



AN ACT CLARIFYING LAND BOARD AUTHORITY TO LEASE STATE LANDS FOR WIND AND SOLAR RESOURCES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 77-1-902, MCA.

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

Section 1. Section 77-1-902, MCA, is amended to read:

"77-1-902. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cancellation" means the cessation of a lessee's possessory rights and privileges under a lease due to the lessee's breach of some term of the lease, applicable statutes, or applicable administrative rules.

(2) "Commercial lease" means a contract to use state trust land for a commercial purpose.

(3) (a) "Commercial purpose" means an industrial enterprise, retail sales outlet, business and professional office building, warehouse, motel, hotel, hospitality enterprise, commercial or concentrated recreational use, multifamily residential development, and other similar business.

(b) The term does not include the following uses:

(i) agriculture;

(ii) grazing;

(iii) exploration or development of oil and gas, mineral, and ~~geothermal~~ resources from geothermal, wind, or solar;

(iv) single-family residences, home sites, and cabin sites; and

(v) utility rights-of-way.

(4) "Land value" is the monetary value of the land determined by an appraisal by a certified general appraiser or a department staff appraiser or by a limited valuation.

(5) "Limited valuation" means estimating the land value of commercial lease land by analyzing

comparable land valuations conducted within 2 years of the lease commencement date as provided by real estate appraisers, local tax assessors, local realtors, an evaluation of local market rents, or a combination of those methods.

(6) "Termination" means the automatic completion or ending of the term of a contract according to its provisions. Upon termination, the lessee ceases to have any possessory rights or privileges under a lease."

Section 2. Wind and solar leases authorized. (1) The board may lease state lands for exploration, planning, development, and the production of energy from wind and solar resources.

(2) Leases for wind or solar rights only where no ground disturbance is authorized do not require reclassification.

(3) The board may exercise business discretion in entering leases under this part.

Section 3. Compensating surface lessee. (1) A person who leases wind or solar resources under this part shall compensate the surface lessee for damage to the surface improvements caused by the lease.

(2) (a) The board may require the wind or solar resource lessee to post a bond in an amount set by the board to insure the payment of damages to any surface lessee.

(b) If a surface lessee and a wind or solar resource lessee disagree on the reasonable amount of surface damage, compensation is determined in the manner prescribed by 77-4-129.

Section 4. Lease provisions. (1) A lessee under this part has exclusive rights of possession of the lands or interest leased, subject to conditions in the lease and compliance with the lease.

(2) The state reserves the right in leases under this part to sell, lease, or otherwise dispose of the surface, and the right to lease or exchange the subsurface, of the lands covered by the lease subject to the rights and privileges granted the lessee under the terms of the lease.

(3) A lease must specify the rental to be paid, duration, reasonable forfeiture provisions, bonding, and decommissioning terms.

(4) A lease may contain other provisions that the board and the lessee agree upon that are consistent with this part.

Section 5. Rental and disposition of rent and other receipts. (1) The rental payment to the state for a wind resource development lease may not be less than the full market value of the interest described in the approved lease.

(2) Rentals are credited to the income fund of the grant to which the lands under each lease belong.

Section 6. Rulemaking. The board may adopt rules governing the issuance of leases under this part.

Section 7. Codification instruction. [Sections 2 through 6] are intended to be codified as an integral part of Title 77, chapter 4, and the provisions of Title 77, chapter 4, apply to [sections 2 through 6].

- END -

I hereby certify that the within bill,
SB 63, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 63

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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RESOURCES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 77-1-902, MCA.