

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 408

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO STATE ENDOWMENT TRUST LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE PROVISIONS RELATING TO THE LEASE OF STATE ENDOWMENT TRUST LANDS, TO REVISE TERM OF LEASE PROVISIONS, TO REMOVE REFERENCE TO LANDS ELIGIBLE FOR THE FEDERAL CONSERVATION RESERVE ENHANCEMENT PROGRAM AS IT RELATES TO LEASES FOR COMMERCIAL PURPOSES, AND TO PROVIDE THAT CERTAIN TYPES OF LEASES SHALL NOT BE CONSIDERED LEASES FOR COMMERCIAL PURPOSES AS IT RELATES TO SPECIFIED LAW.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state ~~public school endowment trust lands, other than those valuable for stone, coal, oil, gas or other minerals,~~ shall be for a longer term than ~~ten~~ twenty (~~10~~ 20) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to thirty-five (35) years for residential purposes as determined by the state board of land commissioners including, but not limited to, single family, recreational cottage site and homesite leases.

(4) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to forty-nine (49) years for commercial purposes, ~~or for lands eligible for the federal conservation reserve enhancement program (CREP),~~ under such terms and conditions as may be set by the board, provided that, for such leases in excess of ~~ten~~ twenty (~~10~~ 20) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of ~~ten~~ twenty (~~10~~ 20) years, the department shall hold a hearing in the county in which the parcel is located.

(5) The term "commercial purposes" means fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power with a facility capable of generating not less than twenty-five (25) kilowatts of electricity, industrial

1 enterprises, retail sales outlets, business and professional office
2 buildings, hospitality enterprises, commercial recreational activities,
3 multifamily residential developments and other similar businesses. For
4 purposes of this section, agricultural farming leases, grazing leases,
5 conservation leases including lands enrolled in federal conservation
6 programs such as the conservation reserve enhancement program (CREP),
7 noncommercial recreation leases, oil and gas leases, mineral leases,
8 communication site leases, single family, recreational cottage site and
9 homesite leases, and leases for other similar uses, are not considered
10 leases for commercial purposes. The terms fuel cells, low impact hydro,
11 wind, geothermal resources, biomass, cogeneration, sun or landfill gas
12 shall have the same definitions as provided in section 63-3622QQ, Idaho
13 Code.

14 (6) The board may require that all fixed improvements constructed upon
15 land leased for commercial purposes be removed or become the property of the
16 state upon termination of the lease, and that any heirs, encumbrances or
17 claims of third parties with respect to any improvements shall be expressly
18 subordinate and subject to the rights of the state under this section.

19 (7) Except for oil and gas, mineral and commercial leases, the lease
20 year shall run from January 1 through December 31, and all leases shall
21 expire on December 31 of the year of expiration.

22 (8) All applications to lease or to renew an existing lease which
23 expires December 31 of any year, shall be filed in the office of the director
24 of the department of lands by the thirtieth day of April preceding the date
25 of such expiration. Such applications will be considered by the state land
26 board and be disposed of in the manner provided by law; except that the board
27 may reject conflicting applications for a lease for commercial purposes if
28 the lessee exercises the preference right to renew clause, and provided such
29 right is specified in the lease.

30 (9) Where conflicts appear upon leases, except for mineral leases
31 which, pursuant to chapter 7, title 47, Idaho Code, contain a preferential
32 right to renew clause, such applications shall be considered as having
33 been filed simultaneously. However, nothing herein shall be construed to
34 prevent the state board of land commissioners from accepting and considering
35 applications for new leases at any time.

36 (10) In case improvements have been made on land while under lease which
37 is expiring, and the former lessee is not the successful bidder, but the land
38 is leased to another, the amount of such improvements shall be paid to the
39 former lessee. The following shall be considered improvements: plowing
40 done within one (1) year, provided no crop has been raised on the plowed land
41 after such plowing, fencing, buildings, cisterns, wells, growing crops and
42 any other asset which shall be considered an improvement by the director.

43 (11) Commercial leases of the state lands shall not be subject to the
44 conflict auction provisions of section 58-310, Idaho Code. The board may,
45 at its discretion, consider individual applications or call for proposals
46 and sealed bids by public advertisement, and may evaluate said proposals and
47 award the lease to the bidder whose proposal achieves the highest return over
48 the term of the lease and who is capable of meeting such terms and conditions
49 as may be set by the board; in the alternative, the board may call for lease
50 applications by public advertisement and if more than one (1) person files

1 an application to hold an auction in the same manner as provided in section
2 58-310, Idaho Code. In all cases, the board must obtain a reasonable rental,
3 based upon fair market value of the state land, throughout the duration of
4 the lease. The board may reject any or all proposals and any or all bids,
5 and may reoffer the lease at a later date if the board determines that the
6 proposals or bids do not achieve the highest and best use of the land at
7 market rental.