

HOUSE BILL NO. 80

INTRODUCED BY R. GREGG

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE USE OF CASH BASIS FOR COMPETITIVE BIDDING FOR STATE LAND AGRICULTURAL LEASES; AND AMENDING SECTIONS 77-6-203, 77-6-501, AND 77-6-506, MCA."

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

Section 1. Section 77-6-203, MCA, is amended to read:

"77-6-203. Bid deposit. (1) A person bidding for the lease of state lands shall deposit with the department, as evidence of good faith, a certified check, cashier's check, or money order in an amount equal to 100% of the annual rental bid in the case of grazing land and an amount equal to \$20 per acre for each acre of agricultural land contained in the lease in the case of agricultural land ~~on which the bid is made on a crop share basis.~~

(2) The department shall retain the deposit of the successful bidder, apply it on the rental for the first year of the lease only, and return any balance of the deposit at the end of the first year to the successful bidder. The department shall return the deposits of the unsuccessful bona fide bidders. If the department finds a bid has been submitted that is frivolous, forged, or a bad faith bid or a bid submitted for purposes of harassment, the deposit is forfeited. The department shall make a reasonable attempt to notify the bidder in writing of the forfeiture and ~~the reasons therefor~~ for it.

(3) If the successful bidder fails to execute the lease for any reason, the deposit is forfeited.

(4) The department shall credit all forfeited deposits to the interest and income account of the proper trust."

Section 2. Section 77-6-501, MCA, is amended to read:

"77-6-501. Agricultural leases. (1) For agricultural land, all leases except lease renewals ~~upon on~~

1 which the lessee has made improvements at the lessee's expense, as provided in subsection (3), and except
 2 leases issued after competitive bidding pursuant to 77-6-202 or 77-6-205, as provided in subsection (4), must
 3 be continued or made ~~upon~~ on a crop share rental basis of not less than one-fourth of the annual crops to the
 4 state or the usual landlord's share prevailing in the district, whichever is greater. The board may, however,
 5 approve special crop share rentals of less than one-fourth for high production cost crops, such as but not
 6 limited to potatoes and sugar beets, or for high production cost methods when these methods would result in
 7 more income to the state. The board may not delegate the authority to approve special crop share rentals.

8 (2) Except in the case of cash lease renewals under subsection (3), if it is in the best interests of
 9 the state, the department may authorize a lease ~~upon~~ on other bases than crop share, but in these cases, the
 10 rental must at least equal the value of the usual landlord's share prevailing in the district under similar
 11 circumstances, and the department shall set forth in the records the conditions of the case and the rental to be
 12 charged.

13 (3) Subject to 77-1-134, in a case in which the lessee has made substantial improvements for
 14 irrigation purposes to the lease at the lessee's own expense, the department shall authorize a cash lease
 15 renewal at not less than \$15 an acre on the portion of the lease that has been improved.

16 (4) For all agricultural leases issued through competitive bidding provided for under 77-6-202 or
 17 77-6-205, the department shall require ~~on any competitive bid greater than a one-third crop share a minimum~~
 18 ~~annual guarantee of not less than \$15 an acre~~ applicants to submit bids in the form of dollars per acre and shall
 19 issue the successful bidder a cash lease at the rate established through competitive bidding. Upon expiration of
 20 the first 10-year term of the cash lease, the lease may be renewed on a crop share rental basis of not less than
 21 one-fourth of the annual crops to the state or the usual landlord's share prevailing in the district, whichever is
 22 greater.

23 (5) The department shall set annual hay prices based on round bales for agricultural leases under
 24 the jurisdiction of the regional land offices."
 25

26 **Section 3.** Section 77-6-506, MCA, is amended to read:

27 **"77-6-506. Date when rental due -- penalty -- cancellation for nonpayment.** (1) For a grazing
 28 lease, for the grazing portion of a lease containing both agricultural and grazing land, and for agricultural leases

1 not based on a crop share, the grazing rental for the first year of the lease must be paid at or before the time of
 2 the execution of the lease; however, in the case of a lease that takes effect on and after October 1 and before
 3 the expiration of the coming February, both the rental for the fractional year and for the next full year beginning
 4 March 1 must be paid and collected at the time of issuing the lease. If the United States is the lessee of state
 5 lands for grazing purposes, the rental is payable at the end of each year of the lease. The rental for each
 6 succeeding year on a lease issued after July 1, 1999, with the exception of a lease that involves the United
 7 States as the lessee, is due and payable before March 1. If the rental is not paid before March 1, a \$25 penalty
 8 must be imposed on the lessee. If the full rental and the \$25 penalty are not paid by April 1, the entire lease is
 9 canceled.

10 (2) For an agricultural lease and for the agricultural portion of a lease containing both grazing and
 11 agricultural land, when the rental is paid on a crop share basis, on a cash lease basis, or on a crop share/cash
 12 basis, the rental is due in cash on or before November 15 of the year in which the crop is harvested. If the
 13 rental is not paid on or before November 15 of the year of crop harvest, a \$25 penalty must be imposed on the
 14 lessee. If the full rental and the \$25 penalty are not paid on or before December 31 of the year in which the crop
 15 is harvested, the entire lease is canceled. The department may extend the deadline in writing. If the lessee
 16 does not make the rental payment by the date of extension, the entire lease is canceled. Any rental payment
 17 made after November 15 of the year in which the crop is harvested, including payment made after an extension
 18 of the deadline, must include the \$25 penalty.

19 (3) For all state land leases and licenses other than those described in subsections (1) and (2), the
 20 department shall impose a \$25 penalty for failure to make a rental payment by any deadline established by
 21 statute, by rule, or in the lease or license.

22 (4) At least 2 weeks prior to the final deadline for payment under subsection (1) or (2), the
 23 department shall send by certified mail to each lessee who has not made payment a letter notifying the lessee
 24 that the lease is canceled if payment and the \$25 penalty are not received by the final deadline. The notice
 25 must be sent to the lessee at the address given in the lease.

26 (5) When a lease is canceled under subsection (1) or (2), the department shall notify the lessee of
 27 the cancellation by letter at the address given in the lease.

28 (6) The department may, within 30 days of cancellation, reinstate a canceled agricultural, grazing,

1 or other surface lease upon payment of the rental that is owing, plus a penalty not to exceed three times the
2 annual rental, except that a penalty imposed under this subsection may not be less than \$500.

3 (7) A canceled lease that is not reinstated must be made available for lease as provided in 77-6-
4 202.

5 (8) The penalties collected pursuant to this section must be deposited into the same trust account
6 as the rentals from the state land to which the penalties apply."

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