

SENATE BILL NO. 418

INTRODUCED BY B. MOLNAR

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PREFERENCE TO LESSEES OF STATE TRUST LAND WHO PROVIDE PUBLIC ACCESS ACROSS PRIVATE LAND; AMENDING SECTION 77-6-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Public access preference.** (1) For land leased pursuant to this part, the department shall determine which parcels of state land of more than 1,280 acres are surrounded by privately held land.

(2) (a) If more than one private party owns land bordering a parcel described by subsection (1), the owners may offer to provide public access to the state land across private land. If the leaseholder does not provide access and another private landowner does provide access, the lessee may not exercise the preference right provided in 77-6-205.

(b) If a leaseholder is the high bidder but does not provide public access through private land to the state land, the next highest bidder with land that adjoins the state land has the preference to match the high bid plus 5%.

(3) Access provided pursuant to this section may not be limited by hunting considerations beyond applicable regulations.

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

**"77-6-205. Renewal leases.** (1) A lessee of state land classed as agricultural, grazing, town lot, city lot, or land valuable for commercial development who has paid all rentals due the state or who has voluntarily terminated a lease under 77-6-116 is entitled to have the lease renewed for a period not to exceed the maximum lease period provided in 77-6-109 at any time within 30 days prior to its expiration or within 30 days following voluntary termination if no other applications for lease of the land have been received 30 days prior to

1 the expiration of the lease or within 30 days following voluntary termination. The renewal must be at the full  
 2 market rental rate established by the board for the renewal period and subject to any other conditions at the  
 3 time of the renewal imposed by law as terms of the lease. Except as provided in 77-6-212, if other applications  
 4 have been received, the holder of the lease has the preference right to lease the land covered by the former  
 5 lease by meeting the highest bid made by any other applicant. Applications for lease of lands in this section  
 6 must be given preference in the order of their receipt at the office of the department.

7 (2) (a) The board shall accept the highest bid.

8 (b) ~~If Except as provided in subsection (2)(c),~~ if the lessee exercises the preference right and  
 9 believes the bid to be excessive, the lessee may request an administrative hearing. The request must contain a  
 10 statement of reasons why the lessee believes the bid not to be in the state's best interest. The department shall  
 11 grant the request for a hearing if it determines that the statement indicates evidence that the bid may not be in  
 12 the state's best interests. The board may, after the hearing, reduce the rental from the amount bid if the lessee  
 13 shows that the bid is not in the best interest of the state because it is above community standards for a lease of  
 14 the land, would cause damage to the tract, or would impair its long-term productivity. If the board reduces the  
 15 bid, it shall set forth its findings and conclusions in writing and inform the lessee and competitive bidder of the  
 16 reduction.

17 (c) ~~A lessee subject to the provisions who does not provide public access to the state land may not~~  
 18 ~~request a hearing pursuant to subsection (2)(b).~~

19 (d) It is the duty of the board to secure the best lessees possible, so that the state may receive the  
 20 maximum return possible with the least injury occurring to the land.

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

25 (4) A renewal lease may be voluntarily terminated pursuant to 77-6-116."  
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27 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
 28 integral part of Title 77, chapter 6, part 2, and the provisions of Title 77, chapter 6, part 2, apply to [section 1].

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NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [This act] applies to renewals of leases that occur on or after [the effective date of this act].

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