

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1893

S.P. 645

In Senate, December 24, 2019

**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)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2019. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BLACK of Franklin.

Cosponsored by Representative HICKMAN of Winthrop and

Senators: CARSON of Cumberland, DAVIS of Piscataquis, DILL of Penobscot, FARRIN of Somerset, President JACKSON of Aroostook, MIRAMANT of Knox, Representatives: HEPLER of Woolwich, KESCHL of Belgrade.

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

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

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

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

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

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

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

23 **§1852-A. Fair market value for leased lands; approval of commercial leases**

24 **1. Fair market value.** Notwithstanding any provision of section 1852 to the
25 contrary, the bureau may lease public reserved lands for the purposes specified in section
26 1852, including the right to use those public reserved lands, only if the compensation for
27 the lease entered into by the bureau under this subchapter is based on reasonable market
28 value and the Legislature has approved the lease pursuant to the provisions of the
29 Constitution of Maine, Article IX, Section 23. The director, by routine technical
30 rulemaking pursuant to Title 5, chapter 375, subchapter 2-A, shall adopt rules for
31 determining reasonable market value.

32 **2. Approval of commercial leases.** The bureau, prior to entering into a lease of
33 public reserved lands for commercial purposes, shall submit the lease, including all
34 pertinent terms regarding the lease, including, but not limited to, the length of the lease,
35 the lessee and the amount and purpose of the lease, to the joint standing committee of the
36 Legislature having jurisdiction over public lands matters for review and approval by the
37 Legislature. The joint standing committee may recommend the approval of the lease,
38 either with or without changes to the terms, including the requirement that the lease be
39 approved by a 2/3 vote of the Legislature, or disapproval of the lease and report that

1 recommendation to the full Legislature for approval. If the Legislature fails to approve
2 the lease, the bureau may not enter into the lease.

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

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

15 SUMMARY

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

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