ENROLLED HOUSE
BILL NO. 1550

By: McCorkell and Holt of the House

and

Williams (Penny) of the Senate

An Act relating to state government; creating the Oklahoma Surplus Property Act; amending 74 O.S. 1991, Sections 85.9 and 85.9A, which relate to surplus property; defining terms; providing for sale, trade, redistribution or disposal of surplus property; providing for fees and charges; providing for duties; providing for promulgation of rules; requiring certain reports and lists; authorizing discard or transfer of certain valued property in bulk; requiring certain contents; providing for certain use of program; providing for certain costs; modifying deposits into special cash funds; providing for disposition of certain receipts; requiring compliance; providing for transfer or disposal of property having minimal or no value; requiring maintenance lists; specifying contents; authorizing certain disposals; providing for costs; amending 74 O.S. 1991, Section 85.5, which relates to powers and duties of State Purchasing Director; modifying powers of Purchasing Director; amending 74 O.S. 1991, Section 107, which relates to state oil and gas and mining leases; authorizing certain contracts; providing for certain expenses; providing for codification; providing for recodification; and providing an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the "Oklahoma Surplus Property Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Surplus Property Act:

1. "Surplus property" means any item, commodity, material, supplies or equipment owned by a state agency and determined by such state agency to be excess, obsolete, antiquated, unused or not needed;

2. "State agency" means any state board, bureau, commission, department, authority, public trust, interstate commission, the Judiciary, the Legislature, and the Office of the Governor. The

term "state agency" shall not include components of institutions of higher education in this state;

3. "Department" means the Department of Central Services;

4. "Director" means the Director of the Department of Central Services;

5. "Surplus property program" means any program which may be established by the Department of Central Services for the purchase, sale and disposal of surplus property;

6. "Sale" includes but is not limited to authorization for the Director to sell by sealed bids or auction; and

7. "Minimal or no value" means the surplus property having a value less than any costs incurred in the sale, trade or disposal of the property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Director shall:

1. Establish written surplus property acquisition and disposal rules for use by all state agencies;

2. Develop minimum standards for proper recordkeeping of surplus property acquisition and disposal for use by all state agencies; and

3. Make recommendations to state agencies on surplus property management programs.

B. Any state agency selling, trading, redistributing or otherwise disposing of surplus property shall comply with the rules promulgated by the Department of Central Services.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 85.9, is amended to read as follows:

Section 85.9 ~~Any~~ A. A state agency may request the Director to sell, trade, redistribute or dispose of surplus property on behalf of such state agency.

B. 1. Except as otherwise provided by this subsection, any state agency which transfers ~~excess, obsolete, antiquated, or unused materials, supplies, or equipment~~ surplus property to the ~~Purchasing~~ Director for sale, trade, or redistribution ~~to other state agencies~~ shall receive full credit for the value thereof as may be arranged between the ~~State Purchasing~~ Director, the state fiscal agencies necessarily involved, and the state agencies so transferring and receiving such ~~materials, supplies, or equipment; and said value, as thus determined~~ surplus property less any fees and charges assessed by the Director for costs incurred in such sale, trade or redistribution. The proceeds from the sale, trade or redistribution of the surplus property shall be credited to a special cash fund created by Section ~~2~~ 5 of this act.

~~The term "sale" as used herein shall include authorization for the purchasing director to sell by sealed bids or auction, and the costs for any auction conducted shall be paid from the proceeds received therefrom~~

2. Any surplus property determined by a state agency to have minimal or no value may be discarded or transferred to the Department pursuant to rules established by the Department.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 85.9A, is amended to read as follows:

Section 85.9A A. There is hereby created a special cash fund in the State Treasury for each state agency~~, department, board, commission, institution, or authority~~ which requests that the ~~Purchasing~~ Director sell, trade, or ~~distribute~~ redistribute to other state agencies any ~~excess, obsolete, antiquated, or unused material, supplies, or equipment~~ surplus property.

B. All proceeds received from such transaction, and the proceeds of any insurance claim arising from the loss by fire, theft or casualty of insured material, supplies, or equipment shall be deposited in such special cash fund of such ~~subdivision of government~~ state agency and may be expended for the purchase or replacement of materials, supplies, or equipment of such ~~subdivision of government~~ state agency and for the payment of the cost of conducting any such transaction.

C. Whenever an unencumbered balance exists in said fund after June 30, the close of each fiscal year, such balance shall lapse and be transferred to the General Revenue Fund of the current fiscal year.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. It shall be the duty and responsibility of the chief administrative officer of each state agency, except as otherwise provided by subsection B of this section, to maintain a current list of all surplus property held and disposed of by that state agency.

2. Except as otherwise provided in paragraph 3 of this subsection, such list shall include the location where surplus property is maintained, purchase price, when sold and selling price, if transferred to which agency or entity, and if otherwise disposed of, what manner of disposal.

3. If any surplus property having minimal or no value is transferred to the Department, any such list shall reflect that the surplus property had minimal or no value and was transferred to the Department for disposal.

B. The Department is authorized to sell, trade or redistribute any surplus property having minimal or no value separately or in bulk or may properly dispose of such property as provided by law. Any costs incurred by the Department in the sale, trade, distribution or disposal of any surplus property having minimal or no value in excess of any monies received for such surplus property may be chargeable against the state agency transferring such surplus property to the Department.

C. Such lists shall be available upon request to the Department of Central Services, the State Auditor and Inspector, the Governor or any member of the Legislature.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 85.5, is amended to read as follows:

Section 85.5 Subject to the provisions of Section 85.4 of this title, the State Purchasing Director, under the supervision of the Director of ~~Public Affairs~~ the Department of Central Services, shall have sole and exclusive authority and responsibility for the acquisition of all materials, supplies, equipment, and services acquired, used or consumed by agencies of the state government. The State Purchasing Director, after consultation with the requesting or purchasing agency, shall have authority to determine the particular brand, model, or other specific classification of each item or group of materials, supplies, equipment, or services to be acquired for such use or consumption, and to draft specifications establishing the requirements for all such leases or purchases under the restrictions provided in the Oklahoma Central Purchasing Act. The Director of ~~Public Affairs~~ the Department of Central Services shall have authority and responsibility to promulgate rules and regulations governing, providing for, and prescribing:

1. The time, manner, authentication, and form of making requisitions for supplies, materials, equipment, and services covered by the Oklahoma Central Purchasing Act; and

2. Inspection and testing of all supplies, materials, and equipment purchased or leased for use or consumption by state agencies and for analyzing and testing any samples or portions thereof, and the manner of such inspections, tests, and analyses; and

3. The form and the time and manner of submission of any bids submitted for contracts to furnish any of the items or services affected by this act and the manner of opening and accepting the same, subject to restrictions contained in the Oklahoma Central Purchasing Act; and

4. The conditions under which written contracts for such purchases or leases are to be required for the acquisitions affected by the Oklahoma Central Purchasing Act and the conditions under which such acquisitions may be made on an open account basis, subject to restrictions contained in the Oklahoma Central Purchasing Act, and the conditions and manner of negotiating such contracts; and

5. ~~The conditions under which surplus, or other unused materials, supplies, or equipment acquired or owned by any state agency may be sold, or traded or transferred to another state agency, or otherwise disposed of and the manner of accomplishing the same; and~~

~~6.~~ The conditions under which purchases or leases may be made by state agencies without use of the procedure required by the Oklahoma Central Purchasing Act, and the form and manner of requests for such authority from the State Purchasing Director; and

~~7.~~ 6. Any preference which may be found feasible to give to items and services produced by state institutions, or within this state, or the United States; and

~~8.~~ 7. Conditions under which any of the rules and regulations herein authorized may be waived, under the restrictions contained in the Oklahoma Central Purchasing Act; and

~~9.~~ 8. The amounts of and deposits on any bond required to be submitted with a bid or contract for the furnishing of items or services affected by the Oklahoma Central Purchasing Act, and the conditions under which such bond shall be required; and

~~10.~~ 9. Such storage and storage facilities as may be necessary to accomplish his responsibilities pursuant to the Oklahoma Central Purchasing Act; and

~~11.~~ 10. The manner and conditions of delivery, which shall include the designation of the common carrier of property to be used to transport any supplies, materials or equipment purchased pursuant to the Oklahoma Central Purchasing Act whenever a common carrier is used, and the acceptance, or rejection, including check of quantities, of any supplies, materials, service, or equipment affected by the Oklahoma Central Purchasing Act; and

~~12.~~ 11. The form of any estimate, order, or other document required to discharge the responsibilities fixed by the provisions of the Oklahoma Central Purchasing Act; and

~~13.~~ 12. Any other matter or practice which is directly related to his responsibilities within the scope of his authority as defined by the provisions of the Oklahoma Central Purchasing Act. The authority delegated by this section to promulgate rules and regulations shall be construed to authorize any act, practice, or requirement for which such regulatory power is delegated, but which is not presently authorized by law.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 107, is amended to read as follows:

Section 107. The ~~Office of Public Affairs~~ Department of Central Services is hereby authorized and empowered to sell and execute oil

and gas leases, and other mining leases, on any of the lands of this state under the control of said ~~Office of Public Affairs~~ Department of Central Services. Sale of Oklahoma State Capitol lands or parkways or the Executive Mansion lands shall be made upon a basis of a retained royalty of not less than one-eighth (1/8) of all the oil, gas, and other minerals produced therefrom, and such additional cash bonus as may be procured. Such leases shall contain a provision that in the event of the discovery of natural gas, gas shall be furnished free of charge to any state institution located or hereafter located upon the lands covered by said lease, or leases. Said leases shall be sold only after advertisement for a period of three (3) weeks in a legal newspaper published and of general circulation in the county in which said lands are located. The sale shall be made to the highest and best bidder, and all bids for any tract shall be presented to the ~~Office of Public Affairs~~ Department of Central Services in sealed envelopes, and shall all be opened and considered at the same time. Said ~~Office of Public Affairs~~ Department of Central Services shall have the right to reject any and all of said bids and again readvertise said lease, or leases, for sale.

The ~~Director of Public Affairs~~ Department of Central Services is further authorized to make and promulgate such additional rules and regulations as he may deem necessary and for the best interest of the state in facilitating the sale of said leases. The Director may contract with other state agencies to implement the provisions of this section and any expenses charged under such contract may be paid from the proceeds of the lease.

All monies derived from the sale of any and all of said leases, and from any royalties subsequently accruing, after deduction of the amount required to pay necessary and actual expenses of developing the lease, shall be paid into the State Treasury and credited to the General Revenue Fund of the state.

SECTION 9. RECODIFICATION 74 O.S. 1991, Section 85.9, as amended by Section 4 of this act shall be recodified as Section 62.4 of Title 74 of the Oklahoma Statutes, 74 O.S. 1991, Section 85.9A, as amended by Section 5 of this act shall be recodified as Section 62.5 of Title 74 of the Oklahoma Statutes.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of May, 1995.

Speaker of the House of Representatives

Passed the Senate the 25th day of May, 1995.

President of the Senate