

2020 Regular Session

HOUSE BILL NO. 679

BY REPRESENTATIVE NELSON

CULTURE/REC/TOUR DEPT: Provides relative to the sale and lease of immovable property by the secretary of the Department of Culture, Recreation and Tourism

1 AN ACT

2 To amend and reenact R.S. 36:204(B)(6) and (9), relative to the Department of Culture,
3 Recreation and Tourism; to provide relative to immovable property under the
4 department's supervision, jurisdiction, and management; to provide relative to the
5 powers and duties of the secretary of the department with respect to the sale and
6 lease of such property; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 36:204(B)(6) and (9) are hereby amended and reenacted to read as
9 follows:

10 §204. Powers and duties of secretary of culture, recreation and tourism

11 * * *

12 B. The secretary shall have authority to:

13 * * *

14 (6)(a) Sell, lease, or sublease state park lands in accordance with the
15 applicable provisions of the sale and lease laws of public lands of the state of
16 Louisiana state owned immovable property located within the boundaries of any
17 state park, in accordance with the applicable provisions of law for the sale of the
18 state's immovable property. Additionally, any such sale is subject to the approval of
19 the legislature.

20 * * *

1 (9)(a) Grant leases, subleases, and concession leases, ~~and enter any related~~
2 ~~contract or agreement, hereafter in this Paragraph~~ collectively referred to in this
3 Paragraph as a "lease", on any portion of the immovable property under the
4 department's supervision, jurisdiction, or management, ~~except the Lower Pontalba~~
5 Building, to any ~~of the following:~~ public or private entity. Except as otherwise
6 provided in this Paragraph, a lease is subject to the applicable provisions of law for
7 the lease of the state's immovable property.

8 (a) A public body. The application, advertisement, and bid requirements set
9 forth in Part I of Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950
10 ~~shall not apply to such a lease.~~

11 (b) A private entity. The provisions of Part I of Chapter 10 of Title 41 of the
12 Louisiana Revised Statutes of 1950 shall not apply to a mineral or timber lease with
13 a private entity. ~~If a private entity is obligated under the terms of a lease to~~
14 ~~undertake activities or to construct improvements on the leased immovable property~~
15 ~~that will support the public purposes of the department, the provisions of Part I of~~
16 ~~Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950 shall not apply to~~
17 ~~the lease, but such a lease is subject to the following conditions:~~

18 (i) ~~Such a lease shall be negotiated and let in accordance with fair and~~
19 ~~reasonable criteria established and applied relating to a balance of factors including~~
20 ~~but not limited to rent, highest return of revenue and benefits, financial stability of~~
21 ~~the lessee or sublessee, architectural design, development and management of~~
22 ~~operational plan, uniqueness of operation, and stimulating other economic activity~~
23 ~~and public benefits within the state.~~

24 (ii) ~~A lease entered into by a private lessee for the performance of work on~~
25 ~~the leased premises or the erection, construction, or maintenance of improvements~~
26 ~~on the leased premises shall not constitute a contract for public work as defined in~~
27 ~~R.S. 38:2211(A).~~

28 (iii) ~~The architectural plans for such improvements shall be approved by the~~
29 ~~secretary prior to construction on the leased or subleased property.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 679 Original

2020 Regular Session

Nelson

Abstract: Provides for certain limitations on the powers granted to the secretary of the Dept. of Culture, Recreation and Tourism with respect to the sell and lease of immovable property.

Present law (R.S. 36:204 and R.S. 56:1687) provides generally for the powers and duties of the secretary of the Dept. of Culture, Recreation and Tourism (department), including the authority to sell state park lands. Authorizes the secretary to sell such lands in accordance with the applicable provisions for the sale of the state's public lands.

Proposed law instead authorizes the secretary to sell state owned immovable property located within the boundaries of a state park, in accordance with the applicable provisions for the sale of the state's immovable property. Additionally makes such sales subject to legislative approval.

Present law authorizes the secretary to grant leases, subleases, and concession leases and to enter any related contract or agreement on any portion of immovable property under the department's supervision, jurisdiction, or management, except the Lower Pontalba Building to any public or private entity.

Proposed law removes the authority granted to the secretary to enter into related contracts or agreements. Proposed law otherwise retains present law.

Present law provides that the application, advertisement, and bid requirements of present law (R.S. 41:1211 et seq.) relative to the lease of public lands do not apply to a lease of immovable property granted by the secretary to a public entity or to a mineral or timber lease granted to a private entity.

Proposed law provides instead that leases of immovable property shall be granted in accordance with the applicable provisions of law for the lease of the state's immovable property.

Present law provides that if a private entity is obligated under the terms of a lease to undertake activities or to construct improvements on the property that will support the public purposes of the department, the lease is subject to the following conditions:

- (1) The lease will be negotiated and let in accordance with fair and reasonable criteria established and applied relating to a balance of factors including but not limited to rent, highest return of revenue and benefits, financial stability of the lessee or sublessee, and architectural design.
- (2) A lease entered into by a private lessee for the performance of work on the leased premises or the erection, construction, or maintenance of improvements on the leased premises will not constitute a contract for public work.
- (3) The architectural plans for such improvements shall be approved by the secretary prior to construction on the leased or subleased property.
- (4) Such leases are subject to the laws governing the administration of state lands and cooperative endeavor agreements.

Proposed law provides instead that if a private entity is obligated under the terms of a lease to construct improvements on the leased immovable property, the architectural plans for the improvements are subject to the approval of the secretary prior to construction. Further provides that if a lease authorizes a private entity to construct improvements on any leased immovable property located within the boundaries of a state park, the lease is subject to legislative approval.

Proposed law retains present law provision that no lease entered into by a private entity for the performance of work on the leased immovable property, or for the erection, construction, or maintenance of improvements on the leased immovable property, shall constitute a contract for public work as defined in R.S. 38:2211(A).

Present law provides that it is not the intent of present law to impair or diminish the priority established for individuals who are blind, under the administration of the Louisiana Rehabilitation Services, in the operation of vending stands, vending machines, cafeterias, or other food concessions.

Proposed law retains present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 36:204(B)(6) and (9))