Chapter 274

1959 REPLACEMENT PART

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KELP FIELDS; TIDE LANDS; SWAMP LANDS

274.010 Lease of kelp fields. (1) The State Land Board may lease, for the purpose of harvesting kelp and other seaweed, all that land lying off the Oregon coast between the low tide line and three miles seaward therefrom.

(2) The lease may be for a term of not to exceed 50 years and shall provide for the payment to the State of Oregon of a sum to be fixed by the State Land Board for all kelp or other seaweed harvested under the lease, to be paid at the end of each year. The lease shall also be conditioned that for the failure to harvest at least 1,000 tons of kelp or other seaweed, within any one year, from the territory described in the lease, the lease shall be forfeited, at the board's option. Not more than 40 miles of coast line shall be leased to one individual, firm or corporation.

274.020 Time allowed lessee for survey and erection of plant; filing copy of survey with board. For the purpose of aiding and establishing the kelp and seaweed industry, the first leases may be issued allowing the applicant six months' time in which to make a practical survey of the field which he has leased, and another 12 months' time in which to erect a plant and commence operation. The lessee shall, within six months of the time of obtaining the lease, make or cause to be made a practical survey showing the amount and condition of kelp within the territory described in his lease, and shall file a copy of the survey with the secretary of the State Land Board, within six months. Upon his failure so to do, the lease shall be canceled by the board.

274.030 Removing kelp without lease prohibited. No person shall harvest or remove any kelp or other seaweed from any territory off the Oregon coast lying between low tide line and three miles seaward therefrom, unless he has first obtained a lease from the State Land Board.

274.040 Tide and overflow lands; lease and sale. All tide and overflow lands shall be sold or leased only to the highest bidder after being duly advertised for a period of 30 days in two or more newspapers of general circulation in the state, one of which must be published in the county in which the lands lie; provided, that no such lands shall be sold for less than $5 per acre. Any owner of lands abutting or fronting on such tide and overflow lands shall have the preference right to lease or purchase at the highest price offered in good faith. No accretions to islands heretofore sold by the state shall be leased.

274.050 Confirmation of title to tide lands and tide flats. The titles to all tide lands within this state, and all tide flats not adjacent to the shore in the waters of the state, which have been heretofore sold to purchasers by the State of Oregon, where the purchaser has, in good faith, actually paid to the state the purchase price, and the same has been received by the state, and the purchaser has not purchased from the state to exceed 320 acres of that character or class of land, are hereby confirmed to all such purchasers and grantees of the state, their heirs, successors or assigns, when such tide lands have not been fraudulently obtained, and without reference to the amount of any other character of lands purchased by such purchaser theretofore from the state.

Note: 1872 p. 129, as amended by 1874 p. 76 and 1876 p. 69, (subsequently repealed by 1878 p. 41 §54) provided: "The title of this state to tide or overflowed lands upon said Willamette, Coquille, Coos and Umpqua rivers is hereby granted and confirmed to the owners of the adjacent lands, or when any such tide or overflowed lands have been sold, then in that case, to the purchaser or purchasers of such tide or overflowed lands from such owner of such adjacent lands, or some previous owner thereof, as the case may be."

274.060 Regulation of wharves or harbor improvements; oyster beds; public easement in tide and overflow lands. (1) Nothing in ORS 274.040 shall be construed to prevent the legislature of this state, or the corporate authorities of any city or town thereof, from regulating the building of wharves or other improvements in any bay, harbor or inlet of this state, or construed as a grant of the exclusive right to any person to use the natural oyster beds of this state.

(2) The grantee of any tide and overflow lands under ORS 274.040 shall hold the same subject to the easement of the public, under the provisions and restrictions of law, to enter thereon and remove oysters and other shell fish therefrom.

274.070 Ownership of Pacific shore; declaration as highway. Ownership of the shore of the Pacific Ocean between ordinary high tide and extreme low tide, and from the Columbia River on the north to the Oregon and California state line on the south, excepting such portion or portions as may

have been disposed of by the state prior to July 5, 1947, hereby is declared vested in the State of Oregon, and hereby is declared to be a public highway. No portion of such shore shall be alienated by any of the agencies of the state.

274.080 Permit to take products from beach. No sand, rock, mineral, marine growth or other natural product of the Pacific Ocean or beach declared a public highway pursuant to ORS 274.070, other than fish or wild life, agates or souvenirs, shall be taken from such beach, except pursuant to rule, regulation or permit of or from the State Land Board, as provided in this section. Upon request of the county court of any county contiguous to any portion of said ocean shore the State Land Board may grant permits for the removal of sand or rock from said ocean shore at designated locations to supply reasonable needs for essential construction uses in such localities as it appears sand and rock for such construction are not otherwise obtainable at reasonable cost. The State Land Board may grant or issue a license or permit to any individual, firm, copartnership, corporation or association permitting the taking and removal of sand, rock, mineral or marine growth from the ocean shore at designated locations. The terms, royalty and duration thereof shall be at the discretion of the State Land Board, and any such license or permit shall be revocable at any time at the discretion of the State Land Board without liability to the licensee or permittee, and any such license or permit shall so provide, and all royalties received therefrom shall, after deducting cost of administration of this section, be deposited with the State Treasurer for the benefit of the Common School Fund. [Amended by 1955 c.257 §1]

274.090 Automobile and aircraft-free zones on ocean shore. Upon the recommendation of or approval by the county court of any county or the city council of any municipality contiguous to any portion of the ocean shore or beach declared a public highway pursuant to ORS 274.070, or upon its own motion as to such ocean shore or beach, the State Highway Commission may establish areas and zones on the ocean shore wherein there shall be no travel by motor vehicles, or landing of any aircraft except for an emergency. After the establishment of a zone or area and the erection of signs or markers thereon, no such use shall be made of such areas except in conformity with the rules and regulations of the commission. [Amended by 1959 c.237 §1]

274.100 Deposit of logs, debris, etc., prohibited. No person shall deposit or wilfully permit the deposit of any logs, debris, rubbish or refuse upon the ocean shore or beach declared a public highway pursuant to ORS 274.070.

274.110 Effect on other statutes. Nothing in ORS 274.070 to 274.100 shall be construed to repeal ORS 492.780 to 492.810.

274.120 Confirmation of title to swamp and overflow lands; deed to claimant. (1) All the rights and title of the State of Oregon to the swamp and overflowed lands of this state, and claimed by persons who have completed settlement thereon, or who may hereafter complete settlement under the provisions of the pre-emption or homestead laws of the United States, and have obtained a patent or certificate of final proof therefor, hereby are granted and confirmed unto such claimant, his heirs or assigns, respectively.

(2) Upon application of any such claimant to the State Land Board, with proof of claim evidenced by United States patent or final certificate of proof of settlement and payment, issued from the United States Land Office, the board shall execute and deliver to such claimant, without charge, a quitclaim deed of the state's right and title to the lands so claimed.

274.130 Title of certain swamp lands not to be questioned by State Land Board; prohibition against sale of certain swamp lands. The State Land Board shall not call in question the title of any person to any swamp lands which he may not have acquired by full and complete compliance with the pre-emption or homestead laws of the United States, nor shall the board sell to anyone any unsurveyed swamp lands, or swamp lands on which any settler shall have made and perfected bona fide legal entry under the laws of the United States. Swamp lands as used in this section means lands classified as swamp lands pursuant to ORS 273.010.

274.140 to 274.200 [Reserved for expansion]

DRAINAGE AND RECLAMATION OF LANDS

274.210 Authority of State Land Board to contract for drainage and reclamation of

certain lands. The State Land Board for and in behalf of the State of Oregon may enter into contracts with persons or incorporations for the drainage and irrigation of any lakes, marshes or swamps lying in this state, or for the drainage and irrigation of that part which is in this state, of any lake, marsh or swamp lying partly in this state and partly in another state, and for the reclamation of the lands forming the beds of or submerged by any such lakes, marshes or swamps, and for the sale or disposal of such drained and reclaimed lands as provided for in ORS 274.220 to 274.270.

274.220 Applications for drainage and reclamation of lands. Any person, association or corporation desiring to enter into a contract to drain any lake, marsh or swamp lying wholly or partly within this state and reclaim the land forming the bed thereof or submerged thereby, shall file with the State Land Board an application for a contract to drain such lake, marsh or swamp and reclaim such land. The applicant shall, at his own expense and without any cost or charge to the state, make the necessary surveys and prepare a map of the land proposed to be reclaimed. The map shall exhibit a plan showing the submerged area and the mode of the contemplated drainage and reclamation, and shall be accompanied by a list in duplicate of the lands proposed to be drained, with sufficient description to identify the land, either by legal subdivisions or monuments, all in accordance with rules and regulations promulgated by the State Land Board. The application for a contract shall contain an estimate of the cost of the construction of the proposed system of drainage.

274.230 Investigation and report by State Engineer; terms of contract; bond. Upon receipt of the application, map, plan of drainage and reclamation, provided under ORS 274.220, the State Land Board may require the State Engineer to make an investigation and report at the expense of the applicant, and, if the project appears feasible and desirable and such applicant responsible, enter into a contract with the applicant for construction of the drainage and reclamation works. The applicant, entering into the contract shall undertake and agree to drain the lake, marsh or swamp substantially in accordance with the plans set forth in the contract to reclaim the land, to make such proofs of reclamation as are required by the State Land Board, and to pay all costs incident to the contract and making of the proof and any other expense connected therewith. The applicant shall further agree and undertake that work will be commenced upon the ditches or other works necessary for such drainage and reclamation at a time fixed by the State Land Board and agreed upon in the contract; that by the end of the first year after the time fixed in the contract for beginning such work, 10 percent of the necessary expenditure will be made; and that this work will be prosecuted with due diligence until complete and the required proof of reclamation is made. The State Land Board shall require a bond subject to its approval in any sum it may deem necessary to insure the faithful performance of the contract.

274.240 Performance by contractor; disposal of lands. (1) Immediately upon execution of the contract, the contractor undertaking the drainage and reclamation may enter upon the lands for the purpose of reclaiming the same.

(2) The State Land Board shall fix the amount to which the contractor is entitled for reclaiming the lands by drainage or drainage and irrigation and shall also fix the amount to be paid to the state for such lands. The board may permit the contractor to sell or dispose of the land at such price and upon such terms as it may fix in tracts not to exceed 320 acres to any one person under such rules and regulations as the board may promulgate governing the disposal of the same.

(3) Upon proof satisfactory to the board that at least 50 percent of any such tract is producing agricultural crops, and upon proof that the amount fixed by the board as due for reclamation and the amount due the State of Oregon has been fully paid, the board shall issue quitclaim deed for not more than 320 acres to the purchaser of such land.

274.250 Nonperformance; action by land board; appeal from decision of board. (1) Upon failure of any parties having contracts with the state for construction of drainage and reclamation works to begin the same within the time specified by the contract, or to complete the same within the time or in accordance with the specifications of the contract, the State Land Board shall give such parties written notice of such failure, and if after a period of 60 days from

the sending of such notice they have failed to proceed with the work or to conform to the specifications of the contract, the contract and all work constructed thereunder, shall be at once and thereby forfeited to the state.

(2) Upon forfeiture, the State Land Board shall immediately give notice once every week for a period of four weeks in some newspaper of general circulation in the county in which the work is situated, and in one newspaper at the state capital in like manner for a like period, declaring the forfeiture of the contract, and that upon a day fixed proposals will be received at the office of the State Land Board at Salem for the purchase of incomplete works and for the completion of the contract, the time for receiving such bids to be at least 60 days subsequent to the issuing of the last notice of the forfeiture. The sales shall be for cash to the highest responsible bidder, and the money received from the sale of the partially completed works under this section shall first be applied to the expenses incurred by the state in their forfeiture and disposal, and any surplus, paid into the Common School Fund.

(3) The contractors shall have the right of appeal from the decision of the State Land Board, which appeal shall be heard in chambers by the circuit court of the district wherein the head works of the drainage system is situated.

274.260 Title of riparian owners. The title of owners of land riparian to lakes and ponds drained under ORS 274.210 to 274.250 hereby is declared to extend to only so much of the bottom or bed of such lake or pond which may be reclaimed by such drainage as is required to fill up the fractional subdivision or subdivisions of a section which he owns and which are rendered fractional by such lake or pond, and the title of such owner shall be so limited when the waters of such lake or pond receding, because of such drainage, uncover the bed thereof. This section shall not affect the right of riparian owners to land acquired by natural accretion or reliction because of the gradual and natural recession of the waters of the lake or pond to which the lands of such owners are riparian.

274.270 Disposal of moneys received by land board. All money received by the State Land Board under ORS 274.210 to 274.250 shall be paid immediately to the State Treasurer and placed by him in the Common School Fund.

274.280 Surveys and plans for reclamation of lands by State Land Board for grazing and agricultural purposes. The State Land Board may cause reclamation surveys, plans and specifications to be made for the reclaiming of any swamp and overflow lands under the control of the board, for grazing and agricultural purposes.

274.290 Execution of plan. The State Land Board may direct the State Engineer to submit an estimate of the probable cost of any survey, plan or specification of any contemplated reclamation project, and on consideration thereof, if it deems it advisable and in the interest of the state, shall direct the State Engineer to cause such survey and plans and specifications to be made and prepared. Upon receipt thereof the board may proceed under the plan to the extent and in such manner as it deems advisable.

274.300 Swamp and Overflow Land Reclamation Fund. There hereby are appropriated such sums of money not otherwise appropriated, for use from time to time, as are necessary to carry out the purposes of ORS 274.280 and 274.290, out of the net receipts from the sale of gravel, rock and sand from the beds of navigable streams in this state. Such sums of money shall be deposited in the State Treasury in a special account to be known as the Swamp and Overflow Land Reclamation Fund. When sufficient funds become available from the proceeds of the sale or lease of such reclaimed lands, all the sums of money expended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common School Fund.

274.310 Payment for survey and construction. All claims, costs and outlays in connection with the surveys and costs of construction of any reclamation project pursuant to ORS 274.280 and 274.290 shall be paid by voucher drawn against the Swamp and Overflow Land Reclamation Fund, when approved by the State Land Board.

274.320 to 274.400 [Reserved for expansion]

BEDS OF STREAMS AND LAKES

274.410 City use of riverbed material. (1) Any city of the State of Oregon border-

ing on a navigable river, hereby is granted the right to dredge out and use material from the channel of such river, or from the submerged sand bars or tide flats, or the bed of the river in front of such city, for the purpose of filling in or reclaiming the tide lands or mud flats within such city, under applicable restrictions and regulations of the State Land Board. The consent of the United States Government, through the Department of the Army, shall be first obtained by such city.

(2) Any contractor who has entered into a contract with any such city to fill in or reclaim any of its tide flats or overflowed lands may dredge and use such material in the same manner as may be done by such city.

274.420 State ownership of beds of navigable lakes; acquisition of title by others. (1) The title to the beds of all navigable lakes in this state now existing or which may have been in existence in 1859 when the state was admitted to the Union, or at any time since said admission date, and which has not become vested in any person, firm or corporation, is vested in and claimed by the State of Oregon. The State of Oregon hereby is declared to be the owner of the beds of such lakes, and may use and dispose of the same as provided by law.

(2) No person, firm or corporation shall acquire any right, title or interest in or to the beds of any such navigable lakes, or any part thereof, by reliction or otherwise, or by reason of the lowering or drainage of the waters of such lakes, except as provided by statute.

274.430 State ownership of lakes meandered by surveys; status as navigable and public waters. (1) Any and all lakes wholly or partly within the State of Oregon which have been meandered by the United States surveys, hereby are declared to be navigable and public waters, and the waters thereof hereby are declared to be of public character, and the title to the bed and land thereunder, including the shore or space between ordinary high and low water marks and between ordinary high and low water lines, which are not included in the valid terms of a grant or conveyance from the State of Oregon, hereby is declared to be in the State of Oregon, and the State of Oregon hereby asserts and declares its sovereignty over the same and its ownership thereof.

(2) The provisions of ORS 274.430 to 274.450 shall not apply to any nonnavigable lakes lying within the boundaries of any duly organized and incorporated drainage district which was in existence on January 1, 1921.

(3) Nothing in this section shall be construed as impairing the title of any upland or riparian owner to or any vested rights in land which was added prior to May 25, 1921, by natural accretion or reliction to the lands of such upland owner or owners.

274.440 Acquisition of future rights to meandered lakes denied; extension of riparian ownership; lands overflowed by high water. (1) There are no vested rights in or to any future accretion or reliction to the lands of any upland or riparian owner on any lake or public waters referred to in ORS 274.430. No person, firm or corporation shall acquire any right, title or interest in or to the beds of any such public waters or any part thereof, by reliction, accretion or otherwise, or by reason of the lowering or drainage of the waters of such lakes, except as provided by statute.

(2) Upon drainage of such lakes, the title of owners of land riparian to such lakes drained under any law shall extend to so much of the lake bottom or bed reclaimed by such drainage as is required to fill out the least fractional subdivision or subdivisions of any section owned by such riparian owners and which is rendered fractional by the meander line of such lake; and the title of said owners shall be so limited when the receding lake waters, because of such drainage, uncover the lake bed. Where by reason of natural accretion or reliction such fractional subdivision or subdivisions of such upland owners were filled out thereby prior to May 25, 1921, such upland owners shall hold to the line of such lands as extended by the natural accretion or reliction.

(3) Lands covered at ordinary high water at ordinarily recurring seasons by the waters of any lakes or public waters defined in ORS 274.430, or from which the waters of any such lakes or public waters have not at ordinarily high water permanently receded, shall not be deemed or held to be accreted or relicted lands, but the same and all accretions and relictions occurring or formed over any of the lands of the State of Oregon, as provided by ORS 274.430, are the property of the State of Oregon, and may be by it leased, demised,

sold or disposed of in the manner provided by law.

274.450 Acquisition of riparian rights by State Land Board. The State Land Board may acquire and secure by purchase, gift, condemnation or otherwise, any and all riparian rights which may, by any court of competent jurisdiction, be held to be owned by or vested in any upland or riparian owner on any lakes or public waters referred to in ORS 274.430, and may institute such suits or actions as may be necessary in such condemnation proceedings.

274.460 Settler's and riparian owner's preferential right to purchase land within meander lines. All persons qualified to become entrymen and to secure land patents under the homestead laws of the United States and who prior to January 1, 1921, in good faith settled upon lands within the meander lines of lakes returned as navigable by the United States surveys and who, on January 1, 1921, by reason of settlement, cultivation and improvements on any such lands would be entitled to patent from the United States if such lands were open or subject to homestead entry are hereby given a preference right to purchase from the State of Oregon such lands so settled upon by them, not exceeding 160 acres for any one person, upon such terms and at such prices and within such times as shall be fixed by the State Land Board; provided, that owners of the upland bordering upon such ordinary high water mark shall have a preference right to purchase, at the best price bid, state lands as defined in ORS 274.430 and riparian to their lands, and not exceeding 160 acres, in addition to the lands granted them by the provisions of ORS 274.430 and 274.440.

274.470 Settler's right to deed to land within meander lines; preferential right to additional land; tacking by successive settlers. (1) Any person who in good faith settled upon lands within the meander lines of any lake as described in ORS 274.430 and who, on January 1, 1921, actually resided thereon, who maintained his residence thereon for at least five years immediately prior to such date, and who complied with the requirements of settlement, residence, cultivation and improvement, specified for homestead entrymen under the homestead laws of the United States, and which would be sufficient to acquire title by patent if such lands were subject to homestead entry by qualified entrymen, shall be entitled upon proof of such facts to the satisfaction of the State Land Board, to a deed from the state, conveying and granting such lands not exceeding 160 acres without cost; and in addition thereto, such person shall have a preferential right to purchase from the State of Oregon 160 acres of additional lands, chiefly valuable for agricultural purposes.

(2) Any person who did not reside on any such lake bed lands for five years immediately prior to January 1, 1921, but who purchased the improvement or possessory rights or claims of a prior occupant, and whose residence and possession when tacked to that of such prior occupant extended for a period of not less than five years immediately prior to such date, shall have a preferential right to purchase such lands, not exceeding 160 acres, the price of which shall be fixed without reference to the value of the improvements thereon.

274.480 Rights of riparian owners on Malheur and Mud Lakes. The owners of lands riparian to Malheur and Mud Lakes, in Harney County, Oregon, shall be granted title to so much of the bottom or bed of such lakes as is required to fill out the least fractional subdivision or subdivisions of any section owned by such upland owners, and which if rendered fractional by the meander line of such lakes, in addition to the rights recognized by ORS 274.430 to 274.460 to any natural accretion or reliction added to the lands of such upland owners prior to May 24, 1923. Owners of any upland bordering upon such meander lines shall have a preferential right to purchase, in addition, 160 acres of such state lands, chiefly valuable for agricultural purposes.

274.490 Settlement of conflicting preferential rights. Settlers within the meander line of any lake specified by ORS 274.430, shall have the first preferential right, and the State Land Board shall, so far as may be practicable, work out the various preferential rights by securing to each, all the lands which would be most advantageously used by such several persons. In case of conflict, the State Land Board shall give the parties a reasonable time in which to agree, and if they cannot agree, the board shall decide the matter and make conveyances as it shall deem just and equitable, and its decision in the matter shall be final. The

State Land Board shall fix the time within which such preferential rights shall be exercised.

274.500 Conveyance of compact area; prices; maximum acreage. (1) All of the lands referred to in ORS 274.470 and 274.480 granted or conveyed by the state, shall be granted and conveyed in a reasonably compact area, to be determined by the State Land Board.

(2) All sales of such state lands shall be at prices fixed by the State Land Board, and no more than 320 acres shall be sold or conveyed to any one person.

274.510 Lake bed lands claimed by the United States. (1) If the Federal Government claims title or interest in any lake bed lands referred to in ORS 274.470 or 274.480 the same shall not be conveyed or otherwise disposed of, or preferential right therein accrue until such claim is settled. The State Land Board may enter into such agreements with the Federal Government affecting such lands as it deems best in the interest of the public, and make such deeds and conveyances to the United States in consideration of the issuance of such patents by the United States to the State of Oregon of such lands or lake beds within the meander lines of any such lakes as the State Land Board and the Federal Government may mutually agree upon.

(2) Nothing contained in this section shall be construed as a recognition of any title or interest in the United States below or within the meander lines of any meandered lake to any lands or waters of any such lake prior to the execution and delivery of a deed or conveyance from the State of Oregon as provided for in this section.

(3) In carrying out such agreements the board may utilize the proceeds from the sale of such lands in which title or interest is claimed by the Federal Government. This section does not authorize the State Land Board or any other state agency to enter into any agreement which will divest any person or corporation of any water rights acquired under the laws of this state or otherwise.

274.520 Acceptance of deed to lake bed lands as precluding any other claim. Any person who elects to take or accept any deed from the State of Oregon under ORS 274.430 to 274.510 to any lake bed lands, shall be deemed to take the same in lieu of any claim to any other lands within the meander line of any such lake in which such deeded lands lie, and shall not thereafter be permitted to maintain in any court any claim to any lands inside the meander line of such lake other than to the lands conveyed to such person by deed from the state under ORS 274.430 to 274.510 or which such person acquires in good faith from a grantee or purchaser from the State of Oregon under such statutes.

274.530 Lease of stream beds for the purpose of removing material therefrom. The State Land Board may, after notice of competitive bidding, lease the beds of navigable portions of navigable streams for the purpose of removing gravel, rock and sand therefrom. No lease shall be made for a lump sum but only on a basis of the price per cubic yard for the material removed.

274.540 Application for lease. Before any person shall take any gravel, rock or sand from state properties, except in the manner and for the purposes mentioned in ORS 274.550, he shall apply to the State Land Board for a lease, and such application shall be accompanied by a map or plat showing the premises. Upon receipt of such application and map or plat the State Land Board may award a lease to the applicant and fix a royalty. [Amended by 1953 c.181 §2]

274.550 Removal of material from stream beds without lease authorized for certain purposes. (1) The removal of gravel, rock, sand, silt or other material from the bed or bars of any navigable stream within the state is authorized when the same is removed for channel or harbor improvement or flood control, or when the material is used for filling, diking or reclaiming land located not more than one-half mile from the bank of the stream.

(2) No payment of royalty shall be required for such gravel, rock, sand, silt or other material unless the same is removed from the place deposited and sold or used as an article of commerce. Before any such material may be removed from the place deposited and sold or used as an article of commerce, the State Land Board shall be duly notified in writing of such intended removal and sale or use as an article of commerce and payment shall be made to the board of such royalty as it may fix therefor.

(3) In addition to the purposes enumerated in subsection (1) of this section, any person may take gravel, rock, sand, silt or

other material for his own exclusive use to the extent of not more than 50 cubic yards in any one year.

274.560 Lease terms; bond; exclusive privilege forbidden; monthly reports and payments. The State Land Board may enter into contract of lease with such stipulations protecting the interest of the state as the board may require, and shall require a bond with a surety company authorized to transact a surety business in this state, as surety, to be given by the lessee for performance of such stipulations, and providing for forfeiture for nonpayment or failure to operate under the contract. No contract shall be entered into giving any person an exclusive privilege of leasing or purchasing the property of the State of Oregon. The lessee in all such contracts shall report monthly to the State Land Board the amount of gravel, rock and sand taken under the contract and pay to the board the amount of royalty thereon provided in the contract.

274.570 Unauthorized removal as trespass. The establishment or placing of a dredging or digging outfit on any waters or stream, the bed of which belongs to the State of Oregon, and the removal of material from the bed thereof for commercial uses, without having applied for and received a lease, hereby is declared to constitute a continuing trespass.

274.580 Removal without compliance with statute prohibited. No person shall remove gravel, rock or sand from the bed of any navigable stream of water, or from the bars of any navigable stream, or from any property of the State of Oregon, for commercial uses without complying with the provisions of ORS 274.540 to 274.560.

274.590 State Land Board cooperation with Washington authorities respecting removal of material from the bed of the Columbia River. The State Land Board shall cooperate with the proper authorities of the State of Washington in contracting for, receiving and collecting royalties or other revenues for the taking of sand, gravel or other material from the bed of the Columbia River and enter into such agreements as may be advisable or necessary with such officers of the State of Washington for the division of such royalties. The board may do such other things and take such other action as may be advisable or necessary as to such taking.

274.600 Land board powers to enforce statute; proceeds to go to Common School Fund. (1) The State Land Board shall employ such assistance as required to carry out ORS 274.530 to 274.600 and shall receive the services of the Attorney General and the State Engineer when required.

(2) The State Land Board may inspect and audit books, records and accounts of each person removing rock, sand or gravel from the bed of any navigable stream or waters or other state land, and make other investigation and secure or receive other evidence necessary to determine whether or not the State Land Board is being paid the full amount payable to it for the removal of such sand, rock or gravel. The State Land Board may proceed by action or suit to enforce payment for all materials heretofore or hereafter taken from any waters or stream, the bed of which belongs to the State of Oregon, for commercial uses, whether under lease, or otherwise, for which payment has not been made.

(3) The proceeds derived from the operations under ORS 274.530 to 274.600 after payment of all expenses incident hereto, shall be turned over to and become a part of the Common School Fund.

274.610 to 274.980 [Reserved for expansion]

PENALTIES

274.990 Penalties. (1) Violation of ORS 274.030 is punishable, upon conviction, by a fine not exceeding $100 for each offense.

(2) Violation of any provision of ORS 274.070 to 274.100, or any rule or regulation of the State Highway Commission promulgated under such statutes, is punishable, upon conviction, by a fine not exceeding $500 or imprisonment in the county jail for not more than six months, or both.

(3) Violation of ORS 274.580 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment of not less than 10 days nor more than 250 days.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel