

SENATE BILL NO. 179
INTRODUCED BY K. HANSEN
BY REQUEST OF THE BOARD OF LAND COMMISSIONERS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CASH LEASING ON STATE LANDS LEASED FOR AGRICULTURE PURPOSES EXCEPT THOSE LANDS ENROLLED IN THE CONSERVATION RESERVE PROGRAM; AMENDING SECTIONS 77-1-106 AND 77-6-203, MCA; REPEALING SECTION 77-6-501, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Agricultural leases -- Class 3 lands. (1) All leases for agricultural Class 3 lands, except those lands enrolled in the conservation reserve program, issued after [the effective date of this act] must be made upon a cash rental basis. The lease must be issued based on a competitive bidding process, as provided in 77-6-202, and must attain full market value. The minimum per acre rental amount must be established by the department using data such as soil productivity data for the agricultural lands within the lease, precipitation, crop rotation information from the county where the lands are located, standard accepted management practices, regional average commodity prices received over a period of time, farm program payments, and typical landlord shares.

(2) If necessary, the department shall adopt rules to further define the type of criteria to be used when determining minimum lease rates.

(3) A lease converted to a cash lease prior to the expiration of the lease term must comply with this section.

Section 2. Section 77-1-106, MCA, is amended to read:

"77-1-106. (Temporary) Setting of rates or fees -- rules. (1) In setting the lease rental rates, agreement rates, or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the production capabilities, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services

commonly provided by private lessors in the area.

(2) All lease rental rates, agreement rates, and fees established by the board under 77-1-208, 77-1-802, 77-1-815, 77-6-202, ~~77-6-504~~, 77-6-502, and 77-6-507, and [section 1] must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust.

(3) The board shall comply with Title 2, chapter 4, part 3, in setting rental rates, agreement rates, and license fees pursuant to 77-1-208, 77-1-802, 77-1-815, 77-6-202, ~~77-6-504~~, 77-6-502, and 77-6-507, and [section 1]. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

77-1-106. (Effective on occurrence of contingency) Setting of rates or fees -- rules. (1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the production capabilities, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, ~~77-6-504~~, 77-6-502, and 77-6-507, and [section 1] must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust.

(3) The board shall comply with Title 2, chapter 4, part 3, in setting rental rates and license fees pursuant to 77-1-208, 77-1-802, 77-6-202, ~~77-6-504~~, 77-6-502, and 77-6-507, and [section 1]."

Section 3. 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 reasons therefor for the forfeiture.

(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."

NEW SECTION. Section 4. Repealer. Section 77-6-501, MCA, is repealed.

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 77, chapter 6, part 5, and the provisions of Title 77, chapter 6, part 5, apply to [section 1].

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective date. [This act] is effective January 1, 2009.

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