Chapter 383

(1963 reprint)

Private Toll Roads and Bridges

LEASED ROADS

383.010 Leasing public roads as toll roads
383.020 Order for lease; published notice
383.030 Requisites of bids on lease
383.040 Bond to accompany bid
383.050 Award of lease
383.060 Execution of lease; lessee's bond
383.070 Cancellation and forfeiture of lease
383.080 Specifications for road
383.090 Gates for toll collection
383.100 Toll rates in lease; liability for avoiding and illegal tolls
383.110 Persons and property chargeable with tolls; exemptions
383.120 Basis or unit of toll rate
383.130 Status of leased road
383.140 Notice of and filing lease in Multnomah County

FRANCHISE TOLL ROADS

383.210 Granting franchises for toll roads
383.220 Franchise terms, conditions, specifications and requirements
383.230 Franchises for roads in more than one county
383.240 Notice of intended consideration of granting franchise
383.250 Keeping and filing records of costs, expenses and revenues
383.260 Eminent domain for toll road construction
383.270 Granting rights of way
383.280 Purchasing completed toll roads

TOLL BRIDGES

383.310 Constructing and operating toll bridges
383.320 Permission of highway commission for toll bridges
383.330 Purchase of toll bridges by highway commission
383.340 Submitting bridge plans to highway commission
383.350 Inspector of bridge construction; compensation
383.360 Toll rates determined by highway commission
383.370 Keeping and filing records of expense, tolls and profits
383.380 Status of bridge

CROSS REFERENCES

Crossing toll bridge without paying required toll, penalty, 165.280
Free use of tollgates, bridges and ferries by state military forces, 399.145
Injuring or destroying toll roads and bridges, 164.510
Road and bridge corporations, 57.815, Ch. 772

383.310

Construction and operation of toll bridges by:
Cities, 381.290, 381.605
Counties, 381.290
Highway commission, 381.070, 382.105
Ports, 381.290

LEASED ROADS

383.010 Leasing public roads as toll roads. Whenever a public road in any county is so located that there is little or no local labor along the line of the road, the county court or board of county commissioners of the county where the road or any portion thereof is located, may lease the road or any portion thereof to any person or corporation, to open, improve and keep the same in repair for a period not exceeding 10 years, with the right in consideration thereof to collect and receive tolls for travel thereon in the manner provided in ORS 383.090 to 383.130.

383.020 Order for lease; published notice. Whenever it becomes expedient and lawful under ORS 383.010 to 383.130 to lease a public road or any specified section thereof, the county court or board of county commissioners shall make an order to that effect:

(1) Specifying the termini of the road, the number of gates to be placed on the road, the grade of the road, the materials for construction of the road and the period for which the road is to be let.

(2) Directing the county clerk:

(a) To cause the order to be published in some weekly newspaper of general circulation in the county for not less than four weeks.

(b) In like manner to give notice therewith that sealed bids will be received at the county clerk's office for the leasing of the road until a particular hour of a certain day thereafter, not more than 10 days after the expiration of the publication of the order and notice.

383.030 Requisites of bids on lease. The bid shall specify the unit or rate of toll upon a sheep or hog which the bidder is willing to accept for keeping the road. Such bid shall be deemed a bid for tolls as to the other items or classes mentioned in ORS 383.110, in the proportion of such unit or rate as specified in ORS 383.120.

383.040 Bond to accompany bid. No bids shall be considered unless accompanied by an undertaking, executed by two or more sureties, in the sum of $2,000, to be void upon the condition that the bidder, if the lease is awarded to him, will within 10 days thereafter enter into the contract for keeping the road and give the undertaking to secure performance as provided in ORS 383.060.

383.050 Award of lease. Upon opening the bids, the lease shall be awarded to the lowest bidder, having due reference to which of them is best qualified for the undertaking. The county court or board of county commissioners shall reject any or all bids when there appears sufficient cause, but may subsequently reoffer and let the lease.

383.060 Execution of lease; lessee's bond. (1) The contract for the lease shall be subscribed by the lessee, approved by the county judge or board of county commissioners and filed with the county clerk.

(2) At the time of filing the contract, the lessee shall give an undertaking to the county in a sum to be fixed by the county court or board of county commissioners, not less than $2,000 nor more than $10,000, with two or more sufficient sureties, to be void upon the condition that the lessee will faithfully perform the contract in relation to the road and comply with ORS 383.010 to 383.130 concerning the road. The sureties in the undertaking shall have the qualification of bail upon arrest, and shall justify in like manner before the county court or board of county commissioners or the county clerk.

383.070 Cancellation and forfeiture of lease. (1) The county court or board of county commissioners may, upon the application of the lessee, cancel or modify the lease upon such terms as may be equitable and just.

(2) The proper district attorney may maintain an action against the lessee in the name of the county to have the lease declared forfeited whenever the lessee fails or neglects to comply with the provisions of the lease and ORS 383.010 to 383.130.

383.080 Specifications for road. A road leased under ORS 383.010 to 383.130 shall be cleared of standing timber, have a track for traveling, be of the same width, be kept in the same order, the streams or other waters on the line thereof be bridged or ferries established thereon, and be made of such grade and of such materials as the contract shall specify.

383.090 Gates for toll collection. (1) No tolls shall be collected for travel on such roads except at a gate, nor unless a signboard is posted at such gate in full view of the travel on the road, with rates of toll plainly printed or written thereon.

(2) The lease shall specify the number

of gates that may be placed on the road to which it relates and the location thereof. Thereafter the number of gates shall not be increased, but the county court or board of county commissioners, upon the application of the lessee, may at any time, for good reason, authorize the lessee to change the location of any gate.

383.100 Toll rates in lease; liability for avoiding and illegal tolls. (1) The rates of toll that the lessee may collect and receive shall be specified in the lease and none other can be charged.

(2) Any person who passes through a gate upon such road without paying the toll legally charged at the gate or, when traveling on such road, goes around the gate with intent to avoid the payment of the toll, shall be liable to the lessee for three times the amount of the toll.

(3) Any lessee of such road who by himself, his agents or servants, collects or receives of any person illegal toll for traveling on the road, is liable to such person for three times the amount of the toll.

383.110 Persons and property chargeable with tolls; exemptions. (1) Tolls are only chargeable by the lessee upon the following items or classes of persons or property:

(a) Sheep and hogs.

(b) Horses, mules, asses or neat cattle, whether being used for draught, led or driven loose.

(c) A person other than a footman and not traveling in a vehicle.

(d) A two-wheeled vehicle, loaded or unloaded.

(e) A four-wheeled vehicle, loaded or unloaded.

(2) Persons exempt from toll for traveling on the road are as follows:

(a) A footman.

(b) A person traveling from one portion of his farm to another, with or without any stock or vehicle, or person in his employ.

(c) A person going to or returning from church, a funeral or an election.

383.120 Basis or unit of toll rate. The rate of tolls to be charged by the lessee upon each item or class specified in ORS 383.110 is as follows:

(1) The basis or unit of toll is the charge for a sheep or hog, to be known as a single toll.

(2) For any animal described in paragraph (b) of subsection (1) of ORS 383.110, four single tolls may be charged.

(3) For any person described in paragraph (c) of subsection (1) of ORS 383.110, 10 single tolls may be charged.

(4) For any vehicle described in paragraph (d) of subsection (1) of ORS 383.110, 20 single tolls may be charged.

(5) For any vehicle described in paragraph (e) of subsection (1) of ORS 383.110, 40 single tolls may be charged.

383.130 Status of leased road. A road leased as provided in ORS 383.010 to 383.130 is a highway within the meaning of the provisions of the law relative to roads constructed by private corporations.

383.140 Notice of and filing lease in Multnomah County. The board of county commissioners of Multnomah County shall direct that notices for the leasing of county roads in Multnomah County be given by the county clerk. The contract for the lease of any county road in Multnomah County shall be filed with the county clerk.

383.150 to 383.200 [Reserved for expansion]

FRANCHISE TOLL ROADS

383.210 Granting franchises for toll roads. County courts or boards of county commissioners and the State Highway Commission may grant franchises to persons or corporations for the construction, operation and maintenance of toll roads, including bridges, culverts and all other structures incident and necessary to a roadway for vehicular traffic, outside incorporated cities.

383.220 Franchise terms, conditions, specifications and requirements. Franchises mentioned in ORS 383.210 shall:

(1) Be granted for any period not exceeding 50 years.

(2) Be upon such terms and conditions as the county courts or boards of county commissioners and the State Highway Commission shall require.

(3) Specify and require the following:

(a) The kind and character of the road to be constructed.

(b) The time within which the work must be undertaken and completed.

(c) The tolls to be charged, which shall in all cases be reasonable, just and subject

to regulation and change by the Public Utility Commissioner, after a hearing.

(d) That such road may, at the option of any county or the State Highway Commission, be taken over at any time upon payment to the owners of the franchise of the reasonable value of the road at the time of the sale. In the event that the parties are unable to agree with respect to the reasonable value of the road, condemnation proceedings may be instituted by the counties or the State Highway Commission for the purpose of determining and assessing the reasonable value of the road, in accordance with the procedure provided for in ORS 281.310 to 281.330, for counties, and ORS 366.370 to 366.390, for the commission.

(e) That the person or corporation owning the road shall at all times keep it in good repair and condition, and shall deposit a good, sufficient bond in a reasonable sum to be fixed in the franchise, conditioned to save and keep the counties or the State Highway Commission harmless from all damages by reason of the operation and maintenance of the road.

(f) That the franchise shall be subject to forfeiture for failure of the owners to comply with all the terms and conditions of the franchise, and that upon forfeiture of the franchise the road shall become the property of the counties granting the franchise.

(g) That the road shall be kept open at all times for public travel.

(h) That the state military forces and United States military forces shall be privileged to use the road at all times free of charge.

383.230 Franchises for roads in more than one county. Where the road to be constructed and operated lies within the boundaries of more than one county, the county courts or boards of county commissioners of such counties and the State Highway Commission shall join in granting the franchise.

383.240 Notice of intended consideration of granting franchise. No franchise shall be granted until notice has been given by the county courts or boards of county commissioners of the counties involved, in the official newspaper of each county, published for two consecutive weeks, that the county courts or boards of county commissioners and the State Highway Commission will on a day specified in the notice consider the proposition of granting the franchise.

383.250 Keeping and filing records of costs, expenses and revenues. (1) Every person, firm or corporation granted a franchise shall keep an accurate account of the cost of the road. Upon the completion of the road, the account shall be verified by such person or some officer of the corporation having knowledge of the facts and filed with the Public Utility Commissioner.

(2) Such person or corporation shall also keep an accurate account of the amount expended in keeping the road in repair and for the operation and maintenance thereof and of the revenues received from the operation thereof. Such person or corporation shall, on or before March 15 of each year, file such statement for the preceding calendar year, verified by such person or some officer of the corporation having knowledge of the facts, with the Public Utility Commissioner.

383.260 Eminent domain for toll road construction. The construction, maintenance and operation of toll roads under ORS 383.210 to 383.280 are a public purpose, and any person or corporation undertaking the construction of such toll road has the right of eminent domain over private or public lands necessary for its use.

383.270 Granting rights of way. County courts or boards of county commissioners may deed for a fair and reasonable consideration rights of way to any owner of a franchise granted under ORS 383.210 to 383.280.

383.280 Purchasing completed toll roads. County courts or boards of county commissioners and the State Highway Commission, or either, may purchase a road constructed under ORS 383.210 to 383.280 at any time after the completion thereof.

383.290 to 383.300 [Reserved for expansion]

TOLL BRIDGES

383.310 Constructing and operating toll bridges. It is lawful to construct, maintain and operate toll bridges upon state highways in the manner set forth in and pursuant to ORS 383.320 to 383.380 and 382.105 to 382.115, and not otherwise.

383.320 Permission of highway commission for toll bridges. Before any toll bridge is constructed or construction commenced over any stream, river, bay, arm of the ocean or

other body of water upon any state highway, federal aid highway, any highway constituting a direct or immediate extension thereof, connection between two state highways or federal aid highways or any highway over which travel might be diverted from a state or federal highway, application shall first be made to the State Highway Commission for a permit to construct, operate and maintain the bridge. If, in the judgment of the commission, the interest of the public will be served by the construction of the toll bridge, the State Highway Commission may, in its judgment and discretion, grant a permit for the construction, maintenance and operation of the toll bridge upon such terms and conditions and under such regulations as the commission deems proper, not inconsistent with ORS 383.310 to 383.380 and 382.105 to 382.115.

383.330 Purchase of toll bridges by highway commission. The permit issued by the State Highway Commission for the construction of the toll bridge shall, among other things, contain a clause and provision to the effect that the state, through the commission, may, at any time after three years from date of the construction and operation of the bridge, acquire the bridge, all right, title or interest therein and the approaches thereto, by paying to the owners the reasonable cash value of the bridge and approaches, not to exceed in any event the original construction cost, less reasonable depreciation. In determining the price to be paid for the bridge there shall be taken into account:

(1) The amounts expended in constructing and keeping in repair the bridge.

(2) Other necessary expenses incurred in and about the bridge.

(3) As an offset, the amount or sum of money received by the owners of the bridge as profits or tolls.

383.340 Submitting bridge plans to highway commission. If, in the judgment of the State Highway Commission, such permit should be granted, the commission shall, before issuing a permit and before the construction of the bridge has been commenced, require the applicant to submit to the commission the location, design, plans and specifications for the construction of the bridge, together with such drawings and maps as may be required for a full understanding of the subject. The construction of the bridge shall not be commenced until such location, design, plans, specifications, drawings and maps have been approved by the commission.

383.350 Inspector of bridge construction; compensation. Whenever the State Highway Commission grants a permit for the construction of a toll bridge as provided in ORS 383.320, the commission shall maintain on the bridge during construction an inspector, who shall have authority to require the construction of the bridge in harmony with the plans, specifications and design approved by the commission. The compensation or wages to be paid the inspector shall be fixed by the State Highway Commission, but such compensation, together with the subsistence of the inspector, shall be paid by the applicant to whom the permit for construction of the bridge has been issued.

383.360 Toll rates determined by highway commission. The State Highway Commission shall fix and determine the rates of toll that may be charged, collected or received for transit over such bridge, and may change such rates at any time circumstances and conditions warrant.

383.370 Keeping and filing records of expense, tolls and profits. (1) The owners of the toll bridge shall keep an accurate statement or account of the moneys expended in the construction of any such toll bridge and keeping it in repair, including any sums paid for lands appropriated as necessary in connection with the construction of the bridge. Such statement or account shall be verified and a copy filed annually with the State Highway Commission.

(2) The owner of such bridge shall likewise keep an accurate account of the tolls received for transit over the toll bridge or of other profits accruing to the owner. Such owner shall file semiannually with the State Highway Commission a verified copy of such account.

383.380 Status of bridge. When completed and opened for public travel such toll bridge is a part of the state highway system and shall be under the jurisdiction and control of the State Highway Commission.