

CHAPTER 225

AN ACT concerning the disposition of certain State computers and certain other electronic devices, supplementing P.L.1944, c.112 (C.52:27B-1 et seq.), and amending P.L.1999, c.194.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27B-67.2 Definitions relative to the disposition of certain State computers, other electronic devices.

1. a. As used in this section:

"Computer" means an electronic, magnetic, optical, electrochemical or other high speed data processing device or another similar device capable of executing a computer program, including arithmetic, logic, memory, data storage or input-output operations and includes all computer equipment connected to the device, but shall not include an automated typewriter or typesetter or a portable, hand-held calculator.

"Computer equipment" means any equipment or device, including all input, output, processing, storage, or communications facilities, intended to interface with the computer.

"Computer system" means a set of interconnected computer equipment intended to operate as a cohesive system.

"Data" means information, facts, concepts, or instructions contained in a computer, computer equipment, or computer system. It shall also include, but not be limited to, any alphanumeric, hexadecimal, octal or binary code.

"Data base" means a collection of data.

"Division" means the Division of Purchase and Property in the Department of the Treasury.

"Portable communication device" means a computer that is designed to be personally portable and capable of sending, receiving, storing, reproducing, or displaying communications or information.

"State entity" means any department, institution, commission, board, body, or other agency of the State.

b. The director of the division, in consultation with the Chief Technology Officer of the Office of Information Technology, in but not of the Department of the Treasury, shall develop a program regarding the disposition of any computer, computer equipment, or portable communication device in the custody and control of any State entity that the entity determines to be surplus, obsolete or no longer suitable for the purpose for which it was intended. The program may include procedures concerning the redistribution of items among State entities, the distribution of items to local governmental entities, boards of education, nonpublic schools and nonprofit charitable corporations pursuant to section 1 of P.L.1999, c.194 (C.52:27B-67.1), the public purchase of items, and the final disposal of items not distributed or purchased.

c. In accordance with regulations promulgated by the director of the division, whenever a State entity possesses any unused computer, computer equipment, or portable communication device that includes a hard drive or other data storage device and is unable to redistribute the item for further use within the entity, that entity shall:

(1) declare the item to be surplus, obsolete or no longer suitable for the purpose for which it was intended, subject to further disposition by the division;

(2) in the case of any computer, computer equipment, or portable communication device, remove all data storage devices and destroy such devices by any means approved by the Office of Information Technology concerning data security as authorized pursuant to "The

Office of Information Technology Reorganization Act,” sections 6 through 16 of P.L.2007, c.56 (C.52:18A-224 through C.52:18A-234);

(3) notify the division with respect to the entity’s declaration of the item as surplus, obsolete or no longer suitable for the purpose for which it was intended, and include in that notice:

(a) a certification of the removal of all data storage devices pursuant to paragraph (2) of this subsection, if applicable; and

(b) the name and contact information, including a telephone number, of the director of information technology for that entity, the person named in the certification accompanying the notice pursuant to subparagraph (a) of this paragraph, or another person with knowledge regarding the entity’s declaration of the item as surplus, obsolete or no longer suitable for the purpose for which it was intended.

d. (1) The director of the division shall coordinate the redistribution or disposition of any item declared by a State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended to another State entity, by developing and maintaining a comprehensive list for all State entities consisting of their directors of information technology and relevant contact information.

(2) Upon receipt of a notice from a State entity declaring an item to be surplus, obsolete or no longer suitable for the purpose for which it was intended pursuant to paragraph (3) of subsection c. of this section, the director shall determine whether such item is suitable for redistribution to another State entity. Items deemed suitable for redistribution shall be offered with appropriate written notice to all other State entities through their directors of information technology. The director may establish appropriate deadlines for responses from interested State entities, which shall respond to the director in writing with a request for such item. In determining how to fairly and equitably prioritize requests and allocate items that are requested by more than one entity, the director shall have the discretion to direct surplus items to the highest possible use, acting in the best interest of the State.

e. If an item that has been declared by a State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended and has been deemed suitable for redistribution is not claimed by another State entity pursuant to subsection d. of this section, then the director of the division may declare the item eligible for distribution to local governmental entities, boards of education, nonpublic schools and nonprofit charitable corporations pursuant to section 1 of P.L.1999, c.194 (C.52:27B-67.1).

f. The director of the division may, with the State Treasurer’s approval, take any item that is not otherwise distributed pursuant to the provisions of this section or section 1 of P.L.1999, c.194 (C.52:27B-67.1) and dispose thereof, and thereupon the director shall pay the proceeds arising from the item’s disposition into the General Fund of the State.

g. The State shall not be liable for any damages that may result from the use or operation of any computer, computer equipment, or portable communication device distributed or purchased pursuant to this section.

h. Within 18 months of the effective date of this act, P.L.2011, c.225, the director of the division shall issue a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), regarding the disposition programs and data security measures established pursuant to this act.

2. Section 1 of P.L.1999, c.194 (C.52:27B-67.1) is amended to read as follows:

C.52:27B-67.1 Distribution of surplus computer equipment.

1. a. (1) Whenever any computer, computer equipment, or portable communication device in the custody and control of any State department, institution, commission, board, body, or other agency of the State is deemed by that State entity to be surplus, obsolete or no longer suitable for the purpose for which it was intended pursuant to subsection c. of section 1 of P.L.2011, c.225 (C.52:27B-67.2), and the item is not claimed by another State entity pursuant to subsection d. of that section, the Director of the Division of Purchase and Property in the Department of the Treasury may declare the item available for distribution and make a transfer of the custody and control of the item to local units, boards of education, nonpublic schools or nonprofit charitable corporations organized pursuant to N.J.S.15A:1-1 et seq. in accordance with this section.

(2) To assist in the coordination of any distribution, the director of the division, in consultation with the Division of Property Management and Construction in the Department of the Treasury, shall designate a storage facility to be utilized for holding and processing any item designated for distribution.

(a) The storage facility shall utilize reasonable protocols in order to secure any item being stored, including but not limited to, employee and visitor sign-in procedures, required escorts for each visitor, and multilayered supervision of loading and unloading operations.

(b) The director of the division shall only accept an item at the storage facility from a sending State department, institution, commission, board, body, or other agency for holding and subsequent transfer to local units, boards of education, nonpublic schools or nonprofit charitable corporations that upon arrival at the facility is accompanied by a certification of the removal of all data storage devices pursuant to paragraph (3) of subsection c. of section 1 of P.L.2011, c.225 (C.52:27B-67.2).

b. Whenever such computer, computer equipment, or portable communication device deemed surplus, obsolete or no longer suitable for the purpose for which it was intended cannot be used by local units, boards of education, nonpublic schools or nonprofit charitable corporations, the director may, with the State Treasurer's approval, dispose thereof, and thereupon the director shall pay the proceeds arising from such disposition into the general fund of the State.

c. The director shall develop a plan for the notification and distribution to local units, boards of education, nonpublic schools or nonprofit charitable corporations of computers, computer equipment, or portable communication devices designated as surplus, obsolete or no longer suitable for the purpose for which it was intended by any State department, institution, commission, board, body or other agency of the State. The distribution of any designated item to local units, boards of education, nonpublic schools or nonprofit charitable corporations shall only be permitted through the distribution plan established pursuant to this section.

d. The State shall not be liable for any damages that may result from the use or operation of any transferred computer, computer equipment, or portable communication device.

3. This act shall take effect on the first day of the fourth month next following enactment.

Approved January 17, 2012.