

SENATE BILL REPORT

SB 5051

As Reported by Senate Committee On:
Agriculture, Water, Trade & Economic Development, February 9, 2017

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

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

Sponsors: Senators Brown, Warnick, Honeyford, Becker and Schoesler.

Brief History:

Committee Activity: Agriculture, Water, Trade & Economic Development: 1/19/17, 2/09/17 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Natural Resources (DNR) to provide at least 180 days advance written notice and include certain written documentation regarding the termination in any non-default or early termination provision included in an agricultural or grazing state land lease.
- Establishes the DNR is not required to include a non-default or early termination provision in an agricultural or grazing state land lease.

SENATE COMMITTEE ON AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5051 be substituted therefor, and the substitute bill do pass.

Signed by Senators Warnick, Chair; Hawkins, Vice Chair; Chase, Ranking Minority Member; Wellman, Assistant Ranking Minority Member; Brown, Honeyford, McCoy, Pearson, Short, Takko and Van De Wege.

Staff: Karen Epps (786-7424)

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.

Background: The 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 DNR manages to support common schools, counties, and other public institutions.

The DNR has the authority to lease state lands for purposes including commercial, industrial, residential, agricultural, and recreational uses in order to obtain a fair-market rental return to the state or appropriate trust. DNR generally may not lease state lands for longer than ten years, although longer leases are specifically authorized in multiple instances. Lands leased for agricultural purposes may not exceed 25 years, except leases for tree fruit or grape production, which may be for up to 55 years. Share crop leases may not exceed ten 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 (First Substitute): Any non-default or early termination provision included in a state land lease for agricultural or grazing purposes must:

- require advance written notice of at least 180 days by the DNR to the lessee prior to termination of the lease; and
- require the DNR to provide the lessee with written documentation demonstrating the leased land is included in a plan for higher and better use, land exchange, or sale.

The DNR is not required to include a non-default or early termination provision in any agricultural or grazing state land lease. The DNR is not prohibited from allowing the lessee to surrender the property under the lease subject to terms provided in the lease. The DNR may execute other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a non-default or early termination provision.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT COMMITTEE (First Substitute):

- Adds early termination to the requirement that Department of Natural Resources (DNR) provide at least 180 days advance written notice and include certain written documentation regarding the termination in any non-default or early termination provision included in an agricultural or grazing state land lease.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill establishes a notification requirement on the part of DNR to let farmers know at least 180 days prior to termination of a lease. This bill does not prohibit DNR from putting other provisions in a lease. DNR's

lands are peppered throughout Eastern Washington, which means that some farmers lease these lands because they are right in the middle of their farm. Other farmers rely on DNR leases, some up to one-third of the property they currently farm. This bill is a reasonable approach and is consistent with how DNR is revising its processes. When a farmer leases property, not only has the farmer purchased equipment to farm, but has also prepared the land for farming, things like removing weeds and adding fertilizer. This bill does not address the issue of compensation but it addresses notice.

Persons Testifying: PRO: Senator Sharon Brown, Prime Sponsor; Diana Carlen, Chad Smith, and Nicole Berg, WA Assoc. of Wheat Growers; Darin Cramer, DNR; Tom Davis, WA Farm Bureau.

Persons Signed In To Testify But Not Testifying: No one.