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An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, without immediate action to ensure the State is receiving adequate compensation for the lease of public lands, the State will suffer economic loss; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §598-A, first ¶, as enacted by PL 1993, c. 639, §1, is amended to read:

The following lands are designated lands under the Constitution of Maine, Article IX, Section 23. Designated lands under this section may not be reduced or substantially altered, except by a 2/3 vote of the Legislature and compliance with the requirements in section 1852-A. It is the intent of the Legislature that individual holdings of land or classes of land may be added to the list of designated lands under this section in the manner normally reserved for amending the public laws of the State. Once so designated, however, it is the intent of the Legislature that designated lands remain subject to the provisions of this section, section 1852-A and the provisions of the Constitution of Maine, Article IX, Section 23 until such time as the designation is repealed or limited by a 2/3 vote of the Legislature.

Sec. 2. 12 MRSA §1852-A is enacted to read:

§ 1852-A. Fair market value for leased lands; approval of commercial leases

1. Fair market value. Notwithstanding any provision of section 1852 to the contrary, the bureau may lease public reserved lands for the purposes specified in section 1852, including the right to use those public reserved lands, only if the compensation for the lease entered into by the bureau under this subchapter is based on reasonable market value and the Legislature has approved the lease pursuant to the provisions of the Constitution of Maine, Article IX, Section 23. The director, by routine technical rulemaking pursuant to Title 5, chapter 375, subchapter 2-A, shall adopt rules for determining reasonable market value.

2. Approval of commercial leases. The bureau, prior to entering into a lease of public reserved lands for commercial purposes, shall submit the lease, including all pertinent terms regarding the lease, including, but not limited to, the length of the lease, the lessee and the amount and purpose of the lease, to the joint standing committee of the Legislature having jurisdiction over public lands matters for review and approval by the Legislature. The joint standing committee may recommend the approval

of the lease, either with or without changes to the terms, including the requirement that the lease be approved by a 2/3 vote of the Legislature, or disapproval of the lease and report that recommendation to the full Legislature for approval. If the Legislature fails to approve the lease, the bureau may not enter into the lease.

Sec. 3. Retroactive application; review of leases since 2014. The Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry shall examine all leases of public reserved lands entered into by the State since January 1, 2014 to determine whether those leases are in compliance with the Maine Revised Statutes, Title 12, section 1852-A. The director shall report the findings of this examination, including any recommendations for action on leases entered into in violation of Title 12, section 1852-A, to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than March 1, 2020. The joint standing committee may report out legislation related to the report of the director to the Second Regular Session of the 129th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill requires that any lease of public lands by the State be at reasonable market value and be approved by the Legislature pursuant to the Constitution of Maine, Article IX, Section 23. The bill requires the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands to submit a lease of public lands for commercial purposes to the joint standing committee of the Legislature having jurisdiction over public lands matters for approval, amendment or disapproval by the committee. The joint standing committee must submit its recommendation to the Legislature for approval. If the Legislature does not approve the lease, the bureau may not enter into the lease.

The bill also requires the Director of the Bureau of Parks and Lands to examine all leases of public reserved lands entered into by the State since January 1, 2014 to determine whether those leases are in compliance with these requirements. The director is required to report the findings of this examination, including any recommendations for action on noncompliant leases, to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than March 1, 2020. The joint standing committee may report out legislation related to the report of the director to the Second Regular Session of the 129th Legislature.