

STATE BOARD OF LAND COMMISSIONERS

July 15, 2025
Regular Agenda

Subject

Proposed Legislation for the 2026 Legislative Session

Question Presented

Shall the Land Board approve the Department's three 2026 legislative proposals?

Background

The Idaho Department of Lands (Department) seeks State Board of Land Commissioners' (Land Board) approval of its three legislative proposals. Per direction from the Governor's Division of Financial Management, these legislative ideas have been submitted through the Executive Agency Legislative System for consideration during the 2026 legislative session.

Discussion

Forest Fire Protection Assessment Structure Surcharge

Idaho Code § 38-111 states:

"For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the state board of land commissioners shall establish this cost not to exceed sixty-five cents (\$0.65) an acre per year. For private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer, the minimum assessment per year shall be equal to the per acre cost multiplied by twenty-five (25).

In addition to any other assessment prescribed in this chapter, the state board of land commissioners shall establish a surcharge to be levied and assessed in an amount not to exceed forty dollars (\$40.00) for each improved lot or parcel to offset costs associated with wildfire preparedness."

In 2008, the Land Board directed the Department to raise the forest protection assessment to sixty cents (\$0.60) an acre per year. The Land Board also directed the Department to seek statute changes to raise the per acre cap to sixty-five cents (\$0.65) an acre per year and raise the improved parcel (structure) surcharge from \$20 to \$40. The statute was amended in the 2009 legislative session, and the improved lot surcharge was last increased by the Land Board in 2009 to \$40.

The current annual rate of forty dollars (\$40) per improved lot is not sufficient to support the fire protection program. Fund expenditures exceed revenues and will lead to a fire preparedness funding shortfall in about 2031.

Structures in the forest complicate and increase wildfire suppression efforts and costs. Over the past 10 years, the extent of the wildland urban interface (WUI) has expanded in Idaho. Additionally, the number of forested parcels with residences has increased. According to the Federal Emergency Management Agency (FEMA), 30.1-40% of houses in Idaho are in the WUI. This has also resulted in more human-caused fire starts and acres burned in the WUI.

Preparedness costs have increased due to the complications presented by the WUI. Due to the increased values at risk (human life and structures) in the WUI, fires in these areas generally require additional ground and aerial resources, which increases firefighting costs and diverts limited resources away from wildland fires. The Department expects to need additional staffing and equipment to be adequately prepared for wildfire as Idaho continues to grow.

The Department proposes changing the improved parcel surcharge from \$40 to \$100 (Attachment 1). This change is needed to ensure funding into the future for the State's wildland fire protection program.

Endowment Land Commercial Lease Term

Idaho Code § 58-307(5) states:

"Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to forty-nine (49) years for commercial purposes under such terms and conditions as may be set by the board, provided that, for such leases in excess of twenty (20) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of twenty (20) years, the department shall hold a hearing in the county in which the parcel is located. Grazing leases shall be excluded from the hearing requirement."

The 49-year term for commercial leases does not align with industry norms and discourages commercial developers from pursuing commercial ground leases on state endowment land.

The Department proposes to change the language for the commercial lease term from "up to 49 years" to "up to 99 years" (Attachment 2). This change is needed to encourage commercial ground leasing opportunities and increase endowment land asset portfolio revenues.

All Hazard Incident Response

The Department, the Idaho Office of Emergency Management, and the Idaho Fire Chiefs Association are collaborating to develop a statewide memorandum of understanding between firefighting entities at the local, state, and federal level to ensure capacity, coordination, and mutual aid response during wildfire events. This includes engaging their membership(s) in enhanced Type 3 Incident Management Team (IMT) capabilities. Type 3 IMTs are an extended attack coordination module for managing wildfire events and can be adapted for broader emergency management, including natural disasters like hurricanes, tornadoes, and floods (All-Hazard).

Currently the Department lacks the authority to mobilize Fire Service Organizations, pay overtime to Department staff, and have sufficient spending authority to cover reimbursable costs to effectively mobilize resources for All-Hazard response.

The Department proposes adding a new section 38-131C to Idaho Code title 38, chapter 1 to authorize the Department to use deficiency warrants for All-Hazard assignments in Idaho and nationally (Attachment 3). Costs associated with these events would be reimbursable to the State of Idaho. Idaho Code § 38-131 has similar language regarding deficiency warrants (Attachment 4).

Recommendation

Approve the Department's 2026 legislative proposals with the potential for further revisions and withdrawals.

Board Action

Attachments

1. Proposed text change to Idaho Code § 38-111, Idaho Forestry Act
2. Proposed text change to Idaho Code § 58-307, Appraisalment, Lease, and Sale of Lands
3. Proposed new section 38-131C of Idaho Code title 38, chapter 1, Idaho Forestry Act
4. Idaho Code § 38-131, Deficiency Warrants for Excess Costs of Fire Suppression

**TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT**

38-111. PROTECTION BY OWNER — ASSESSMENTS — BUDGET OF PROTECTIVE DISTRICTS.

Every owner of forest lands in the state shall furnish or provide therefor, throughout the closed season, protection against the starting, existence or spread of fires thereon, or therefrom, in conformity with reasonable rules and standards for adequate protection, to be established by the state board of land commissioners. An owner of forest lands who maintains a membership in good standing in a forest protective association operating under agreement with the state board of land commissioners, which association maintains a standard of protection approved by said board and who pays the assessments to the association in the amounts required in this section, shall be deemed to have fully complied herewith. In the event the owner of any forest land shall neglect or fail to furnish the protection required in this section, the director of the department of lands shall provide such patrol and protection therefor at actual cost to the owner of forest lands. For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the state board of land commissioners shall establish this cost not to exceed sixty-five cents (65¢) an acre per year. For private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer, the minimum assessment per year shall be equal to the per acre cost multiplied by twenty-five (25).

In addition to any other assessment prescribed in this chapter, the state board of land commissioners shall establish a surcharge to be levied and assessed in an amount not to exceed ~~forty-one hundred~~ dollars (~~\$40.00~~100.00) for each improved lot or parcel to offset costs associated with wildfire preparedness.

There is hereby established in the state treasury a wildfire equipment replacement fund for the replacement of capital wildfire equipment. The department of lands shall determine reimbursement rates for all capital fire equipment used for activities other than fire preparedness. Reimbursement revenues shall be deposited in the wildfire equipment replacement fund. Additional moneys may be deposited into the wildfire equipment replacement fund from any other source.

In the event an assessment is made in an amount less than the maximum hereinbefore provided, and an actual loss occurs which exceeds the amount budgeted and for which assessments have been made, the director of the department of lands, with the approval of the board, may require an additional assessment to be made and paid, which together with the original assessment shall not exceed the maximum assessment set forth in this section. Such additional assessment shall be levied and collected in the same manner as herein

provided for the collection of such original assessments. The liability provided in this section shall be calculated for each forest protection district or association separately, and shall be calculated solely upon the charges assignable to fire control or presuppression of fires within each district or association.

Each forest protective association actively engaged in forest protection under agreement with the state board of land commissioners shall each year prepare in detail, a budget of all estimated operating costs for the next fiscal year and shall submit this budget to the board for approval before August 31 of the current year.

Except for the provisions of section 38-122, Idaho Code, and cases of proven negligence by the landowner or his agent, no other charges or assessments for fire protection shall be made or assessed or collected from those forest landowners participating as provided herein.

**TITLE 58
PUBLIC LANDS
CHAPTER 3
APPRAISEMENT, LEASE, AND SALE OF LANDS**

58-307. TERM OF LEASE — APPLICATION FOR RENEWAL — ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state trust lands shall be for a longer term than twenty (20) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to thirty-five (35) years for residential purposes as determined by the state board of land commissioners including, but not limited to, single family, recreational cottage site and homesite leases.

(4) Notwithstanding any other provision of law to the contrary, all state lands may be leased for a period of up to forty (40) years for grazing leases.

(5) Notwithstanding any other provisions of law, all state endowment trust lands may be leased for a period of up to ~~fortyninety~~-nine (~~49~~~~99~~) years for commercial purposes under such terms and conditions as may be set by the board, provided that, for such leases in excess of twenty (20) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of twenty (20) years, the department shall hold a hearing in the county in which the parcel is located. Grazing leases shall be excluded from the hearing requirement.

(6) The term "commercial purposes" means fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power with a facility capable of generating not less than twenty-five (25) kilowatts of electricity, industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, farming leases, grazing leases, conservation leases including lands enrolled in federal conservation programs such as the conservation reserve enhancement program (CREP), noncommercial recreation leases, oil and gas leases, mineral leases, communication site leases, single family, recreational cottage site and homesite leases, and leases for other similar uses, are not considered leases for commercial purposes. The terms fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas shall have the same definitions as provided in section 63-3622QQ, Idaho Code.

(7) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(8) Except for oil and gas, mineral and commercial leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(9) All applications to lease or to renew an existing lease which expires December 31 of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of April preceding the date of such expiration. Such applications will be considered by the state land board and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause, and provided such right is specified in the lease.

(10) Where conflicts appear upon leases, except for mineral leases which, pursuant to chapter 7, title 47, Idaho Code, contain a preferential right to renew clause, such applications shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time.

(11) In case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(12) Commercial leases of the state lands shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, consider individual applications or call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board; in the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In all cases, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT

38-131C. DEFICIENCY WARRANTS FOR COSTS OF PROVIDING EMERGENCY RESPONSE ASSISTANCE TO STATE AND FEDERAL ALL HAZARD INCIDENTS. The state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of paying the costs of providing emergency response support for all hazard incident response including fuels reduction in support of mitigating wildfire risk. When so authorized, the state controller shall draw deficiency warrants against the general fund.

**TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS
CHAPTER 1
IDAHO FORESTRY ACT**

38-131. DEFICIENCY WARRANTS FOR EXCESS COSTS OF FIRE

SUPPRESSION. In event the actual cost for the control or suppression of forest fires in any forest protective district exceeds in any one (1) year the maximum moneys available for forest protection in that district from the forest protection fund or any other special or general fund provided for that purpose, the state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of defraying such excess costs and when so authorized the state controller shall draw deficiency warrants against the general fund.

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