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HOUSE BILL 605

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Jeff Steinborn

AN ACT

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

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

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

"19-7-9. SALE AND LEASE OF STATE LANDS--CONVEYANCE FOR TERM OF YEARS--TERMS AND CONDITIONS.--Any state lands offered for sale by the commissioner of public lands may be sold at the commissioner's discretion for cash or upon payment of not less than one-tenth of the purchase price in cash and payment of the balance in [~~amortize~~] amortized installments for any period up to thirty years with interest on the principal balance at a .175028.4

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

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

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

25 C. if the conveyance is a business lease for real

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1 estate planning or development purposes, the lease shall not be  
2 effective until reviewed pursuant to the provisions of Section  
3 19-7-9.1 NMSA 1978."

4 Section 2. A new Section 19-7-9.1 NMSA 1978 is enacted to  
5 read:

6 "19-7-9.1. [NEW MATERIAL] LEASES FOR REAL ESTATE PLANNING  
7 OR DEVELOPMENT PURPOSES--PRIOR REVIEW BY MUNICIPALITY AND  
8 COUNTY.--

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

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

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

23 (2) the board of county commissioners of each  
24 county in which any land in the proposed lease, outside the  
25 planning and platting jurisdiction of a municipality, is

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1 situated.

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

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

10 (a) the subject of the hearing;

11 (b) the time and place of the hearing;

12 (c) a brief description of the proposed  
13 lease, including the amount of acreage subject to the lease,  
14 and the location of the acreage, including a map and the  
15 proposed activity to be conducted pursuant to the lease;

16 (d) the manner for interested persons to  
17 present their views; and

18 (e) the place and manner for interested  
19 persons to secure copies of the proposed lease, including the  
20 internet address of the state land office web site on which the  
21 lease is posted;

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

24 (3) reasonable effort shall be made to give  
25 notice to all persons who have made a written request to the

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1 governing body or the board of county commissioners for advance  
2 notice of the hearings;

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

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

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

24 E. After the public hearing, except for lease  
25 provisions intended to effectuate recommendations of the

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1 governing body or board of county commissioners, no material  
2 modification to the lease shall be effective until reviewed  
3 pursuant to the provisions of this section. As used in this  
4 subsection, "material modification" includes any change to the  
5 acreage to be included in the lease, the projected uses of the  
6 land under the lease and the financial terms of the lease.

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

13 Section 3. APPLICABILITY.--The provisions of this act  
14 apply to all business leases for real estate planning or  
15 development purposes entered into by the commissioner of public  
16 lands on or after July 1, 2009.