

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 188

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC LANDS; AMENDING SECTION 58-104, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS TO PROVIDE THAT, EXCEPT WHERE LAND IS USED BY A PUBLIC ENTITY FOR A PUBLIC PURPOSE, ALL NONAGRICULTURAL IMPROVEMENTS SHALL BE LEASED TO PRIVATE PERSONS AND ALL BUSINESS OPERATIONS SHALL BE SOLD TO PRIVATE PERSONS; AND AMENDING SECTION 58-133, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEPOSIT OF PROCEEDS FROM THE SALE OF STATE ENDOWMENT LANDS, TO PROVIDE FOR THE ALLOCATION AND DEPOSIT OF SUCH PROCEEDS AND EARNINGS THEREON IN SPECIFIED PERMANENT ENDOWMENT FUNDS AND TO REMOVE PROVISIONS RELATING TO AUTHORIZATION FOR THE STATE BOARD OF LAND COMMISSIONERS TO HOLD PROCEEDS FROM THE SALE OF LAND FOR A SPECIFIED TIME.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 58-104, Idaho Code, be, and the same is hereby amended to read as follows:

58-104. STATE LAND BOARD -- POWERS AND DUTIES. The state board of land commissioners shall have power:

1. To exercise the general direction, control and disposition of the public lands of the state; provided however that, except where the land is used by a public entity for a public purpose, all nonagricultural improvements on said land shall be leased to private persons, and all business operations located on or using said land shall be sold to private persons.

2. To appoint its executive officer, the director of the department of lands.

3. To perform legislative functions not inconsistent with law and to delegate to its executive officer and his assistants the execution of all policies adopted by it.

4. To review upon appeal all decisions of the director of the department of lands in contested matters.

5. To determine the policy, direct the work to be undertaken, solicit bids, contract for work to be performed, and appropriate from its funds the money necessary to carry out such work.

6. To prescribe rules, not inconsistent with law, for the government of the department, the conduct of its employees and clerks, the distribution and performance of its business and the custody, use and preservation of the records, papers, books, documents, and property pertaining thereto.

7. To engage in reseeding and reforestation programs on the public lands of the state.

8. To exchange any public lands of the state, over which the board has power of disposition and control for lands of equal value, the title to which, or power of disposition, belongs or is vested in the governing body or board of trustees of any state governmental unit, agency or institution.

1 9. To regulate and control the use or disposition of lands in the beds
 2 of navigable lakes, rivers and streams, to the natural or ordinary high water
 3 mark thereof, so as to provide for their commercial, navigational, recre-
 4 ational or other public use; provided, that the board shall take no action in
 5 derogation of or seeking to interfere with the riparian or littoral rights
 6 of the owners of upland property abutting or adjoining such lands; except
 7 that when necessary to provide for the highest and best use of such lands for
 8 commercial, navigational, recreational or other public purposes, the board
 9 may acquire the riparian or littoral rights of upland owners by purchase or
 10 gift. The term "natural or ordinary high water mark" as herein used shall be
 11 defined to be the line which the water impresses on the soil by covering it
 12 for sufficient periods to deprive the soil of its vegetation and destroy its
 13 value for agricultural purposes. Provided that this definition shall not be
 14 construed so as to affect or change the vested property rights of either the
 15 state of Idaho or of riparian or littoral property owners. Lands lying be-
 16 low the meander line of a lake bed encompassing a national wildlife refuge
 17 as established under the authority of the Migratory Bird Conservation Act of
 18 February 18, 1929 (45 Stat. 1222), as amended, or the Fish and Wildlife Coordi-
 19 nation Act (48 Stat. 401), as amended, or the Fish and Wildlife Act of 1956
 20 (70 Stat. 1119), as amended (16 USC 742a through 742i), are not subject to
 21 the application of this act.

22 10. To enter into a joint exercise of powers agreement with the United
 23 States forest service in the department of agriculture, pursuant to section
 24 67-2328, Idaho Code.

25 11. To direct and oversee the conduct and operations of the endowment
 26 fund investment board and the Idaho department of lands.

27 12. To appoint and consult with expert advisors for each critical func-
 28 tion for which the state board of land commissioners has responsibility. In
 29 this context, the term "expert advisor" shall mean a person engaged in the
 30 business for which he holds himself out to be an expert and who is experienced
 31 in that field.

32 13. Strategically plan and establish policies to coordinate the man-
 33 agement of state lands with the investment goals of the permanent endowment
 34 funds and earnings reserve funds.

35 14. To provide reports of the status and performance of state endowment
 36 lands and the respective endowment funds to the state affairs committees of
 37 the senate and the house of representatives within fourteen (14) days after a
 38 regular session of the legislature convenes.

39 15. To make distributions to endowment income funds as provided in sec-
 40 tion 57-723A, Idaho Code.

41 SECTION 2. That Section 58-133, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 58-133. ACQUISITION, SALE, LEASE, EXCHANGE OR DONATION OF PUBLIC
 44 LANDS -- CREATION AND OPERATION OF LAND BANK FUND. (1) The state board of land
 45 commissioners may select and purchase, lease, receive by donation, hold in
 46 trust, or in any manner acquire for and in the name of the state of Idaho such
 47 tracts or leaseholds of land as it shall deem proper, and after inventory
 48 and classification as provided herein, shall determine the best use or uses
 49 of said lands: provided, however, that all state-owned lands classified

1 as chiefly valuable for forestry, reforestation, recreation and watershed
2 protection are hereby reserved from sale and set aside as state forests.

3 (2) The proceeds from the sale of state endowment lands may be deposited
4 into a fund which shall be known as the "land bank fund," which is hereby
5 created in the state treasury for the purpose of temporarily holding and
6 allocating proceeds from said land sales pending the purchase of other land
7 for the benefit of the beneficiaries of the endowment to the respective
8 permanent endowment funds involved in such sales. A record shall be main-
9 tained showing separately from each of the respective endowments the moneys
10 received from the sale of endowment lands. ~~Moneys~~ Proceeds from the sale
11 of lands which are a part of ~~an~~ one (1) or more endowment land grants shall
12 forthwith be used only to purchase land for the same endowment allocated to
13 and deposited in the permanent endowment fund of each respective endowment
14 along with any earnings on said proceeds.

15 (3) All moneys deposited in the land bank fund, including earnings on
16 those moneys, are hereby continually appropriated to the state board of land
17 commissioners for the purposes enumerated in this section. ~~The state board~~
18 ~~of land commissioners may hold proceeds from the sale of land in the land~~
19 ~~bank fund for a period not to exceed five (5) years from the effective date~~
20 ~~of sale. If, by the end of the fifth year, the proceeds from the land sale~~
21 ~~have not been encumbered to purchase other land within the state, the pro-~~
22 ~~ceeds shall be deposited in the permanent endowment fund of the respective~~
23 ~~endowment along with any earnings on the proceeds from the land sale, unless~~
24 ~~the period is extended by the legislature.~~