

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2819**

BY DELEGATES HOWELL, LEWIS, PAYNTER, WARD,  
SYPOLT, HAMRICK, ARVON, HILL, MARTIN, STORCH AND  
SOBONYA

[Introduced March 8, 2017; Referred  
to the Committee on Government Organization then  
Finance.]

1 A BILL to amend and reenact §5A-3-43 of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new article, designated §5A-3D-1, §5A-3D-2, §5A-  
 3 3D-3, §5A-3D-4, §5A-3D-5 and §5A-3D-6; and to amend and reenact §17-2A-14 of said  
 4 code, all relating to terminating the State Agency for Surplus Property and giving state  
 5 agencies direct authority to dispose of tangible personal property that has reached the  
 6 end of a reasonable, useful life; providing for the termination of the State Agency for  
 7 Surplus Property in an orderly process; terminating rules relating to the State Agency for  
 8 Surplus Property; defining new terms; specifying items to be reported as fixed assets;  
 9 establishing the method to calculate the useful life of tangible personal property; granting  
 10 discretion to agencies to decide when and how to retire fixed assets; providing for the  
 11 assistance of the Division of Purchasing; establishing minimum value for retirement of  
 12 assets prior to the end of useful life; modifying the disposition of equipment of the Division  
 13 of Highways and requiring inventory reporting to be done as specified by the Secretary of  
 14 Administration.

*Be it enacted by the Legislature of West Virginia:*

1 That §5A-3-43 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that said code be amended by adding thereto a new article, designated §5A-3D-  
 3 1, §5A-3D-2, §5A-3D-3, §5A-3D-4, §5A-3D-5 and §5A-3D-6; and that §17-2A-14 of said code be  
 4 amended and reenacted, all to read as follows:

## **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

### **ARTICLE 3. PURCHASING DIVISION.**

#### **§5A-3-43. State agency for surplus property ~~created~~ terminated.**

1 ~~(a) There is hereby established~~ The State Agency for Surplus Property, previously  
 2 established within the Purchasing Division ~~and under the supervision of the director of the~~  
 3 ~~Purchasing Division, the state agency for surplus property~~ is hereby terminated in accordance

4 with section twelve, article ten, chapter four of this code. Effective July 1, 2018, the State Agency  
 5 for Surplus Property shall cease to exist and the provisions of sections forty-four, forty-five and  
 6 forty-six of this article shall cease to be effective. Upon the effective date of this section, the  
 7 agency shall begin winding up its affairs and take all necessary steps to effectuate the termination  
 8 of the agency and the disposition of property in its possession.

9 (b) On or before June 30, 2018, the State Agency for Surplus Property shall dispose of all  
 10 assets and property in an efficient and responsible manner pursuant to the provisions of section  
 11 four, article three-d of this chapter. The State Agency for Surplus Property shall also transfer and  
 12 deliver its records to the secretary of the department on or before that date.

13 (c) Effective July 1, 2018, all legislative rules promulgated by the department in  
 14 accordance with section forty-five of this article are terminated and have no further force or effect.

**ARTICLE 3D. DISPOSITION OF FIXED ASSETS, OTHER COMMODITIES AND**  
**SUPPLIES.**

**§5A-3D-1. Scope of article.**

1 The provisions of this article apply to every spending unit of state agencies and branches  
 2 of government, which have tangible personal property of the state that is required to be reported  
 3 under a state fixed asset system. The scope of article is defined by the nature of the property  
 4 involved and not by nature and role of the agency or institution that owns the property.

**§5A-3D-2. Definitions.**

1 As used in this article,

2 “Acquisition cost” means the purchase price or other amount paid for a spending unit to  
 3 obtain a fixed asset for its use;

4 “Fixed asset” or “fixed assets” means tangible personal property of the state having a  
 5 useful life of more than one year, but these terms do not require that the tangible personal property  
 6 be affixed within or to an office, building or other property;

7 “Fixed asset system” refers to an electronic database logging and reporting system that is  
8 administered for the use of state agencies for accounting and other financial purposes;

9 “Inventory” means a system of identifying, tracking and reporting of fixed assets and their  
10 ownership during the useful life of those assets;

11 “Retire” or “retirement” means the process by which a spending unit ends its custody and  
12 ownership of a fixed asset;

13 “Useful life” means a period of time, expressed in years and determined as provided in  
14 this article, in which an asset of tangible state property will be economically feasible for use by  
15 the state; and

16 “Vehicle” means every device in, upon or by which any person or property is or may be  
17 transported or drawn upon a highway when used according to its regular, intended purpose, and  
18 does not include devices moved by human power, used exclusively upon stationary rails or tracks,  
19 or mechanized equipment that is capable of self-propelled movement, but not designed for driving  
20 over a highway for more than a negligible.

**§5A-3D-3. Assets to be reported in inventory.**

1 Every fixed asset of the state that has an original acquisition cost of \$1,000 or more and  
2 every item of computer equipment with an acquisition cost of \$500 or more and every firearm,  
3 regardless of the cost, is a reportable asset and shall be listed within a fixed asset system by the  
4 asset management officer of the agency that has acquired the asset within thirty days of its  
5 acquisition.

**§5A-3D-4. Depreciation schedules for fixed assets; removal of fixed assets from inventory.**

1 (a) The useful life for a fixed asset of the state shall be determined by reference to the  
2 standard table of asset property classes, published by the United States Internal Revenue  
3 Service, and using the number of years for that item’s class life under the General Depreciation  
4 System, also known as “GDS.” This number shall then be added to the date of acquisition of the  
5 fixed asset to determine the end of that asset’s useful life.

6 (b) When a fixed asset has reached the end of its useful life, the asset shall be removed  
7 from inventory as an item in use, but the agency has the option to continue to use the asset after  
8 removal from inventory or to retire that asset from service.

**§5A-3D-5. Disposition of fixed assets after removal from inventory; auction of vehicles;**  
**assistance by Division of Purchasing.**

1 (a) Once a fixed asset has been removed from inventory, the spending officer of the  
2 spending unit owning the asset may retire the fixed asset from service by transfer to other  
3 governmental agencies or institutions, by exchange, trade or trade-in, by sale, or by disposal as  
4 waste. It is within the discretion of the head of the agency owning the fixed asset, to determine  
5 the most effective or advantageous time and means of retirement for a fixed asset. This discretion  
6 and authority may be delegated to the asset management officer or to the appropriate spending  
7 officer within the agency. Proceeds from any sale, trade or auction of a fixed asset shall be  
8 credited to the spending unit that owned the asset before its retirement.

9 Except as provided in subsection (b) of this section, sales of fixed assets may be  
10 conducted by an employee of the state agency, by an agent of the head of the agency working  
11 for compensation by a fixed fee or by a percentage of the sales price, or by public auction.

12 (b) Upon retirement from service, vehicles owned by a state agency shall be put up for  
13 auction with a professional auction service selected by competitive bid. When selecting vendors  
14 under competitive bid an agency, with the assistance of the Division of Purchasing, may consider  
15 proximity of the vendor or auction site and the costs of transportation of vehicles to the auction  
16 site as factors in the overall cost of the selection of a vendor.

17 (c) If an agency requires the services of an outside vendor to facilitate the retirement of  
18 fixed assets, the agency shall utilize the procedures for selection from potential vendors that are  
19 specified under this code for that agency. The Director of Purchasing may enter into contracts for  
20 statewide or regionally-based vendors to provide sales, exchange and advertising assistance to  
21 assist agencies in the disposition of fixed assets in lieu of requiring an agency to pursue its own

22 bids for such services.

**§5A-3D-6. Disposition of fixed assets prior to end of useful life.**

1 An agency may choose to dispose of a fixed asset before the useful life of that asset has  
2 ended. The spending unit owning the asset may dispose of the asset by transfer to other  
3 governmental agencies or institutions, by exchange, trade or trade-in, by sale, but in all cases,  
4 the agency may not dispose of the asset for less in return than for the depreciated value of the  
5 asset as calculated using the Internal Revenue Service General Depreciation System under the  
6 Modified Accelerated Cost Recovery System as generally implemented in the United States.

**CHAPTER 17. ROADS AND HIGHWAYS.**

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-14. Disposition of surplus, etc., equipment and materials; inventories.**

1 ~~(a) The commissioner shall dispose of obsolete and unusable equipment, surplus supplies~~  
2 ~~and other unneeded materials, either by transfer to other governmental agencies or institutions,~~  
3 ~~by exchange or trade, or by sale as junk or otherwise. The commissioner shall adopt and~~  
4 ~~promulgate rules and regulations governing and controlling the disposition of all such equipment,~~  
5 ~~supplies and materials. He or she shall advertise, by newspaper publication or otherwise, the~~  
6 ~~availability or sales of such disposable equipment, supplies and materials and may sell same, in~~  
7 ~~whole or in part, at public auction, or may transfer, exchange or trade same (if by exchange or~~  
8 ~~trade, then without advertising), in whole or in part, as sound business practices may warrant~~  
9 ~~under existing circumstances and conditions.~~

10 For the purposes of this section, "construction equipment" means equipment, having an  
11 original acquisition cost of \$1,000 or more, used in the physical construction and maintenance of  
12 highways and roads or the installation of highway signage, safety features and barriers, but the  
13 term does not mean a common "vehicle" as defined in section four, article one of this chapter.  
14 When construction equipment becomes unusable or has exceeded its useful life and is no longer

15 needed by the division, the commissioner shall dispose of this construction equipment through  
16 auction with a professional auction service with experience in sales of specialized equipment or  
17 heavy equipment and selected by competitive bid. When selecting vendors under competitive bid  
18 the division, with the assistance of the Division of Purchasing, may consider proximity of the  
19 vendor or auction site and the costs of transportation of vehicles to the auction site as factors in  
20 the overall cost of a vendor bid.

21 For all other fixed assets required to be reported in inventory under the provisions of  
22 section three, article three-d, chapter five-a of this code, the commissioner shall dispose of those  
23 according to the provisions of article three-d, chapter five-a of this code.

24 The commissioner may dispose of surplus supplies and other unneeded materials, either  
25 by transfer to other governmental agencies or institutions, by exchange or trade, or by sale as  
26 junk or otherwise.

27 (b) The commissioner shall inventory all such disposable equipment, supplies and  
28 materials from time to time as quantity and stocks may warrant but shall make a complete  
29 semiannual inventory thereof as of the thirty-first day of March and September 30, of each year.  
30 He or she may report such inventories to the director of purchases whose services and facilities  
31 shall be available to the commissioner in making advantageous disposition of any part or all of  
32 such disposable equipment, supplies and materials in the manner and form specified by the  
33 Secretary of Administration through the Director of Purchasing. Such inventories shall briefly  
34 describe the disposable items, the date of purchase thereof, the vendor to the commissioner, the  
35 purchase price paid therefor and the commissioner's order number authorizing disposition thereof  
36 and shall indicate briefly the reason said items are no longer needed or can no longer be used by  
37 the commission. All such inventories shall be kept as public records open to public inspection at  
38 the office of the commissioner for a period of five years and may thereafter be destroyed.

NOTE: The purpose of this bill is to terminate the State Agency for Surplus Property and

to give individual state agencies the authority and discretion to dispose of tangible personal property that has reached the end of a reasonable, useful life.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.