

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1071.01 Megan Waples x4348

SENATE BILL 18-256

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON THE STATE BOARD OF LAND
102 COMMISSIONERS' LEASING AUTHORITY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes that leases of public lands by the state board of land commissioners (board) may be assigned by the lessee upon notice to the board and that the board cannot deny an assignment. The board may charge a fee, but the fee must approximate the board's costs in processing the assignment and cannot be used to generate revenue. If the assignment is part of a transaction involving the transfer of other lands or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

interests, the board does not have authority to examine documents other than those specifically related to the assignment of the lease. In addition, the bill eliminates the requirement that an applicant for a lease give evidence of his or her responsibility to fulfill the terms of the lease. The board is also prohibited from requiring lessees or applicants for leases to report yields, production, income, expenses, or other specific data related to the use of leased or private lands.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The Colorado state board of land commissioners manages state
5 lands in public trust;

6 (b) The board leases state lands for a variety of uses, including
7 agricultural, commercial, mining, recreational, and other uses; and

8 (c) Under the practices and policies of the board, lessees have
9 historically been allowed to assign leases to third parties, but that right
10 has not previously been established in statute.

11 (2) Now, therefore, it is the intent of the general assembly to
12 establish in state statute the right of a lessee to assign a lease of state
13 lands and to limit the board's authority to require certain information from
14 applicants and lessees.

15 **SECTION 2.** In Colorado Revised Statutes, 36-1-118, **amend**
16 (3)(b) and (3)(c); and **add** (3.5) and (8) as follows:

17 **36-1-118. Terms of leasing - renewals - sale of leased land.**

18 ~~(3) (b) The board shall require from any applicant for a lease that he give~~
19 ~~evidence of his responsibility to carry out the terms of the lease. Any~~
20 applicant, except the present lessee, shall deposit with his application a
21 sum of money equal to the first annual rental offered in his application.

22 (c) EXCEPT AS PROVIDED IN SUBSECTION (8) OF THIS SECTION, the

1 board shall also require that an applicant state under oath the total acreage
2 of agricultural or grazing land, if any, owned and to be operated by him
3 OR HER in connection with the land to be leased, and the intended use,
4 during the term of the lease, of both such private land, if any, and public
5 land, either as to THE TYPE OF agricultural products to be produced
6 thereon or as to the carrying capacity of such lands in terms of the
7 ESTIMATED number of livestock such tracts are expected to reasonably
8 support; and, if a renewal, a history, for such period of time as prescribed
9 by the board, of the past use of both such private land, if any, and public
10 land, as to THE TYPE OF agricultural products produced and the
11 ESTIMATED number of livestock grazed thereon.

12 (3.5) (a) A LESSEE MAY ASSIGN A LEASE ENTERED INTO UNDER
13 THIS SECTION TO ANOTHER PARTY. THE ASSIGNEE SHALL FILE WRITTEN
14 NOTICE WITH THE BOARD NO LATER THAN THIRTY DAYS AFTER THE
15 EXECUTION OF THE ASSIGNMENT. THE BOARD HAS NO AUTHORITY TO DENY
16 AN ASSIGNMENT. WHEN THE ASSIGNMENT OF A LEASE IS PART OF A
17 TRANSACTION INVOLVING THE TRANSFER OF OTHER LAND OR INTERESTS
18 INLAND, THE BOARD HAS NO AUTHORITY TO EXAMINE DOCUMENTS OTHER
19 THAN THOSE RELATED SPECIFICALLY TO THE ASSIGNMENT OF THE LEASE.

20 (b) THE BOARD MAY CHARGE AN ASSIGNMENT FEE, BUT SUCH FEE
21 MUST APPROXIMATE THE BOARD'S DIRECT COSTS OF PROCESSING
22 ASSIGNMENTS. THE BOARD SHALL NOT CHARGE ADDITIONAL FEES TO
23 GENERATE REVENUE FROM ASSIGNMENTS.

24 (8) THE BOARD SHALL NOT REQUIRE AS PART OF A LEASE OR LEASE
25 APPLICATION THAT THE LESSEE OR APPLICANT REPORT SPECIFIC YIELDS,
26 PRODUCTION, INCOME, EXPENSES, OR OTHER DATA SPECIFICALLY
27 ASSOCIATED WITH THE USE OF LEASED LAND OR PRIVATE LAND OPERATED

1 IN CONNECTION WITH LEASED LAND. THE BOARD SHALL RELY ON COUNTY
2 AVERAGES OR OTHER PUBLICLY AVAILABLE DATA WHERE SUCH DATA IS
3 NECESSARY TO FULFILL ITS DUTIES UNDER THIS ARTICLE 1.

4 **SECTION 3. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 8, 2018, if adjournment sine die is on May 9,
8 2018); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2018 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to leases entered into on or after the applicable
15 effective date of this act.