

TITLE 44

FORESTRY AND FOREST PRODUCTS

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Chapter 526

1963 REPLACEMENT PART

Forestry Administration

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DEFINITIONS

526.005 Definitions. In this chapter, unless the context or subject matter otherwise requires:

- (1) "Board" means State Board of Forestry.
- (2) "Forester" means State Forester.
- (3) "Warden" means fire warden.
- (4) "Forest land" means any forested land, woodland, brushland, cutover land or clearing, which, during any time of the year, contains enough inflammable forest growth or debris to constitute a fire hazard.
- (5) "Classification committee" means a county forest land committee established under this chapter.

[Amended by 1961 c.123 §3]

**STATE FORESTRY DEPARTMENT;
BOARD OF FORESTRY;
STATE FORESTER**

526.008 State Forestry Department. The State Forestry Department shall consist of the State Forester, his assistants and employes, acting under direction of the State Board of Forestry.
[1961 c.123 §1]

526.010 State Board of Forestry created; members, duties, compensation, meetings, quorum. (1) There shall be a State Board of Forestry consisting of 11 voting members and three nonvoting members. The voting members shall consist of the Dean of the School of Forestry of Oregon State University and 10 other members appointed by the Governor. The Governor shall select one member to serve as chairman and such chairman shall hold his position until relieved and shall have such powers and duties as provided by the board.

(a) Six voting members shall be chosen from persons actively and principally engaged in an administrative capacity in the production or manufacture of forest products. One of the members shall be appointed from Congressional District No. 2 and one member from Congressional District No. 3. Four of the members shall be appointed from Congressional Districts No. 1 and 4 with two members resident in each of the two districts. For the purposes of this paragraph residence shall be determined for each member as of the date of his appointment. The positions on the board under this paragraph shall be filled by persons recom-

mended by any of the following: The West Coast Lumbermen's Association, the Willamette Valley Lumbermen's Association, the Industrial Forestry Association, the Western Forest Industries Association, the Western Pine Association, the Associated Oregon Industries and representatives of the paper and pulp industry. In the absence of recommendations, the Governor shall appoint the members.

(b) One voting member shall be chosen from two or more persons recommended by the Association of Oregon Counties. In the absence of recommendations, the Governor shall appoint the member.

(c) Three voting members shall be chosen in the following manner: (A) One shall be chosen from the persons recommended by the Oregon Farm Bureau Federation, the Oregon State Grange or the Oregon Farmers Union; (B) One shall be chosen from persons recommended by the Western Oregon Livestock Association, the Oregon Cattlemen's Association or the Oregon Wool Growers' Association; and (C) One shall be chosen from the persons recommended by the Izaak Walton League, the Oregon Wildlife Federation or the Oregon State Labor Council, AFL-CIO. In the absence of recommendations, the Governor shall appoint the members. No member appointed under this paragraph shall be resident in the same congressional district as any other member appointed under this paragraph. For the purposes of this paragraph residence shall be determined for each member as of the date of his appointment.

(d) The Regional Forester of the United States Forest Service, the State Director of the Bureau of Land Management and the president of the Oregon Forest Protection Association, or their designated representatives, shall be nonvoting members of the board and shall act in an advisory capacity.

(2) The board shall supervise all matters of forest policy and management under the jurisdiction of the state, and approve claims for expenses incurred under the provisions of the statutes administered by the board, unless otherwise provided. The members of the board shall receive no compensation for their services, but shall be entitled to actual traveling expenses incurred in attending board meetings. The board shall meet on the first Wednesday following the first Monday in January, March, June and

September, at the State Forestry Headquarters, Salem. The board may meet at other times upon the call of the chairman or the secretary of the board and at any convenient place in the state. A majority of the board shall constitute a quorum.

[Amended by 1953 c.68 §19; 1953 c.372 §22; 1957 c.654 §1; 1959 c.571 §1; 1963 c.63 §1]

526.015 Term of board members; filling vacancies. The term of office of a voting member of the State Board of Forestry is four years. If a vacancy occurs prior to the end of the normal term, the Governor shall appoint a person to complete the unexpired term. If the member whose term is not completed was appointed under chapter 654, Oregon Laws 1957, the person appointed to complete his term shall be chosen in the same manner and under the same paragraph of subsection (1) of ORS 526.010 as the member whose term is not completed.

[1957 c.654 §3]

526.020 State Forester, appointment, expenses allowed, general powers and duties; Acting State Forester. (1) The State Board of Forestry shall appoint a State Forester, who shall be a practical forester familiar with western conditions and experienced in organization for the prevention of forest fires. He shall hold office at the pleasure of the board, which also shall have power to fix his compensation. He may appoint assistant state foresters and a deputy state forester with the approval of the State Board of Forestry. He shall be allowed necessary office and contingent expenses, including clerical help, and he and his assistants and his deputy shall be paid actual traveling and field expenses incurred in the performance of their official duties.

(2) He shall:

(a) Under the supervision of the State Board of Forestry, execute all matters pertaining to forestry.

(b) Devise and promulgate rules and regulations, with the approval of the State Board of Forestry, for the enforcement of the state fire laws, the protection of forest lands and the conservation of forest resources, not inconsistent with law, and within the provisions of the statutes prescribing his or the board's duties.

(c) Appoint and instruct fire wardens as provided for in ORS chapter 477.

(d) Direct the improvement and protection of state forest lands.

(e) Collect data relative to forest conditions.

(f) Take such action as is authorized by law to prevent and extinguish forest, brush and grass fires.

(g) Enforce all laws pertaining to forest and brush-covered land and prosecute for any violation of such laws.

(h) Cooperate with landowners, counties or others in forest protection.

(i) Advise and encourage reforestation.

(j) Publish such information on forestry as he may deem wise.

(k) Act as secretary of the State Board of Forestry.

(L) Prepare biennially a report to the Governor on the progress and condition of state forest work, containing recommendations for improving methods of forest protection, management and reproduction.

(m) Under the supervision of the State Board of Forestry, enter into contracts and cooperative agreements pertaining to experiments and research in the field of forestry.

(n) Sell, exchange or otherwise dispose of any real property heretofore or hereafter acquired by the board for administrative purposes and no longer needed.

(3) During the State Forester's absence or disability, all his authority shall be exercised by the deputy state forester or by the assistant whom the State Forester or the State Board of Forestry may designate as Acting State Forester.

[Amended by 1953 c.68 §19; 1955 c.117 §1]

526.030 State Forester to cooperate with other agencies and individuals; payment of expenses; contracts for supervision; deposit for costs. (1) Under the direction of the State Board of Forestry, the State Forester shall, upon request, and whenever he deems that it will serve the public interest, assist and cooperate with any federal or state department or any institution, county, town, corporation or individual owning or controlling forests or woodlands within the state, in the preparation of plans for their protection, management, replacement or extension. Unless otherwise provided by law, the parties obtaining such assistance shall pay the necessary costs of travel, subsistence and other field expenses incurred by the State Forester or his assistants in the preparation and execution of these plans.

(2) Under the direction of the State Board of Forestry, the State Forester may enter into contracts with the applicants under which he will supervise the execution of

the plans, provided that the costs of carrying them out shall be paid by the applicants.

(3) In carrying out the provisions of this section the State Forester may require the applicant to deposit in one or more instalments the moneys needed to cover the cost of preparing and executing the plans; such deposits shall be placed in the State Treasury and credited to the State Board of Forestry Account and shall be used exclusively for the purposes of this section.

[Amended by 1953 c.23 §2; 1955 c.27 §1; 1961 c.123 §4]

526.040 [Repealed by 1953 c.43 §2]

526.050 [Repealed by 1953 c.23 §2]

FUNDS AND FINANCES

526.060 State Board of Forestry Account. (1) There hereby is established in the General Fund of the State Treasury an account to be known as the State Board of Forestry Account. Excepting the sinking fund moneys designated in ORS 530.280, all assessments, federal apportionments or contributions, and other moneys received by the State Forester or State Board of Forestry shall be paid into the State Treasury and credited to the State Board of Forestry Account. All moneys in the State Board of Forestry Account hereby are appropriated continuously for and shall be used by the State Forester, under the supervision and direction of the State Board of Forestry, for the respective purposes authorized by law.

(2) The State Forester shall keep a record of all moneys deposited in the State Board of Forestry Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

[1957 c.83 §1]

526.070 Bond of State Forester. The State Forester shall furnish a bond in favor of the State of Oregon in the penal sum of \$100,000 issued by a surety company registered and duly authorized to do business in the State of Oregon, which bond shall be approved as to form by the Attorney General of Oregon, and shall be conditioned upon the faithful and honest handling and disposition of the moneys in the State Board of Forestry Account, as required by law, and the bond shall be further conditioned upon the faithful and honest handling and disposition of

any other fund or moneys of the State Forester, including but not limited to the revolving fund created by ORS 526.111 and the sinking fund created by ORS 530.280. The premium for the bond shall be paid from the appropriation of the State Board of Forestry. Notwithstanding the provisions of any other law that may be in conflict with this section, the bond required of the State Forester in this section shall supersede and be in lieu of any other bond required of the State Forester for the handling of the funds and moneys mentioned in this section.

[1957 c.83 §22]

526.080 Purchase or acceptance of United States surplus property. Subject to the allotment provisions of ORS 291.238, the State Forester and State Board of Forestry hereby are authorized to purchase or accept excess and surplus property from the United States.

[1957 c.83 §25]

526.090 Acceptance and use of moneys under Agricultural Act of 1956 (Soil Bank Act and other Acts). (1) The State Forester, under the supervision and direction of the State Board of Forestry, may receive moneys from the Federal Government in connection with cooperative work and programs set out in the Agricultural Act of 1956, and any amendments thereto passed by the Congress of the United States (Public Law 540—84th Congress; Chpt. 327—2nd Session), particularly the provisions of Title I (Soil Bank Act) and Title IV of the Agricultural Act of 1956 and Acts amendatory thereof and supplemental or complementary thereto.

(2) All moneys received by the State of Oregon, pursuant to the provisions of the Act or Acts of Congress mentioned in subsection (1) of this section shall be paid into the State Treasury and credited to the State Board of Forestry Account and shall be used exclusively for the respective purposes of such Act or Acts.

[1957 c.83 §4]

526.095 Clarke - McNary Act accepted by State of Oregon. The State of Oregon hereby accepts the provisions of the Clarke-McNary Act, approved June 7, 1924, as amended, passed by the Congress of the United States, and entitled "An Act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous

production of timber on lands chiefly suitable therefor," and will observe and comply with the requirements of that Act of Congress. The State Forester, under the supervision and direction of the State Board of Forestry, is the agent of the State of Oregon for the purposes of that Act, and may cooperate with the authorities of the United States having powers and duties under that Act of Congress to do and perform all things necessary to secure to the State of Oregon the benefits of that Act of Congress or Acts amendatory thereof and supplemental or complementary thereto. All moneys received by the State of Oregon pursuant to the provisions of that Act of Congress shall be paid into the State Treasury and credited to the State Board of Forestry Account and shall be used exclusively for the purposes of that Act.

[1957 c.83 §2]

526.100 [Reserved for expansion]

526.110 [Repealed by 1953 c.327 §6]

526.111 Revolving fund for State Forester created; purposes. Notwithstanding the provisions of ORS 291.238, or of any other law that may be in conflict herewith, there hereby is created a revolving fund for the State Forester in the sum of \$75,000. The fund shall be deposited with the State Treasurer and shall be at the disposal of the State Forester for the payment of lawful expenses incurred under the direction of the State Forester and the State Board of Forestry in the prevention or suppression of fire and the protection of forest lands, and in the payment of miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation. The State Forester may draw his checks or orders upon the State Treasurer in making disbursements for the said purposes. The creation of said fund shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

[1953 c.327 §1]

526.120 [Repealed by 1953 c.327 §6]

526.121 Reimbursement of revolving fund; keeping records. (1) Reimbursement vouchers for claims paid from said fund created by ORS 526.111 shall be approved by the State Forester and shall be audited by the Secretary of State. Warrants in payment of the vouchers shall be drawn in favor of the State Forester and by him shall be deposited with the State Treasurer to reimburse the fund.

(2) The State Forester shall maintain such accounts and records as shall readily disclose the true status of vouchers payable from, and checks outstanding against, the fund and the balance to the credit thereof. [1953 c.327 §2; 1957 c.83 §23]

526.130 [Repealed by 1953 c.327 §6]

526.140 [Repealed by 1953 c.327 §6]

526.150 [Repealed by 1953 c.327 §6]

526.160 Equipment pool; costs; participation; termination; leasing communication equipment. (1) The equipment pool operated by the State Forester and State Board of Forestry, which furnishes transportation and equipment for the various activities and programs of said official and board, is continued in existence. The equipment pool shall be for the purpose of the acquisition, operation, storage, maintenance and replacement of equipment, and the necessary materials and supplies for the operation of such equipment, all hereinafter referred to in this section as "equipment." Notwithstanding any other law, the forester, under the direction of the board, may:

(a) Determine each activity or program of the forester or board which shall participate in the equipment pool, and in so doing, the forester shall cause the transfer of moneys from the account or fund representing such activity or program in an amount determined advisable for equipment pool purposes; provided, however, in each instance the transfer of moneys shall be based upon the proportionate use of the equipment pool, or the proposed use thereof, by the activity or program.

(b) Transfer equipment to the equipment pool, which items of transfer are owned by the State of Oregon and under the jurisdiction of the board or forester; in such event, the accounts and records shall reveal the cash value of the transferred items as of the date of the transfer.

All items transferred, together with any equipment purchased from moneys transferred to the equipment pool, shall be available for all activities or programs participating in the equipment pool; provided, however, upon use of such equipment for any activity or program, there shall be a reasonable use charge against such activity or program. The charge shall be based upon the maintenance and replacement costs for the equipment used, including operational expenses.

(2) At the end of each month the State Forester, under the supervision and direction of the State Board of Forestry, shall render a statement on a basis of mileage or rental against each activity or program for transportation or equipment used or furnished for such activity or program. The amount specified in the statement shall be a charge against the funds or moneys available for such activity or program. All amounts so charged shall be credited to the State Board of Forestry Account and, notwithstanding the provisions of ORS 291.238, are available for and shall be used exclusively for the acquisition, operation, storage, maintenance, repair and replacement of equipment by the State Forester, and for administrative expenses of the State Forester and State Board of Forestry in connection therewith, and for the payment of insurance premiums for such equipment.

(3) Any proceeds from the sale or other disposition of equipment of the equipment pool shall be credited to the State Board of Forestry Account for equipment pool purposes. Administrative costs in connection with the operation of the equipment pool shall be included in the computation of the mileage or rental statement. The State Forester shall at all times keep records and accounts which shall disclose the mileage and rental charges, and against which activity or program the charges shall be a claim.

(4) The State Forester and State Board of Forestry are hereby authorized to lease communication equipment owned or acquired under this section to any forest protective agency under contract with the State Board of Forestry for the protection of forest land against fire; provided, however, that the communication equipment shall be used for the purposes of the fire protection system designated in ORS 477.005. Any lease so made shall provide for a rental at the current rates established for the equipment pool. All amounts so charged shall be credited as provided for in this section.

(5) Should the equipment pool be terminated by the board, each activity or program shall have an equity in the moneys of the pool and in the cash value of the equipment and personalty of the pool; such equity shall be in proportion to the amount of the moneys and value of the equipment and personalty transferred to the pool by this section. By this provision, each activity or program participating in the equipment pool shall

have a continuing and recognized interest in the total value of the pool so long as the equipment pool exists unless otherwise such equity is purchased.

(6) Forest protective associations under contract or cooperative agreement with the board or forester pursuant to ORS 477.028 or 477.073 may, with the approval of the board, participate in the equipment pool for the purposes of said contract or agreement. Participation by such an association will be on the same basis as an activity or program of the board that participates in the equipment pool.

(7) At the option of the State Board of Forestry, the lease agreements made under subsection (4) of this section may be merged under the equipment pool administration and equities set forth in this section.

[1953 c.74 §1; 1957 c.83 §9; 1959 c.61 §1; 1963 c.242 §1]

526.170 [1953 c.71 §1; repealed by 1957 c.83 §26]

ACQUISITION AND DISPOSITION OF PROPERTY

526.172 Acquisition of real property and rights of way. (1) In addition to any authority otherwise granted by law, the State Board of Forestry hereby is authorized to acquire by purchase, agreement or donation real property, or any interest therein, including easements and ways, deemed necessary by the board for:

(a) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or State Forester.

(b) Use as forest patrol sites, administrative sites, nursery sites, communication sites, construction of shops, equipment sheds and office buildings.

(c) Quarry sites, gravel pits and rights of way for pipe lines, communication lines and power lines.

(d) Any other use or purpose necessary in carrying out the lawful authority, duties and obligations of the board or State Forester.

(2) In addition to any authority otherwise granted by law, the State Board of Forestry hereby is authorized to acquire by the exercise of the power of eminent domain, real property, or any interest therein, including easements and ways, deemed necessary by the board for:

(a) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or State Forester.

(b) Use of forest patrol or communication sites.

(c) Rights of way for pipe lines, communication lines and power lines.

[1959 c.287 §1]

526.174 Exchange of property. The State Board of Forestry is further authorized to convey to any person, firm or corporation, all or parts of the real property described in ORS 526.172, in exchange for other property or properties which, in the judgment of the board, are of equal or superior useful value for public use.

[1959 c.287 §2]

526.176 Taking title in fee simple. In all cases where the title to real property is acquired by the State Board of Forestry under authority of ORS 526.172, a title in fee simple may be taken.

[1959 c.287 §3]

526.178 Going upon private property. The State Board of Forestry, or any duly authorized representative of the board, may go upon private property for the purposes of examination, inspection or survey to determine the advisability or practicability of acquiring real property, or any interest in real property. The board may exercise this authority prior to the filing or commencement of condemnation proceedings, but in the exercise of such authority the owner shall not be unnecessarily inconvenienced or disturbed in the use and enjoyment of his property.

[1959 c.287 §4]

526.180 Resolution to acquire real property; agreement with owner. (1) Whenever in the judgment of the State Board of Forestry it is necessary to acquire real property, or any interest therein, for any of the purposes for which the board is authorized by law to acquire such property, the board may, after first declaring by resolution that the real property is necessary and the purpose for which it is required, attempt to agree with the owner of any interest in the real property with respect to the compensation to be paid therefor, and the damages, if any, for the taking thereof.

(2) The resolution of the board is conclusive evidence of the public necessity of the real property, or interest therein, and that the acquisition thereof will be most compatible with the greatest public good and the least private injury.

(3) It is not prerequisite to the exercise

of the right of eminent domain, or to the bringing of any condemnation proceedings to acquire title to real property, or interest therein, to attempt first to agree with any owner of such land or to allege or prove any effort to agree with such owner as to reasonable value where such owner is at the time concealed within the state or, after reasonable effort by the board, cannot be found within the state.

[1959 c.287 §5]

526.182 Commencement of condemnation proceedings; defendants. (1) If the State Board of Forestry is unable to agree with the owner of any interest in the real property referred to in ORS 526.180, or if the owner conceals himself, or if, after diligent search, the board is unable to find the owner within the state, the board may commence and prosecute to a final determination any necessary or appropriate suit or action for the state in the name of the state, by and through the board, in the circuit court of the county wherein the real property is located, for the condemnation of such interests as the owner may have in real property, and for determining the compensation to be paid therefor, and the damages, if any, for the taking thereof.

(2) Such action or proceeding may be commenced against the person in whose name the record title appears. There may be included as defendants any lessee or other person in possession and all other persons having or claiming an interest in the property.

(3) Except as otherwise provided in ORS 526.172 to 526.194, such action or proceeding shall be commenced and prosecuted to final determination in the same manner as an action at law.

[1959 c.287 §6]

526.184 Procedure. (1) The complaint in the action or proceeding referred to in ORS 526.182 shall describe the real property, rights, easements or interest sought to be condemned and appropriated and, shall allege the true value of the real property and the damage resulting from the appropriation thereof.

(2) If a defendant is a nonresident of this state or is unknown, service of the summons may be made by publication as in ordinary cases; provided the board shall first exert a diligent effort to determine the last-known out-of-state address of such defendant, and if such is discovered, to send notice

of the pending action to defendant by registered or certified mail.

(3) The defendant in his answer may set forth any legal defense he may have to the appropriation of the lands, or any portion thereof. He may also allege the true value of the real property and the damage resulting from the appropriation thereof.

(4) Upon the motion of either party made before the formation of the jury, the court shall order a view of the property or premises in question, and upon the return of the jury, the evidence of the parties may be heard. Evidence shall be received and the trial conducted in the order and manner prescribed in ORS chapter 17, except that, after the evidence is heard, unless the case is submitted by both sides to the jury without argument, the defendant shall open and close the argument to the jury. The defendant may waive the opening argument, and if the plaintiff then argues the case to the jury, the defendant may reply to the argument of the plaintiff, but may not otherwise argue to the jury. The court shall then charge the jury and the verdict of the jury shall be given.

(5) The costs and disbursements of the defendant, including a reasonable attorney's fee to be fixed by the court, shall be taxed by the clerk and recovered from the state, unless the board tendered the defendant before commencing the action an amount equal to or greater than that assessed by the jury, in which case the state shall recover its costs and disbursements from the defendant, but not including an attorney's fee.

(6) Upon the payment into court of the damages assessed by the jury, the court shall give judgment appropriating the lands, property, rights, easements or interests in question to the state, and thereafter the same shall be the property of the state absolutely and may be used for any public purpose.

(7) Either party to the action may appeal from the judgment in like manner and like effect as in ordinary cases, but the appeal shall not stay the proceedings so as to prevent the State Board of Forestry from taking such real property into possession and using it for the purposes for which it is being appropriated.

[1959 c.287 §7]

526.186 Election of state to take condemned property. Within 30 days after the verdict of the jury is given, the board shall file with the clerk of the court a notice of its election to proceed with the taking of the

property condemned or its election not to take the same. If the State Board of Forestry elects not to take the property condemned, the court shall enter judgment in favor of the defendant and for necessary costs and disbursements, including a reasonable attorney's fee fixed by the court.

[1959 c.287 §8]

526.188 Taking possession after condemnation begun. At any time after proceedings have been commenced or instituted to acquire title to any real property, the State Board of Forestry may enter into possession of any or all of such real property and make use thereof for the purposes for which the same is being appropriated. In any case when the board enters upon any property as provided for in ORS 526.172 to 526.194, after having brought proceedings to condemn such property and acquire the title thereto for the purposes authorized by law, the board shall proceed with all reasonable diligence to carry the condemnation proceedings to a final judgment. When the value of the property has finally been ascertained, judgment therefor shall be entered. When the judgment becomes final, the amount thereof shall be promptly paid.

[1959 c.287 §9]

526.190 Advancement of compensation for property immediately possessed after commencement of condemnation proceeding. Whenever the State Board of Forestry has commenced an action or proceeding for the condemnation of any real property, and immediate possession of said real property is deemed necessary by the board, the board may certify to the Secretary of State such facts, together with an authorization for advancement out of funds available to the board in an amount estimated by the board to be just compensation for said real property. Upon receipt of such certificate and authorization from the board, the Secretary of State shall immediately draw a warrant in favor of the clerk of the court wherein said action or proceeding was commenced, in the amount authorized by said board, to the use of the defendant or defendants in said action or proceeding. The court may distribute all or any part of such funds to the person or persons entitled thereto, for or on account of the just compensation to be awarded in said action or proceeding, upon such terms and conditions as may appear just and reasonable.

[1959 c.287 §10]

526.192 Attorney General conducting proceedings. After request of the State Board of Forestry, and upon being furnished with a certified copy of the resolution required of the board by subsection (1) of ORS 526.180, the Attorney General shall commence and prosecute, in any court of competent jurisdiction in the name of the State of Oregon, the necessary or appropriate suit, action or proceeding for condemnation of the amount of or interest in the property required for such purposes, and for the assessment of the damages for the taking thereof.

[1959 c.287 §12]

526.194 Disposition or leasing of property. The State Board of Forestry may sell, lease, exchange, permit use of or otherwise dispose of any real property, or interest therein, acquired pursuant to ORS 526.172 to 526.194, when, in the judgment of the board, such will best serve the interests of the state. In the case of real property, interest in or title to the same may be conveyed by deed or other instrument executed in the name of the state, by and through the board. All funds or moneys derived from the sale or lease of any such property shall be paid by the board to the State Treasurer and by him credited to the funds from which moneys originally were used for the acquisition of the property involved.

[1959 c.287 §11]

526.196 to 526.200 [Reserved for expansion]

FOREST RESEARCH AND EXPERIMENTATION

526.210 [Amended by 1953 c.376 §3; 1955 c.13 §1; repealed by 1961 c.297 §12]

526.215 State Board of Higher Education to conduct research and experimentation programs. To aid in the economic development of the State of Oregon, the State Board of Higher Education shall institute and carry on research and experimentation to develop the maximum yield from the forest lands of Oregon and to obtain the fullest utilization of the forest resource.

[1961 c.297 §2(1)]

526.220 [Amended by 1957 c.238 §1; repealed by 1961 c.297 §12]

526.225 Forest Research Laboratory; cooperative programs; advisory committees. The State Board of Higher Education shall establish a Forest Research Laboratory at Oregon State University and shall cooperate

with individuals, corporations, associations and public agencies wherever and whenever advisable to further the purposes of this Act, and may enter into any necessary agreements therefor. In order that there may be close coordination between research and experimentation programs and forestry and forest products utilization problems, the State Board of Higher Education shall appoint appropriate advisory committees consisting of qualified technical representatives recommended by the Industrial Forestry Association, West Coast Lumbermen's Association, Willamette Valley Lumbermen's Association, Western Pine Association, Douglas Fir Plywood Association, Western Forest Industries Association, Southern Oregon Conservation and Tree Farm Association, and public forest agencies actively engaged in the promotion of forest growth or forest products manufacture; such advisory committees shall render practical counsel in the fields of forest management and forest products research. In addition to the organizations designated in this subsection, other forest industry groups and organizations actively and principally engaged in the promotion of forest growth or forest products manufacture may petition the State Board of Higher Education for membership on the advisory committees.

[1961 c.297 §2(2)]

Note: The Legislative Counsel has not, pursuant to ORS 173.160, undertaken to substitute specific ORS references for the words "this Act" in ORS 526.225. Chapter 297, Oregon Laws 1961, enacted into law ORS 526.215 and 526.225 and amended ORS 321.035, 321.165, 321.185, 321.215, 527.280, 527.282, 527.288 and 527.292.

526.230 [Repealed by 1961 c.297 §12]

526.240 [Repealed by 1961 c.297 §12]

526.250 [Amended by 1953 c.324 §2; 1957 c.83 §10; repealed by 1961 c.297 §12]

526.260 [1953 c.376 §3; repealed by 1961 c.297 §12]

526.270 [1953 c.332 §3; repealed by 1961 c.297 §12]

526.280 to 526.300 [Reserved for expansion]

COUNTY FOREST LAND CLASSIFICATION COMMITTEE

526.310 County classification committees created. (1) The county court of each county containing forest land may establish a county forest land classification committee of five persons, of whom one shall be appointed by the State Board of Forestry, one by the Director of the State Agricultural Experiment Station and three by the county

court. Of the members appointed by the county court, one shall be an owner of forest land and one shall be an owner of grazing land. Each of the agencies named shall file with the State Board of Forestry the name of its appointee, and the persons so named shall constitute the classification committee for the county involved. Each member of the committee shall, at all times, be subject to removal and replacement by the appointing agency, effective upon the filing with the board by that agency of written notice of removal and the name of the new member.

(2) The committee shall elect from among its members a chairman and a secretary and may elect or employ other officers, agents and employes, as it may deem advisable. It shall adopt reasonable regulations and bylaws governing its organization and proceedings and the performance of its functions under ORS 526.310 to 526.370, and shall keep written minutes of all its meetings.

(3) The county court may provide for the classification committee and its employes such offices, furniture, supplies, fuel and light, and may appropriate to the committee's use such county funds not otherwise appropriated as the county court may deem necessary for the proper performance of the committee's functions under ORS 526.310 to 526.370. The members of the committee shall receive no compensation for their services but the county court may, in its discretion, reimburse them for traveling expenses incurred in attending meetings of the committee or otherwise performing their functions.

526.320 Investigation of forest lands by classification committees; determination of adaptability for particular uses. Upon establishment of a classification committee under ORS 526.310, the committee shall as rapidly as possible investigate and study all forest land within its county and determine which of the land is suitable primarily for the production of timber, which is suitable primarily for joint use for timber production and the grazing of livestock, and which is suitable primarily for grazing or other agricultural use. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, availability of school facilities, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved.

526.330 Classification by committee; lands included in each class; procedure; notice of hearing; hearing and order; appeal.

(1) Upon the basis of such investigation and determination the classification committee shall classify all forest land within its county as follows:

(a) Class 1, or timber class, shall include all forest land primarily suitable for the production of timber.

(b) Class 2, or timber and grazing class, shall include all forest land primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semi-permanent joint use, or as a temporary joint use during the interim between logging and reforestation.

(c) Class 3, or agricultural class, shall include all forest land primarily suitable for grazing or other agricultural use.

(2) The classification committee first shall make and adopt a preliminary classification and upon its completion shall cause notice thereof to be published for two consecutive weeks in a newspaper of general circulation in that county and to be posted in three public places within that county, which notice shall state the time and place for hearing or receiving objections, remonstrances or suggestions as to such proposed classification and the place where a statement of the preliminary classification may be inspected.

(3) The committee thereafter shall hold a public hearing at the time and place stated in the notice, or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed classification. Following such hearing the committee may make such changes in the preliminary classification as it may find to be proper, and thereafter shall make its final classification. All action by a classification committee in classifying or reclassifying forest land shall be by formal written order which shall include a statement of findings of fact on the basis of which the order is made. Such order shall include a map showing the classifications or reclassifications made. The original of the order shall be filed immediately with the county clerk of that county, who shall maintain it available for public inspection, and a copy of the order certified by the secretary of the committee shall be delivered to the State Board of Forestry. The classification

committee shall reclassify any land classified hereunder whenever such reclassification shall be justified by changed conditions.

(4) Any owner of forest land classified under this section or ORS 526.340 who is adversely affected by such classification may, within 30 days following the date of the order making such classification, appeal therefrom to the circuit court of the county in which that land is situated. Such appeal shall be taken by filing a notice of appeal with the county clerk and serving a copy of the notice of appeal upon the secretary of the classification committee, or, if the classification was made by the State Forester, as provided in ORS 526.340, in lieu of a classification by a classification committee, then such notice of appeal shall be served upon the forester. Such appeal shall be tried by the circuit court as a suit in equity.

526.340 Classification by State Forester upon failure of committee to act. In the event no classification of forest land was made by a classification committee within a county in which such land is situated, within six months after March 11, 1937, the State Board of Forestry may authorize the forester to proceed to make the study, investigation and determinations and to make the preliminary and final classifications of such land which are in ORS 526.330 provided to be made by a classification committee, and in the manner provided for such committee, including formal written order and findings of fact. Such classifications by the forester shall have the same force and effect as though made by a classification committee for that county; but such classifications made by the forester shall cease to be effective if and when replaced by classifications made pursuant to ORS 526.330 by the appropriate classification committee.

526.350 Policy to be followed in administering forest and fire laws; provision in contracts for care of forest lands; fire control; burning permits. All forest and fire laws relating to forest land classified pursuant to ORS 526.330 or 526.340, and all rules and regulations promulgated under such laws, shall be so administered as best to promote the primary use for which that land is classified. Any contract by the State Board of Forestry or the State Forester with any other agency for the care of any such forest land shall provide that the care shall be in accord with the provisions of this sec-

tion relating to that land. As to all forest land classified in class 1, it shall be the policy of the board, the forester and all wardens to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values; as to all forest land classified in class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semi-permanent joint use and as to all forest land classified in class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production. The forester and wardens shall control fires, issue or refuse to issue burning permits, and supervise or refuse to supervise burning, on forest land classified pursuant to ORS 526.330 or 526.340, in accordance with the aforesaid policy as it applies to the land involved.

526.360 Board and forester to assist in developing forest lands for agricultural uses; supervision of burning on class 2 and 3 lands; refusal of supervision or permit; liability for damage from burning. (1) The State Board of Forestry and the State Forester shall assist to the extent possible in developing, for grazing or agricultural uses, all forest land classified pursuant to ORS 526.330 or 526.340 for such uses, including the burning of brush or other inflammable material for the purpose of removing a fire hazard to timber, homes, farms or other property, or to any city, or for the purpose of preparing seed beds, or for the purpose of removing obstructions to or interference with the proper seeding or agricultural or grazing development or use of that land.

(2) Upon request of the owner or the agent of the owner of any forest land classified pursuant to ORS 526.330 or 526.340 as in class 2 or 3, the forester or his warden shall supervise burning operations thereon for any of the aforesaid purposes, the owner or his agent to supply such assistance as the forester or warden may require while there is danger of the fire spreading, but not to exceed 10 men. The forester or his warden shall, however, have full authority to refuse to supervise burning or to issue any burning permit when such burning would create an unwarranted hazard. When any burning for any of the aforesaid purposes on forest land

classified as class 2 or 3 is started under the supervision of and supervised by the forester or a warden, the owner or the agent of the owner of that land shall not be liable for property damage resulting from that burning unless the damage is caused directly by his own personal negligence.

526.370 Seeding agreements as condition of supervision of burning on class 2 or 3 lands; seeding at owner's expense on breach; lien; foreclosure. The forester or warden may, as a condition precedent to supervising any burning of class 2 or 3 lands, as provided in ORS 526.360, require the owner or his agent in control of the land involved to agree in writing to seed properly the land over which the burning operation is to be conducted, with such seed or seed mixtures as may be suitable for that area. In the event of failure by that owner or his agent to seed the property in accordance with such agreement, the county court of that county may cause the seeding to be done and the cost thereof may be recovered by that county court from the owner or his agent by legal action. The cost shall constitute a lien upon the land seeded. A written statement and notice of such lien, describing the land and stating the amount of the cost, shall be certified under oath by the county court and filed in the office of the county clerk within 90 days following the completion of reseeded. The lien may be foreclosed, within six months after such filing, by suit, in the manner provided by law for foreclosure of liens for labor and material.

526.380 to 526.400 [Reserved for expansion]

526.410 [Repealed by 1953 c.138 §2]

526.420 [Repealed by 1953 c.139 §2]

526.430 to 526.800 [Reserved for expansion]

PROCESSING AND EXPORTING LOGS

526.805 Processing of timber to be sold by state or local governments. All timber, except white (Port Orford) cedar timber, sold by the State of Oregon, or any of its political subdivisions, shall be primarily processed in the United States unless the State Forestry Department has issued, pursuant to ORS 526.815, a permit for the processing of such timber elsewhere. For purposes of this section, "primarily processed" shall mean that stage of manufacture next beyond the log form of said timber.
[1961 c.700 §1; 1963 c.298 §1]

526.810 [1961 c.700 §2; 1963 c.298 §7; renumbered 526.835]

526.815 Standards for permits for foreign processing. Permits referred to in ORS 526.805 shall be issued by the department upon the application of the person in control of the use or disposition of such timber if the department finds that such timber is currently in log form and that there is currently no reasonable market therefor within those areas of the United States to which it could be economically transported for primary processing. In arriving at such findings with respect to a reasonable market, the department shall take into account:

(1) The values that were assigned to the species and grade or grades of logs involved in their stumpage form when the minimum prices were established for the sale of the stumpage from which such logs were derived;

(2) The costs of logging and of transporting such timber from the place where it was severed to its then situs in log form; and in so doing the department may consider the average cost therefor as such costs are used in the appraisal of timber in the State of Oregon that recently has been or shortly will be made available for sale in the vicinity of the area where such timber was severed;

(3) The general level of the price being offered for logs of the species, size and grade involved by domestic processors whose processing facilities are so situated as to be within economic log transportation distance of the then situs of such timber;

(4) Whether the general level of price for the grade and species of logs described in subsection (3) of this section affords a profit over and above the appraised value described in subsection (1) and the costs described in subsection (2) of this section; and

(5) Whether the applicant has solicited in good faith, but unsuccessfully, offers for the purchase of such logs at or below the general level of price described in subsections (3) and (4) of this section from persons that are customarily engaged in primary processing of logs of the type involved at log processing facilities within economic log transportation distance of the situs of such logs.

[1963 c.298 §3]

526.820 Regulations by State Forester; notice and hearing on application for permit; time for granting or denying permit. The State Forester, under the supervision of the

State Board of Forestry, shall issue regulations to implement ORS 526.805 to 526.835. Such regulations shall, among other things, designate two days in each calendar month, not less than 12 nor more than 16 days apart, on which the department shall receive testimony in support of and opposed to every application for a permit that is then pending and which was made at least two days prior to the day for receiving testimony. Within five days after receiving such testimony, Saturdays, Sundays and legal holidays of the State of Oregon being excluded, the department shall grant or deny such application. The regulations shall also require that prior to granting or denying such permits the department shall, within the five-day period, obtain the advice of the committee provided by ORS 526.830.

[1963 c.298 §5]

526.825 Fee for permit. A fee of \$25 shall accompany the application designated in ORS 526.815, such money to be placed in the State Board of Forestry Account to be used by the State Forester for the purposes of ORS 526.805 to 526.835, whether or not the permit applied for issues.

[1963 c.298 §4]

526.830 Advisory committee; duties; qualifications. (1) There is created a committee of three members to advise the State Forestry Department with regard to grant-

ing or denying the permits referred to in ORS 526.820. The State Forester, or the deputy or assistant state forester designated by the State Forester, shall be a member. The Governor shall appoint the other two members who shall serve at the Governor's pleasure. They shall be reimbursed from the State Board of Forestry Account for their actual and necessary expenses incurred in the performance of their advisory function but shall receive no salary or other compensation.

(2) Of the two members appointed by the Governor, one shall be principally engaged, in an administrative capacity, in the primary processing of logs within Oregon; the other shall be principally engaged in logging and derive therefrom the substantial portion of his income.

[1963 c.298 §6]

526.835 Penalty for selling certain logs for delivery outside United States. Any person who wilfully purchases or sells for delivery outside of the boundaries of the United States in log form any timber, except white (Port Orford) cedar timber, severed from land owned by the State of Oregon or any political subdivision thereof shall be guilty of a misdemeanor unless, with respect to such timber, the permit required by ORS 526.805 has first been obtained.

[Formerly 526.810]

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 December 1, 1963.

Sam R. Haley
Legislative Counsel