way possible in the ~~consummation or acquisition~~ *acquisitions* or transactions hereunder.

(f) The ~~surplus property officer~~ *secretary of administration* shall cooperate to the fullest extent consistent with the provisions of the act, *shall cooperate* with the departments or agencies of the United States of America ~~and~~, shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards of the department of health, education; and welfare and of the federal civil defense administration, ~~and shall~~ make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require; ~~and it~~ shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for; *any property donable or that is donated to the state.*

Sec. 3. K.S.A. 27-314 is hereby amended to read as follows: 27-314.

(a) All funds received under the provisions of this act and amendments thereto shall be ~~deposited in the state treasury in a fund to be known as the "surplus property fund,"~~ which fund is hereby created. *On the effective date of this act, the name of the "surplus property fund" shall be changed to the "federal surplus property fund,"* *remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of one or more funds designated by the secretary of administration for that purpose and in which the funds are not commingled with funds relating to any other programs or purposes.*

(b) The director of accounts and reports may draw warrants upon ~~such fund~~ *those funds designated by the secretary of administration under subsection (a),* in accordance with vouchers approved by the secretary of ~~corrections~~ *administration* or the secretary's designee.

(c) *On the effective date of this act, the director of accounts and reports is directed to transfer any moneys in the federal surplus property fund to one or more funds designated by the secretary of administration under subsection (a). On the effective date of this act, all liabilities of the federal surplus property fund existing prior to the effective date of this act are hereby imposed on one or more funds designated by the secretary of administration under subsection (a). The federal surplus property fund is hereby abolished.*

Sec. 4. K.S.A. 75-6601 is hereby amended to read as follows: 75-6601. The ~~director of Kansas correctional industries~~ *secretary of administration or the secretary's designee* shall operate the state surplus property program. Except as otherwise provided by rules and regulations adopted by the secretary of ~~corrections~~ *administration*, the individuals and entities within this state that are authorized to participate in the

federal surplus property program pursuant to the federal property and administrative services act of 1949, and amendments thereto, shall be eligible to participate in the state surplus property program. State surplus property shall be stored in such places and in such manner as specified by rules and regulations of the secretary of ~~corrections~~ *administration*.

Sec. 5. K.S.A. 75-6602 is hereby amended to read as follows: 75-6602. (a) Subject to such limitations as the secretary of ~~corrections~~ *administration* may prescribe, the ~~director of Kansas correctional industries~~ *secretary of administration or the secretary's designee* may dispose of surplus state property to individuals and entities eligible for participation in the federal surplus property program by *any of the following methods*:

- (1) Sale at fixed prices;
- (2) by sale at negotiated prices; or
- (3) by advertised public auction or advertised sealed bids.

(b) Subject to such limitations as the secretary of ~~corrections~~ *administration* may prescribe: ~~(1) the director of Kansas correctional industries, the secretary of administration or the secretary's designee may sell state surplus property to the general public by advertised public auction or advertised sealed bids, and (2) may sell property to the general public at fixed or negotiated prices or, if such property has been offered for a period of at least 30 days to individuals and entities eligible for participation in the federal surplus property program, may sell the property to the general public at fixed or negotiated prices.~~

(c) All surplus state property shall be sold or otherwise disposed of within one year after the date on which such property becomes surplus. The secretary of ~~corrections~~ *administration* may adopt rules and regulations to establish procedures for the timely disposal of state surplus property.

(d) Subject to such limitations as the secretary of ~~corrections~~ *administration* may prescribe, state agencies that have been given local disposal authorization for specified surplus property identified by state surplus property personnel as having a current value of \$500 or less may *dispose of the property using any of the following methods*:

- (1) Sell such property to a junkyard, as defined by K.S.A. 68-2203, and amendments thereto;
- (2) give such property to a not-for-profit organization ~~which~~ *that* is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986; or
- (3) give such property to individuals or entities eligible for participation in the federal surplus property program.

Sec. 6. K.S.A. 75-6603 is hereby amended to read as follows: 75-6603. (a) Subject to such limitations as the secretary of ~~corrections~~ *administration* may prescribe, the ~~director of Kansas correctional industries~~ *secretary of administration or the secretary's designee* is hereby authorized to do the following for the purposes of establishing and operating the state surplus property program:

- (1) Enter into contracts with state, local and federal agencies and private individuals and entities eligible for participation in the federal surplus property program;
- (2) receive gifts and grants;
- (3) prescribe procedures state agencies must follow concerning the trade-in or other disposition of property;
- (4) fix and assess fees and charges to recover all or part of the expenses incurred for transactions pertaining to the state surplus property program; and
- (5) adopt such other policies and procedures which are deemed necessary for the proper administration of the state surplus property program and which are in accordance with this act.

(b) The secretary of ~~corrections~~ *administration* may adopt rules and regulations for the purposes of establishing and administering the state surplus property program in accordance with this act.

Sec. 7. K.S.A. 75-6604 is hereby amended to read as follows: 75-6604. ~~(a)~~ Subject to and in accordance with limitations and procedures prescribed by the director of accounts and reports therefor, each state agency disposing of surplus property by sale under the state surplus property act shall deposit the moneys received therefor, less fees and charges assessed by the ~~director of Kansas correctional industries~~ *secretary of*

administration, in the state treasury to the credit of the *agency's* conversion of materials and equipment fund or the appropriate fee or other special revenue fund of the state agency, *in accordance with procedures established by the secretary.*

Sec. 8. K.S.A. 2003 Supp. 75-6605 is hereby amended to read as follows: 75-6605. (a) All fees and charges assessed by the ~~director of Kansas correctional industries~~ *secretary of administration* for transactions pertaining to the state surplus property program and other revenues received pursuant to such program shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of ~~the correctional industries fund~~ *one or more funds available for that purpose, as designated by the secretary of administration.*

(b) All expenditures from the ~~correctional industries fund~~ *any of the funds designated by the secretary under subsection (a)* shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports or interfund transfers issued pursuant to vouchers of the ~~director of Kansas correctional industries~~ *secretary of administration* or a person or persons designated by the ~~director of Kansas correctional industries~~ *secretary of administration.*

~~(b)~~ (c) On the effective date of this act, the director of accounts and reports is directed to transfer ~~all~~ *to one or more funds designated by the secretary of administration under subsection (a)* any moneys in the ~~state surplus property fee fund~~ *to the correctional industries fund created pursuant to K.S.A. 75-5292, and amendments thereto that represent proceeds from disposition of state surplus property.* On the effective date of this act, all liabilities of the ~~state surplus property fee fund~~ *existing correctional industries fund that are related to the state surplus property program and that existed prior to the effective date of this act* are hereby imposed on ~~the correctional industries fund.~~ *The state surplus property fee fund is hereby abolished one or more funds designated by the secretary of administration under subsection (a).*

Sec. 9. K.S.A. 75-6606 is hereby amended to read as follows: 75-6606. (a) Except as provided in subsection (b), all sales, trade-ins or other disposition of personal property owned by state agencies shall be made in accordance with the state surplus property act and rules and regulations authorized by such act.

(b) Subject to rules and regulations adopted pursuant to the state surplus property act or as otherwise directed by the governor, state agencies may transfer or loan personal property to other state agencies with or without charging a fee therefor. In accordance with procedures prescribed by the director of purchases, a state agency may trade in personal property in conjunction with a purchase by the state agency. The state agency shall give the ~~director of correctional industries~~ *secretary of administration or a designee of the secretary* notice of the proposed trade-in. The ~~director of correctional industries~~ *secretary of administration or the secretary's designee* may elect to provide for disposition of the property under the surplus property program in lieu of permitting the state agency to trade in the property.

Sec. 10. K.S.A. 75-6608 is hereby amended to read as follows: 75-6608. (a) The department of administration is hereby designated as the central planning agency for the storage of all state surplus property. The secretary of administration shall survey each state agency annually to determine current and anticipated storage space requirements of the state agency. State agency property shall be stored in such places and in such manner as specified by rules and regulations of the secretary of ~~corrections~~ *administration.* On and after the effective date of this act, no contract, lease or other document shall be entered into by a state agency to provide space for the storage of state agency property unless such contract, lease or other document has been approved by the secretary of administration.

(b) As used in this section, "state agency" has the meaning ascribed to such term under K.S.A. 75-3701 and amendments thereto.

Sec. 11. K.S.A. 75-52,125 is hereby amended to read as follows: 75-52,125. Notwithstanding the provisions of K.S.A. 75-3762 and 75-3765, and amendments thereto, the secretary of corrections shall have the

charge, care, management and control of all buildings and grounds owned by the state which are used as a correctional institution as defined by K.S.A. 75-5202, and amendments thereto, ~~or for operation of the state surplus property program pursuant to K.S.A. 75-6601, and amendments thereto,~~ except that the charge, care, management and control of buildings and grounds which are the subject of an agreement pursuant to K.S.A. 76-12a24, and amendments thereto, shall be in accordance with such agreement.

Sec. 12. K.S.A. 27-311, 27-314, 75-52,118, 75-52,125, 75-6601, 75-6602, 75-6603, 75-6604, 75-6606 and 75-6608 and K.S.A. 2003 Supp. 75-6605 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.