

2017 Regular Session

SENATE BILL NO. 143

BY SENATOR CHABERT AND REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC LANDS. Provides relative to sales, leases, and subleases of immovable property under the jurisdiction of the Department of Culture, Recreation and Tourism. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 36:204(B)(6) and R.S. 56:1687(6) and (9), and to enact R.S.  
3 36:204(B)(9) and (10), relative to the powers and duties of the secretary of culture,  
4 recreation and tourism; to provide for the procedure for the sale, lease, and sublease  
5 of state parks land; to provide for concession leases; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 36:204(B)(6) is hereby amended and reenacted and R.S.  
9 36:204(B)(9) and (10) are hereby enacted to read as follows:

10 §204. Powers and duties of secretary of culture, recreation and tourism

11 \* \* \*

12 B. The secretary shall have authority to:

13 \* \* \*

14 (6) ~~Except as otherwise specifically provided in R.S. 56:1687(6), sell~~ **Sell**,  
15 lease, or sublease state park lands ~~only after receiving approval for such sale, lease,~~  
16 ~~or sublease by the legislature of the state of Louisiana and only after publishing an~~  
17 ~~advertisement in the official journal of the parish or parishes in which such land is~~

1 ~~located setting forth a description of the lands to be sold, leased, or subleased; the~~  
2 ~~time when bids therefor will be received; and a short summary of the terms,~~  
3 ~~conditions, and purpose of said sale, lease, or sublease to be executed. The~~  
4 ~~advertisement required by this Section shall be published once a week for three~~  
5 ~~different weeks in a newspaper in the locality, the first advertisement to appear at~~  
6 ~~least fifteen days before the opening of bids; however, when the advertisement is~~  
7 ~~published in a daily newspaper in the locality, the advertisement shall be published~~  
8 ~~three times within ten days, the first advertisement to appear at least ten days before~~  
9 ~~the opening of bids~~ **in accordance with the applicable provisions of the sale and**  
10 **lease laws of public lands of the state of Louisiana.**

11 \* \* \*

12 **(9) Grant leases, subleases, and concession leases on any portion of the**  
13 **immovable property under the department's supervision, jurisdiction, or**  
14 **management to any of the following:**

15 **(a) A public body, in accordance with the public lease law, R.S. 41:1211**  
16 **et seq., except such lease or sublease shall not be subject to the application,**  
17 **advertisement, and bid requirements set forth in the public lease law.**

18 **(b) A private entity, in accordance with the public lease law, R.S.**  
19 **41:1211 et seq., except that a private entity obligated under the terms of said**  
20 **lease, sublease, or other agreement to undertake activities or to construct**  
21 **improvements on the leased immovable property that will support the public**  
22 **purposes of the department is subject to the following conditions:**

23 **(i) Such leases, subleases, or other agreements shall be negotiated and let**  
24 **in accordance with fair and reasonable criteria established and applied relating**  
25 **to a balance of factors including but not limited to rent, highest return of**  
26 **revenue and benefits, financial stability of the lessee or sublessee, architectural**  
27 **design, development and management of operational plan, uniqueness of**  
28 **operation, and stimulating other economic activity and public benefits within**  
29 **the state.**

1            **(ii) Contracts entered into by a private lessee for the performance of**  
2            **work on the leased premises or the erection, construction, or maintenance of**  
3            **improvements on the leased premises shall not constitute public works contracts**  
4            **as defined in R.S. 38:2211(A).**

5            **(iii) The architectural plans for such improvements shall be approved by**  
6            **the secretary prior to construction on the leased or subleased property.**

7            **(iv) Such leases, subleases, and agreements shall be subject to R.S. 39:11**  
8            **and R.S. 39:366.11.**

9            **(v) The provisions of the public lease law, R.S. 41:1211 et seq., shall not**  
10           **be applicable to lease agreements with such private entity obligated under the**  
11           **terms of the lease agreement to undertake activities or construct improvements**  
12           **on the leased premises that will support the public purposes of the department**  
13           **and shall not be applicable to mineral leases, timber leases, or to leases of lands**  
14           **for exploration or extraction of minerals.**

15           **(10) Terminate the lease, sublease, concession agreement, contract, or**  
16           **other privilege of any person who files a federal or state trademark or service**  
17           **mark application for a trademark or service mark that incorporates or implies**  
18           **an association with a holding of the department or its historical, cultural, or**  
19           **recreational resources or who makes a legal claim or assertion to have a**  
20           **trademark or service mark in violation of this Section. Any such person shall**  
21           **be disqualified from future concession agreements, leases, contracts, and**  
22           **privileges granted by the department. Any such person shall be responsible for**  
23           **the state's attorney fees, costs, and expenses associated with that termination,**  
24           **opposition, cancellation, and disqualification.**

25           Section 2. R.S. 56:1687(6) and (9) are hereby amended and reenacted to read as  
26 follows:

27           §1687. Secretary, Department of Culture, Recreation and Tourism; powers

28           The secretary of the Department of Culture, Recreation and Tourism may:

29           \*           \*           \*

1 (6) Sell, lease, or sublease lands under the jurisdiction of the office of state  
2 parks when he believes it advantageous to the state to do so in the most orderly  
3 development and improvement of the office of state parks holdings but only after  
4 receiving approval for such sale, lease, or sublease by the legislature of the state of  
5 Louisiana and only after publishing an advertisement in the official journal of the  
6 parish or parishes in which such land is located, setting forth a description of the  
7 lands to be sold, leased, or subleased; the time when bids therefor will be received,  
8 and a short summary of the terms, conditions, and purposes of said sale, lease, or  
9 sublease to be executed. The advertisement required by this Paragraph shall be  
10 published once a week for three different weeks in a newspaper in the locality, the  
11 first advertisement to appear at least fifteen days before the opening of bids;  
12 however, when the advertisement is published in a daily newspaper in the locality,  
13 the advertisement shall be published three times within ten days before the opening  
14 of bids. However, leases of lands to a state agency or a political subdivision of the  
15 state shall not require the advertisement provided in this Paragraph. Furthermore, the  
16 provisions of this Paragraph shall not apply to mineral leases or to leases of lands for  
17 exploration or extraction of minerals in accordance with the sale and lease laws  
18 of public lands of the state of Louisiana and the provisions of R.S. 36:204.

19 \* \* \*

20 (9) Charge a fee and collect rents and other payments for the leasing of  
21 concessions or granting of other privileges in or on an office of state parks holding.  
22 Additionally, the secretary may grant concession leases or lease rights for operating  
23 concessions on such holdings for an initial period not to exceed five years and an  
24 additional two-year period upon the option of the secretary. Such leases shall  
25 otherwise be granted in accordance with the applicable requirements of the public  
26 bid law of the state, state procurement laws, and procedures of the Division of  
27 Administration, and other applicable provisions of law that govern the granting  
28 of leases, concessions, or other privileges on such holdings.

29 \* \* \*

1 Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alan Miller.

DIGEST

SB 143 Original 2017 Regular Session Chabert

Present law requires, under most circumstances, that the sale, lease, or sublease of state park lands be approved by the legislature and that notice of such sale be properly advertised.

Proposed law removes the legislative approval requirement, but requires that such sale, lease, or sublease of state park lands comply with applicable provisions of the sale and lease laws of public lands of the state.

Proposed law authorizes the secretary of the Dept. of Culture, Recreation and Tourism (CRT) to grant leases, subleases, and concession leases on any portion of the immovable property under the CRT's supervision, jurisdiction, or management to any of the following:

- (1) A public body, in accordance with the public lease law, except that such lease or sublease shall not be subject to the application, advertisement, and bid requirements set forth in the public lease law.
- (2) A private entity, in accordance with the public lease law, except that a private entity obligated under the terms of said lease, sublease, or other agreement to undertake activities or to construct improvements on the leased immovable property that will support the public purposes of CRT is subject to the following conditions:
  - (a) Such leases, subleases, or other agreements shall be negotiated and let in accordance with fair and reasonable criteria established and applied relating to a balance of factors including but not limited to rent, highest return of revenue and benefits, financial stability of the lessee or sublessee, architectural design, development and management of operational plan, uniqueness of operation, and stimulating other economic activity and public benefits within the state.
  - (b) Contracts entered into by a private lessee for the performance of work on the leased premises or the erection, construction, or maintenance of improvements on the leased premises shall not constitute public works contracts.
  - (c) The architectural plans for such improvements shall be approved by the secretary prior to construction on the leased or subleased property.
  - (d) Such leases, subleases, and agreements shall be subject to the laws governing the administration of state lands and cooperative endeavor agreements.
  - (e) The provisions of the public lease law shall not be applicable to lease agreements with such private entity obligated under the terms of the lease

agreement to undertake activities or construct improvements on the leased premises that will support the public purposes of CRT and shall not be applicable to mineral leases, timber leases, or to leases of lands for exploration or extraction of minerals.

Proposed law further authorizes the secretary to terminate the lease, sublease, concession agreement, contract, or other privilege of any person who files a federal or state trademark or service mark application for a trademark or service mark that incorporates or implies an association with a holding of the department or its historical, cultural, or recreational resources or who makes a legal claim or assertion to have a trademark or service mark in violation of proposed law. Proposed law disqualifies any such person from future concession agreements, leases, contracts, and privileges granted by CRT. Proposed law provides that any such person shall be responsible for the state's attorney fees, costs, and expenses associated with that termination, opposition, cancellation, and disqualification.

Present law authorizes the secretary to charge a fee for the leasing of concessions or other privileges in or on an office of state parks holding.

Proposed law retains present law, but further authorizes the secretary to collect rents and other payments for the leasing of concessions or granting of other privileges in or on an office of state parks holding.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 36:204(B)(6) and R.S. 56:1687(6) and (9); adds R.S. 36:204(B)(9) and (10))