
SUBSTITUTE SENATE BILL 6062

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)

READ FIRST TIME 01/30/24.

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,
10 water rights, and physical trust assets, deemed by the department to
11 be temporarily available for use on nonstate land, for purposes it
12 deems advisable((7)) including, but not limited to, commercial,
13 industrial, residential, agricultural, and recreational purposes in
14 order to obtain a fair market rental return to the state or the
15 appropriate constitutional or statutory trust, and if the lease is in
16 the best interest of the 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) Leasing of water rights under this chapter requires a minimum
4 60-day advance notice to any potentially impacted federally
5 recognized tribe to determine if the lease or associated actions may
6 impact fish, aquatic resources, cultural resources, or other treaty-
7 reserved rights or tribal resources. Upon notice under this section,
8 a potentially impacted federally recognized tribe may request formal
9 consultation during the notice period or at any time before the lease
10 is finalized. The department shall not enter into a final lease
11 agreement, if a tribe requests consultation under this section, until
12 consultation occurs and any impacts and protections to treaty-
13 reserved resources are addressed by the department.

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

17 ~~((4))~~ (5) The department shall exercise general supervision and
18 control over the lease of state lands, water rights, and physical
19 trust assets for any lawful purpose.

20 ~~((5))~~ (6) State lands leased or for which permits are issued or
21 contracts are entered into for the prospecting and extraction of
22 valuable materials, coal, oil, gas, or other hydrocarbons are subject
23 to the provisions of chapter 79.14 RCW.

24 ~~((6))~~ (7) The department may also lease or lease development
25 rights on state lands held for the benefit of the common schools to
26 public agencies, as defined in RCW 79.17.200.

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

29 Every lease issued by the department must contain:

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

32 (2) The improvements required, if any;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (a) The department may authorize a lease extension for a specific
40 period beyond the term of the lease for cropping improvements for the

1 purpose of crop rotation. These improvements shall be deemed
2 authorized improvements under RCW 79.13.030.

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

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

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

13 ~~((+3))~~ (4) If during the term of the lease of any state lands
14 for agricultural, grazing, commercial, residential, business, or
15 recreational purposes, or of the lease of any water right or physical
16 trust asset, in the opinion of the department it is in the best
17 interest of the state so to do, the department may, on the
18 application of the lessee and in agreement with the lessee, alter and
19 amend the terms and conditions of the lease. The sum total of the
20 original lease term and any extension thereof shall not exceed the
21 limits provided in this section.

22 ~~((+4))~~ (5) The department must include in the text of any
23 grazing leases language that explains the right of access, and
24 associated assumption of liability, created in RCW 76.04.021.

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

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

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

35 (3) Leases to public agencies, as defined in RCW 79.17.200, may
36 be entered into by negotiations. Property subject to lease agreements
37 under this section must be appraised at fair market value. The leases
38 may allow for a lump sum payment for the entire term of the lease at
39 the beginning of the lease. The department shall calculate lump sum

1 payments using professional appraisal standards. Renewal terms for
2 the leases must include provisions for calculating appropriate
3 payments upon renewal.

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

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

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

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

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

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

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

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

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

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

34 (3) The auction must take place:

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

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

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

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

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

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

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

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

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

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

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

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

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