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**SUBSTITUTE SENATE BILL 6062**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Torres and Van De Wege; by request of Department of Natural Resources)

AN ACT Relating to the authority of the department of natural resources to lease trust assets for the benefit of trust beneficiaries and the state; and amending RCW 79.13.010, 79.13.030, 79.13.060, 79.13.110, 79.13.120, 79.13.130, and 79.13.140.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 79.13.010 and 2007 c 504 s 1 are each amended to read as follows:

(1) Subject to other provisions of this chapter and subject to rules adopted by the board, the department may lease state lands, water rights, and physical trust assets, deemed by the department to be temporarily available for use on nonstate land, for purposes it deems advisable((~~,~~)) including, but not limited to, commercial, industrial, residential, agricultural, and recreational purposes in order to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust, and if the lease is in the best interest of the state or affected trust.

(2) Notwithstanding any provision in this chapter to the contrary, in leases for residential purposes, the board may waive or modify any conditions of the lease if the waiver or modification is necessary to enable any federal agency or lending institution authorized to do business in this state or elsewhere in the United States to participate in any loan secured by a security interest in a leasehold interest.

(3) Leasing of water rights under this chapter requires a minimum 60-day advance notice to any potentially impacted federally recognized tribe to determine if the lease or associated actions may impact fish, aquatic resources, cultural resources, or other treaty-reserved rights or tribal resources. Upon notice under this section, a potentially impacted federally recognized tribe may request formal consultation during the notice period or at any time before the lease is finalized. The department shall not enter into a final lease agreement, if a tribe requests consultation under this section, until consultation occurs and any impacts and protections to treaty-reserved resources are addressed by the department.

(4) Any land granted to the state by the United States may be leased for any lawful purpose in such minimum acreage as may be fixed by the department.

((~~(4)~~)) (5) The department shall exercise general supervision and control over the lease of state lands, water rights, and physical trust assets for any lawful purpose.

((~~(5)~~)) (6) State lands leased or for which permits are issued or contracts are entered into for the prospecting and extraction of valuable materials, coal, oil, gas, or other hydrocarbons are subject to the provisions of chapter 79.14 RCW.

((~~(6)~~)) (7) The department may also lease or lease development rights on state lands held for the benefit of the common schools to public agencies, as defined in RCW 79.17.200.

**Sec.**  RCW 79.13.030 and 2003 c 334 s 367 are each amended to read as follows:

Every lease issued by the department must contain:

(1) The specific use or uses to which the land, water right, or physical trust asset is to be employed;

(2) The improvements required, if any;

(3) Provisions providing that the rent is payable in advance in quarterly, semiannual, or annual payments as determined by the department, or as agreed upon by the lessee and the department;

(4) Other terms and conditions as the department deems advisable, subject to review by the board, to achieve the purposes of the state Constitution and this chapter.

**Sec.**  RCW 79.13.060 and 2022 c 194 s 1 are each amended to read as follows:

(1) State lands may be leased not to exceed ((~~ten~~)) 10 years with the following exceptions:

(a) The lands may be leased for agricultural purposes not to exceed ((~~twenty-five~~)) 25 years, except:

(i) Leases that authorize tree fruit or grape production may be for up to ((~~fifty-five~~)) 55 years;

(ii) Share crop leases may not exceed ((~~ten~~)) 10 years;

(b) The lands may be leased for commercial, industrial, business, or recreational purposes not to exceed ((~~fifty-five~~)) 55 years, except:

(i) Leases for commercial, industrial, or business purposes may extend to 99 years;

(ii) All leases for commercial, industrial, or business purposes that extend beyond 55 years must provide for periodic rental reevaluation and adjustment, except leases with rentals based on a percentage of income;

(iii) All leases for commercial, industrial, or business purposes that extend terms beyond 55 years must be reported to the office of financial management and the appropriate committees of the legislature within 30 days of the date of execution of the lease. The report must include a financial analysis that justifies the financial benefit for the added term and the schedule for periodic rental adjustments;

(c) The lands may be leased for public school, college, or university purposes not to exceed ((~~seventy-five~~)) 75 years;

(d) The lands may be leased for residential purposes not to exceed ((~~ninety-nine~~)) 99 years; and

(e) The lands and development rights on state lands held for the benefit of the common schools may be leased to public agencies, as defined in RCW 79.17.200, not to exceed ((~~ninety~~‑~~nine~~)) 99 years. The leases may include provisions for renewal of lease terms.

(2) Water rights and physical trust assets may be leased not to exceed 20 years.

(3) No lessee of state lands may remain in possession of the land after the termination or expiration of the lease without the written consent of the department.

(a) The department may authorize a lease extension for a specific period beyond the term of the lease for cropping improvements for the purpose of crop rotation. These improvements shall be deemed authorized improvements under RCW 79.13.030.

(b) Upon expiration of the lease term, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe, if the leased land is not otherwise utilized.

(c) Upon expiration of the one-year lease extension, the department may issue a temporary permit to the lessee upon terms and conditions it prescribes if the department has not yet determined the disposition of the land for other purposes.

(d) The temporary permit shall not extend beyond a five-year period.

((~~(3)~~)) (4) If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, or of the lease of any water right or physical trust asset, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of the lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided in this section.

((~~(4)~~)) (5) The department must include in the text of any grazing leases language that explains the right of access, and associated assumption of liability, created in RCW 76.04.021.

**Sec.**  RCW 79.13.110 and 2007 c 504 s 3 are each amended to read as follows:

(1) The department may authorize the use of state land by lease at state auction for initial leases or by negotiation for existing leases.

(2) Leases that authorize commercial, industrial, or residential uses of state lands, and leases of water rights or physical trust assets, may be entered into by public auction or negotiations at the option of the department. Negotiations are subject to rules approved by the board.

(3) Leases to public agencies, as defined in RCW 79.17.200, may be entered into by negotiations. Property subject to lease agreements under this section must be appraised at fair market value. The leases may allow for a lump sum payment for the entire term of the lease at the beginning of the lease. The department shall calculate lump sum payments using professional appraisal standards. Renewal terms for the leases must include provisions for calculating appropriate payments upon renewal.

**Sec.**  RCW 79.13.120 and 2003 c 334 s 369 are each amended to read as follows:

(1) The department must give ((~~thirty~~)) 30 days' notice of leasing by public auction. The notice must:

(a) Specify the place and time of auction, bid deposit if any, the appraised value, describe each parcel, water right, or physical trust asset to be leased, and the terms and conditions of the lease;

(b) Be posted in some conspicuous place in the county auditor's office and the department's regional headquarters administering the lease, or the department's office administering the water right or physical trust asset lease, not including state lands; and

(c) Be published in at least two newspapers of general circulation in the area where the state land, water right, or physical trust asset subject to public auction leasing is located.

(2) Notice of intent to lease by negotiation must be published in at least two newspapers of general circulation in the area where the state land, water right, or physical trust asset subject to lease negotiation is located. The notice must be published within the ((~~ninety~~)) 90 days preceding commencement of negotiations.

(3) The department is authorized to conduct any additional advertising that it determines to be in the best interest of the state.

**Sec.**  RCW 79.13.130 and 2003 c 334 s 372 are each amended to read as follows:

(1) When the department decides to lease any state lands or trust assets at public auction it is the duty of the department to fix the date, place, and time when such lands or assets shall be offered for lease.

(2) The auction must be conducted between the hours of 10:00 a.m. and 4:00 p.m.

(3) The auction must take place:

(a) At the department's regional office administering the lease of state lands; ((~~or~~))

(b) For leases of trust assets, not including state lands, at the department's headquarters or regional office in the area where the trust asset is located; or

(c) When leases are auctioned by the county auditor, in the county where the state land or trust asset to be leased is situated at such place as specified in the notice.

**Sec.**  RCW 79.13.140 and 2003 c 334 s 373 are each amended to read as follows:

(1) All leasing by public auction shall be by oral bid or by sealed bid. Leases will be awarded to the highest bidder on the terms prescribed by law and as specified in the notice of leasing described in RCW 79.13.120. No lease may be awarded for less than the appraised value.

(2) The public auction must be conducted under the direction of the department or by the auditor for the county in which the land, water right, or physical trust asset to be leased is located. The person conducting the auction is called the auctioneer.

(3) The person to whom a lease of state lands, water rights, or physical trust assets is awarded shall pay the rental in accordance with that person's bid to the auctioneer in cash or by certified check or accepted draft on any bank in this state.

(4) The auctioneer shall send to the department such cash, certified check, draft, or money order received from the successful bidder, together with any additional report of the auction proceeding as may be required by the department.

(5) The department may reject any and all bids when the interests of the state justify it. If the department rejects a bid, it must refund any rental and bid deposit to the bidder upon return of the receipts issued.

(6) If the department approves any leasing made by the auctioneer, it must proceed to issue a lease to the successful bidder upon a form approved by the attorney general.

(a) All leases must be in duplicate and both copies signed by the lessee and the department.

(b) One signed copy must be forwarded to the lessee and one signed copy must be kept in the office of the department.

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