

1 SENATE BILL NO. 316

2 INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LEASE RENEWALS FOR STATE TRUST LANDS;
5 RECOGNIZING THE DISCRETION OF THE LAND BOARD TO SELECT THE BEST LESSEE TO FULFILL THE
6 OBLIGATIONS OF THE LEASE; LIMITING THE REASONS FOR WHICH A LESSEE WHO MATCHES A HIGH
7 BID MAY REQUEST A REDUCED RENTAL RATE; AMENDING SECTIONS 77-6-202 AND 77-6-205, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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12 **Section 1.** Section 77-6-202, MCA, is amended to read:

13 **"77-6-202. Lease by competitive bidding -- full market value required.** When the department
14 receives an application to lease an unleased tract, it shall advertise for bids on the tract. The tract must be leased
15 to the highest bidder unless the board determines that the bid is not in the state's best interest for the reasons
16 set forth in 77-6-205(2) or (3). The board may not accept a bid that is below full market value. If the high bid is
17 rejected, the board shall set forth the reasons for the rejection in writing. The lease may be issued, at a rental rate
18 to be determined by the board, to the first bidder who is willing to pay the board-determined rate whose name
19 is selected through a random selection process from all bidders on the tract."

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21 **Section 2.** Section 77-6-205, MCA, is amended to read:

22 **"77-6-205. Renewal leases.** (1) A lessee of state land classed as agricultural, grazing, town lot, city lot,
23 or land valuable for commercial development who has paid all rentals due the state or who has voluntarily
24 terminated a lease under 77-6-116 is entitled to have the lease renewed for a period not to exceed the maximum
25 lease period provided in 77-6-109 at any time within 30 days prior to its expiration or within 30 days following
26 voluntary termination if no other applications for lease of the land have been received 30 days prior to the
27 expiration of the lease or within 30 days following voluntary termination. The renewal must be at the full market
28 rental rate established by the board for the renewal period and subject to any other conditions at the time of the
29 renewal imposed by law as terms of the lease.

30 (2) (a) Except as provided in 77-6-212 and subsection (2)(b), if other applications have been received,

1 the holder of the lease has the preference right to lease the land covered by the former lease by meeting the
 2 highest bid made by any other applicant. Applications for lease of lands in this section must be given preference
 3 in the order of their receipt at the office of the department.

4 (b) The board retains the right to select the best lessee possible to fulfill the operating obligations under
 5 any lease. In exercising the board's discretion to select the best lessees possible for agricultural and grazing
 6 leases, the board shall consider the highest bid as well as the ability of the bidders to promote good stewardship
 7 of the land, develop improvements, increase productivity, and improve management.

8 ~~(2)(3)~~ (a) The Except as provided in subsection (2)(b), the board shall accept the highest bid. If the
 9 lessee exercises the preference right and believes the bid to be excessive, the lessee may request an
 10 administrative hearing.

11 (b) The request must contain a statement of reasons why the lessee believes the bid not to be in the
 12 state's best interest. A lessee who exercises the preference right may not ask for a reduced rental based solely
 13 on any financial hardship matching the highest bid would pose to the lessee.

14 (c) The department shall grant the request for a hearing if it determines that the statement indicates
 15 evidence that the bid may not be in the state's best interests. The board may, after the hearing, reduce the rental
 16 from the amount bid if the lessee shows that the bid is not in the best interest of the state because it is above
 17 community standards for a lease of the land, would cause damage to the tract, or would impair its long-term
 18 productivity.

19 (d) If the board reduces the bid, it shall set forth its findings and conclusions in writing and inform the
 20 lessee and competitive bidder of the reduction. It is the duty of the board to secure the best lessees possible, so
 21 that the state may receive the maximum return possible with the least injury occurring to the land.

22 ~~(3)(4)~~ A renewal lease may be canceled pursuant to 77-6-113, 77-6-208, 77-6-209, or 77-6-210 for a
 23 violation by the lessee that occurred during the previous lease term but no more than 3 years prior to the date
 24 on which the notice of cancellation required by 77-6-211 is issued. Cancellation procedures instituted but not
 25 completed before renewal are applicable to the renewal lease.

26 ~~(4)(5)~~ A renewal lease may be voluntarily terminated pursuant to 77-6-116."
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28 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.
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30 NEW SECTION. Section 4. Applicability. [This act] applies to lease renewals that occur on or after

1 [the effective date of this act].

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