

FINAL BILL REPORT

EHB 1199

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Synopsis as Enacted

Brief Description: Providing compensation to department of natural resources lessees whose leases are terminated for reasons other than default.

Sponsors: Representatives Corry, Chapman, Davis, Dent and Eslick.

House Committee on Rural Development, Agriculture & Natural Resources
Senate Committee on Agriculture, Water, Natural Resources & Parks

Background:

The Department of Natural Resources (DNR) manages a number of different categories of land, each for a specific purpose and under different management requirements. This includes approximately 3 million acres of federally granted lands and state forestlands, 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.

When 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. The DNR must also provide the lessee with written documentation demonstrating that the DNR has included the leased land in a plan for higher and better use, a land exchange, or a sale.

Summary:

In the event the Department of Natural Resources (DNR) exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes, the DNR must compensate the lessee according to the following schedule:

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- For agricultural leases, the DNR must pay to the lessee the expected net return the lessee would have realized from crops raised on the leased land. The net return must be calculated according to the following formula: the annual net revenue per acre for the class of crop produced by the lessee, less the rental rate per acre for the land leased by the lessee; multiplied by the number of acres leased by the lessee. The annual net revenue per acre for a class of crop must be calculated according to the most recent rolling average annual net rental return per acre for that class of crop as established by the county assessor of the county in which the leased land is located. If the county assessor of the county in which the land is located has not established an annual net rental return per acre, the DNR must use the net rental return per acre as established by the county assessor of the nearest county in which the county assessor has established such an annual net rental return per acre. The annual net rental return per acre, as established by the county assessor, must be adjusted to reflect the total annual net revenue per acre.
- For grazing leases, the DNR must pay to the lessee the annual rent for the land subject to the lease, multiplied by a factor of six, except that the DNR is not required to compensate the lessee for any years that are specifically designated in the lease as nongrazing years.

For both grazing leases and agricultural leases, the DNR must make payments to the lessee on an annual basis for the remaining term of the terminated lease, unless the DNR and the lessee agree to an alternate schedule of payments. If payments are made on any schedule other than on an annual basis, the DNR must subject any advance payments to an appropriate discount rate in order to reflect the net present value of the compensation owed by the DNR.

For both grazing leases and agricultural leases, if the lessee has placed any authorized improvements on the land, the DNR is responsible for compensating the lessee for the fair market value of the improvements. In the event that an agreement cannot be reached between the DNR and the lessee on the fair market value of the improvements, the valuation must be determined by a board of appraisers.

If the DNR's exercise of a nondefault or early termination provision results in the removal of fencing from the land, the DNR is responsible for ensuring the replacement of any removed fencing.

If the DNR's exercise of a nondefault or early termination provision in an agriculture or grazing lease causes the lessee to incur a financial penalty as a result of an early withdrawal from a Natural Resources Conservation Service program, the DNR is responsible for reimbursing the lessee for payment of the financial penalty.

The compensation available to a lessee under the act is the sole financial remedy available to the lessee based on the DNR's exercise of a nondefault or early termination provision in an agriculture or grazing lease.

Votes on Final Passage:

House 96 0

Senate 49 0

Effective: July 25, 2021