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HOUSE BILL 2299

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State of Washington

68th Legislature

2024 Regular Session

By Representative Street; by request of Department of Natural Resources

1 AN ACT Relating to the authority of the department of natural  
2 resources to lease trust assets for the benefit of trust  
3 beneficiaries and the state; and amending RCW 79.13.010, 79.13.030,  
4 79.13.060, 79.13.110, 79.13.120, 79.13.130, and 79.13.140.

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

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

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

17 (2) Notwithstanding any provision in this chapter to the  
18 contrary, in leases for residential purposes, the board may waive or  
19 modify any conditions of the lease if the waiver or modification is  
20 necessary to enable any federal agency or lending institution  
21 authorized to do business in this state or elsewhere in the United

1 States to participate in any loan secured by a security interest in a  
2 leasehold interest.

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

6 (4) The department shall exercise general supervision and control  
7 over the lease of state lands and trust assets for any lawful  
8 purpose.

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

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

16 **Sec. 2.** RCW 79.13.030 and 2003 c 334 s 367 are each amended to  
17 read as follows:

18 Every lease issued by the department must contain:

19 (1) The specific use or uses to which the land or asset is to be  
20 employed;

21 (2) The improvements required, if any;

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

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

28 **Sec. 3.** RCW 79.13.060 and 2022 c 194 s 1 are each amended to  
29 read as follows:

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

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

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

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

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

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

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

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

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

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

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

25 (2) Trust assets may be leased not to exceed 20 years.

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

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

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

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

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

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

12 ((~~4~~)) (5) The department must include in the text of any  
13 grazing leases language that explains the right of access, and  
14 associated assumption of liability, created in RCW 76.04.021.

15 **Sec. 4.** RCW 79.13.110 and 2007 c 504 s 3 are each amended to  
16 read as follows:

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

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

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

32 **Sec. 5.** RCW 79.13.120 and 2003 c 334 s 369 are each amended to  
33 read as follows:

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

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

1 (b) Be posted in some conspicuous place in the county auditor's  
2 office and the department's regional headquarters administering the  
3 lease, or the department's office administering the lease of trust  
4 assets, not including state lands; and

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

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

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

16 **Sec. 6.** RCW 79.13.130 and 2003 c 334 s 372 are each amended to  
17 read as follows:

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

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

24 (3) The auction must take place:

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

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

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

33 **Sec. 7.** RCW 79.13.140 and 2003 c 334 s 373 are each amended to  
34 read as follows:

35 (1) All leasing by public auction shall be by oral bid or by  
36 sealed bid. Leases will be awarded to the highest bidder on the terms  
37 prescribed by law and as specified in the notice of leasing described

1 in RCW 79.13.120. No lease may be awarded for less than the appraised  
2 value.

3 (2) The public auction must be conducted under the direction of  
4 the department or by the auditor for the county in which the land or  
5 asset to be leased is located. The person conducting the auction is  
6 called the auctioneer.

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

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

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

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

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

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

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