

HOUSE BILL REPORT

SSB 5051

As Passed House:
April 7, 2017

Title: An act relating to nondefault or early termination provisions in state land leases for agricultural or grazing purposes.

Brief Description: Concerning nondefault or early termination provisions in state land leases for agricultural or grazing purposes.

Sponsors: Senate Committee on Agriculture, Water, Trade & Economic Development (originally sponsored by Senators Brown, Warnick, Honeyford, Becker and Schoesler).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/15/17, 3/22/17 [DP].

Floor Activity:

Passed House: 4/7/17, 96-0.

Brief Summary of Substitute Bill

- Requires the Department of Natural Resources, for any agricultural or grazing state land lease that includes a nondefault or early termination provision, to include in the nondefault or early termination provision a requirement to provide certain documentation to the lessee, including a 180-day advance written notice prior to termination of the lease.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 10 members: Representatives Blake, Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Lytton, Orcutt, Robinson, Schmick, Springer and J. Walsh.

Staff: Robert Hatfield (786-7117).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Natural Resources (DNR) manages a number of different categories of land, each for a specific purpose and under different management requirements. These include approximately 3 million acres of federally-granted lands and state forest lands, which the DNR manages to support common schools, counties, and other public institutions.

The DNR has the authority to lease state lands for various purposes, including commercial, industrial, residential, agricultural, and recreational uses, in order to obtain a fair-market rental return to the state or appropriate trust.

The DNR generally may not lease state lands for longer than 10 years, although longer leases are specifically authorized in multiple instances. Lands leased for general agricultural purposes may not exceed 25 years, and leases for tree fruit or grape production may be for up to 55 years. Share crop leases may not exceed 10 years. The DNR must include language in any grazing lease that explains the right of access, and associated assumption of liability when a livestock owner makes a request to retrieve livestock that are at risk due to a wildfire.

Summary of Bill:

A definition of "nondefault or early termination provision" is added to the chapter on public land leases, to mean a provision that authorizes the Department of Natural Resources (DNR) to terminate a lease in the event the DNR includes the leased land in a plan for higher and better use, land exchange, or sale.

Where a state land lease for agricultural or grazing purposes includes a nondefault or early termination provision, the DNR must provide advance written notice of at least 180 days to the lessee prior to termination of the lease. In addition to the 180-day advance written notice that the DNR must provide prior to terminating an agricultural or grazing lease, the DNR must also provide to the lessee written documentation demonstrating that the DNR has included the leased land in a plan for higher and better use, or a land exchange, or a sale.

The DNR is not required to include a nondefault or early termination provision in any state land lease for agricultural or grazing purposes.

The DNR is not prohibited from allowing a lessee to surrender the leasehold subject to the terms provided in the lease.

The DNR is not prohibited from executing other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a nondefault or early termination provision.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill arose after a number of farmers learned that their 10-year leases would be terminated in the sixth year of the lease, in order for the Department of Natural Resources to perfect water rights associated with the lands under lease. The farmers had already purchased equipment and fertilizers in anticipation of being able to farm throughout the growing season, and then the leases were terminated early. The leases had 60-day early termination provisions, and extending that time to 180 days would provide additional notice to farmers, as well as more transparency and accountability. Because farmers make many advance investments when they farm, there needs to be a clear understanding by the parties when they enter into the lease as to the terms of the lease.

(Opposed) None.

Persons Testifying: Senator Brown, prime sponsor; Diana Carlen, Washington Association of Wheat Growers; Darin Kramer, Department of Natural Resources; and Tom Davis, Washington Cattlemen's Association.

Persons Signed In To Testify But Not Testifying: None.