

1 HOUSE BILL 154

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Jeff Steinborn

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10 AN ACT

11 RELATING TO PUBLIC LANDS; PROVIDING THAT BUSINESS LEASES FOR
12 REAL ESTATE PLANNING OR DEVELOPMENT PURPOSES SHALL NOT BE
13 EFFECTIVE UNTIL REVIEWED BY THE APPROPRIATE MUNICIPAL AND
14 COUNTY GOVERNING BODY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 19-7-9 NMSA 1978 (being Laws 1971,
18 Chapter 93, Section 1, as amended) is amended to read:

19 "19-7-9. SALE AND LEASE OF STATE LANDS--CONVEYANCE FOR
20 TERM OF YEARS--TERMS AND CONDITIONS.--Any state lands offered
21 for sale by the commissioner of public lands may be sold at the
22 commissioner's discretion for cash or upon payment of not less
23 than one-tenth of the purchase price in cash and payment of the
24 balance in amortized installments for any period up to thirty
25 years with interest on the principal balance at a rate to be

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1 set by the commissioner in the notice of auction pertaining to
2 the particular sale in advance. Additional payments on the
3 principal may be made at any time, but such payments shall not
4 be effective for credit until the date the next installment is
5 due. The purchase contract shall be upon a form prescribed by
6 the commissioner prior to publication of the notice of auction
7 and shall contain the terms and conditions the commissioner may
8 deem to be in the best interest of the state and consistent
9 with law. Should a purchaser die before completing the
10 contract, the due date of the next installment payment shall,
11 upon written application, be deferred by the commissioner for
12 one year. In addition, the commissioner is authorized to
13 convey for any period of time state lands under the
14 commissioner's jurisdiction having value for commercial
15 development or public use purposes, provided that:

16 A. all of the requirements for the disposition of
17 lands set forth in the constitution of New Mexico and the [~~New~~
18 ~~Mexico~~] Enabling Act for New Mexico are complied with,
19 including but not limited to those pertaining to appraisal at
20 true value, advertising and public auction;

21 B. the term and nature of the estate to be conveyed
22 is set forth in the public notice of auction pertaining to the
23 particular conveyance; and

24 C. if the conveyance is a business lease for real
25 estate planning or development purposes, then,

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1 notwithstanding the term of the lease, it shall only be
2 issued after notice and competitive bid and after review and
3 decisions by the appropriate governing body of a municipality
4 or a board of county commissioners pursuant to provisions
5 within Chapter 19, Article 7 NMSA 1978."

6 SECTION 2. A new section of Chapter 19, Article 7 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] LEASES FOR REAL ESTATE PLANNING OR
9 DEVELOPMENT PURPOSES--PRIOR REVIEW BY MUNICIPALITY AND
10 COUNTY.--

11 A. Except as provided in Subsection F of this
12 section, no business lease for real estate planning or
13 development purposes shall be effective until it has been
14 reviewed and decisions issued pursuant to this section.

15 B. Before entering into the lease, the
16 commissioner of public lands shall post the proposed lease on
17 the web site for the state land office with a clearly
18 identified link on the homepage to proposed real estate
19 planning or development leases. The commissioner shall also
20 submit a copy of the proposed lease to:

21 (1) the governing body of each municipality
22 whose planning and platting jurisdiction boundary is within
23 twenty miles of any of the land to be included in the
24 proposed lease; and

25 (2) the board of county commissioners of

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1 each county in which any land in the proposed lease, outside
2 the planning and platting jurisdiction of a municipality, is
3 situated.

4 C. Upon receipt of a proposed lease, the governing
5 body of a municipality or the board of county commissioners
6 shall hold a public hearing, pursuant to the following
7 requirements, to determine whether the proposed lease is in the
8 best interests of the municipality or county:

9 (1) notice of the hearing shall be given at
10 least twenty-one days prior to the hearing date and shall
11 state:

- 12 (a) the subject of the hearing;
- 13 (b) the time and place of the hearing;
- 14 (c) a brief description of the proposed
15 lease, including the amount of acreage subject to the lease,
16 and the location of the acreage, including a map and the
17 proposed activity to be conducted pursuant to the lease;
- 18 (d) the manner for interested persons to
19 present their views; and
- 20 (e) the place and manner for interested
21 persons to secure copies of the proposed lease, including the
22 internet address of the state land office web site on which the
23 lease is posted;

24 (2) the notice shall be published in a
25 newspaper of general circulation in the county;

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1 (3) reasonable effort shall be made to give
2 notice to all persons who have made a written request to the
3 governing body or the board of county commissioners for advance
4 notice of the hearings;

5 (4) at the hearing, the governing body or
6 board of county commissioners shall allow all interested
7 persons, including the commissioner and the proposed lessee, a
8 reasonable opportunity to submit data, views or arguments,
9 orally or in writing, and to examine witnesses testifying at
10 the hearing; and

11 (5) the governing body or the board of county
12 commissioners shall, within thirty days of the public hearing,
13 issue a decision at a public meeting of the governing body or
14 board of county commissioners as to whether or not the proposed
15 lease is in the best interests of the municipality or county.
16 The decision shall be in writing and shall include specific
17 findings by the governing body or board of county
18 commissioners. The decision may also include recommendations
19 to the commissioner and the proposed lessee on specific
20 revisions to the lease that would make it more advantageous to
21 the municipality or county.

22 D. The hearing and decision-making process required
23 by this section may, at the option of the governing body of the
24 municipality or the board of county commissioners, be delegated
25 to a planning commission of that municipality or county.

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E. After the public hearing, except for lease provisions intended to effectuate recommendations of the governing body or board of county commissioners, no material modification to the lease shall be effective until reviewed pursuant to the provisions of this section. As used in this subsection, "material modification" includes any change to the acreage to be included in the lease, the projected uses of the land under the lease and the financial terms of the lease.

F. If within ninety days after receiving a proposed lease pursuant to this section, a governing body of a municipality or a board of county commissioners does not hold a public hearing as required by this section, the commissioner may enter into the lease without the review otherwise required by that municipality or county."

SECTION 3. APPLICABILITY.--The provisions of this act apply to all business leases for real estate planning or development purposes entered into by the commissioner of public lands on or after July 1, 2015.