

TITLE 44

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Chapter 526

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GENERAL PROVISIONS

526.005 Chapter definitions. As used in this chapter, unless the context otherwise requires:

(1) "Board" means the State Board of Forestry.

(2) "Department" means the State Forestry Department.

(3) "Forester" means the State Forester or his authorized representative.

(4) "Forest land" means any forested land, woodland, brushland, timberland, cut-over land or clearing, which, during any time of the year, contains enough flammable forest growth, refuse, slashing or debris to constitute a fire hazard.

[Amended by 1961 c.123 §3; 1965 c.253 §1]

526.008 State Forestry Department. The State Forestry Department consists of the State Forester and his deputy, assistants and employes, acting under direction of the State Board of Forestry.

[1961 c.123 §1; 1965 c.253 §2]

STATE BOARD OF FORESTRY

526.009 State Board of Forestry; officers; terms; vacancies. (1) The State Board of Forestry consists of 14 members appointed pursuant to ORS 526.010. The Governor shall designate one member of the board as chairman to hold that position until relieved by him. The chairman shall have such powers and duties as are provided by the rules of the board.

(2) The term of office of a voting member of the board is four years. If a vacancy occurs before the end of a term, the Governor shall appoint an individual to complete the unexpired term in the same manner, and under the same requirements of ORS 526.010, as in the case of the member whose term was not completed.

[1965 c.253 §4]

526.010 Selection of members of board.

(1) The voting members of the board consist of the Dean of the School of Forestry of Oregon State University and 10 other members appointed by the Governor as follows:

(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. Three members shall be appointed from Area 1 of Oregon, which is the area west of the summit of the Cascade Mountains and

north of Lane County. Two members shall be appointed from Area 2 of Oregon, which is the area west of the summit of the Cascade Mountains and south of the northern boundary of Lane County. One member shall be appointed from Area 3 of Oregon, which is the area east of the summit of the Cascade Mountains. As used in this paragraph, the "summit of the Cascade Mountains" has the meaning defined by ORS 477.001. 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 recommended 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 Wood Products Association, the Associated Oregon Industries and representatives of the pulp and paper industry. In the absence of recommendations, the Governor shall appoint persons qualified under the residence requirements of this paragraph.

(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 a person qualified in his judgment.

(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-C.I.O. In the absence of recommendations, the Governor shall appoint persons qualified in his judgment. No member appointed under this paragraph shall be resident in the same area of Oregon, specified in paragraph (a) of this subsection, 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.

(2) 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.

[Amended by 1953 c.68 §19; 1953 c.372 §22; 1957 c.654 §1; 1959 c.571 §1; 1963 c.63 §1; 1965 c.253 §5; 1967 c.429 §51]

Note: 1967 c.429 §52 provides:

Sec. 52. The amendment of ORS 526.010 by section 51 of this Act does not affect the terms of the present members of the State Board of Forestry. However, for purposes of member identification and residence until new appointments are required by law, members resident in Area 1 shall represent Congressional Districts Nos. 1 and 3; members resident in Area 2 shall represent Congressional District No. 4; and members resident in Area 3 shall represent Congressional District No. 2.

526.015 [1957 c.654 §3; repealed by 1965 c.253 §153]

526.016 General duties of board; expenses; meetings; rules. (1) The board shall supervise all matters of forest policy and management under the jurisdiction of this state, and approve claims for expenses incurred under the statutes administered by the board except as otherwise provided by law.

(2) The members of the board shall receive no compensation for their services, but are entitled to reimbursement for their actual and necessary travel and other expenses incurred in the performance of their duties.

(3) The board shall meet on the first Wednesday after the first Monday in January, March, June and September, at the offices of the department in Salem. The board may meet at other times and places in this state on the call of the chairman or the State Forester. A majority of the voting members of the board constitutes a quorum to do business.

(4) The board shall promulgate rules governing the transaction of its business.
[1965 c.253 §6]

526.020 [Amended by 1953 c.68 §19; 1955 c.117 §1; repealed by 1965 c.253 §9 (526.041 enacted in lieu of 526.020)]

526.030 [Amended by 1953 c.23 §2; 1955 c.27 §1; 1961 c.123 §4; 1965 c.253 §11; renumbered 526.046]

526.031 State Forester; deputy and assistants; compensation. (1) The board shall appoint a State Forester, who must be a practical forester familiar with western conditions and experienced in organization for the prevention of forest fires. The forester shall be the chief executive officer of the department. The forester shall hold office at

the pleasure of the board, and shall act as its secretary.

(2) With the approval of the board and subject to applicable provisions of the State Civil Service Law, the State Forester may appoint a Deputy State Forester, assistant state foresters and other employes of the department. During the State Forester's absence or disability, all of his authority shall be exercised by the Deputy State Forester or by the assistant whom the State Forester or the board, by written order filed with the Secretary of State, has designated as Acting State Forester.

(3) Unless otherwise provided by ORS 292.505 to 292.790, the board shall fix the compensation of the State Forester. In addition to their salaries, the forester and his deputy and assistants shall be reimbursed, subject to the limitations otherwise provided by law, for their actual and necessary travel and other expenses incurred in the performance of their duties.

[1965 c.253 §7]

526.036 Fidelity bonds. (1) Before entering upon the duties of his office, the forester shall furnish a fidelity bond in favor of the State of Oregon in the penal sum of \$100,000 issued by one or more corporate sureties authorized to do business in the State of Oregon, conditioned upon the faithful and honest handling and disposition of the moneys in the State Forestry Department Account and any other moneys in the hands of the forester. The bond and sureties are subject to approval by the Director of the Department of Finance as provided in ORS 291.011.

(2) The premium for the bond shall be paid from the appropriation of the board.

(3) Except as provided in subsection (1) of this section, the board may require a fidelity bond, with one or more corporate sureties authorized to do business in this state, of any officer or employe of the department. The board shall fix the amount of the bond, which otherwise is subject to subsections (1) and (2) of this section.

[Formerly 526.070; 1967 c.419 §16]

526.040 [Repealed by 1953 c.43 §2]

526.041 General duties of State Forester. The forester, under the general supervision of the board, shall:

(1) In compliance with ORS chapter 183, promulgate rules consistent with law for the enforcement of the state forest laws, includ-

ing but not limited to laws relating to the protection of forest land and the conservation of forest resources.

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

(3) Direct the improvement and protection of forest land owned by the State of Oregon.

(4) Collect data relative to forest conditions.

(5) Take action authorized by law to prevent and extinguish forest, brush and grass fires.

(6) Enforce all laws pertaining to forest land and prosecute violations of such laws.

(7) Cooperate with landowners, political subdivisions, private associations and agencies and others in forest protection.

(8) Advise and encourage reforestation.

(9) Publish such information on forestry as he determines to be in the public interest.

(10) Prepare biennially a report to the Governor and the Legislative Assembly on the performance of the functions of the department, including the progress and condition of state forest work, containing recommendations for improving methods of forest protection, management and reproduction.

(11) Enter into contracts and cooperative agreements pertaining to experiments and research in forestry.

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

[1965 c.253 §10 (enacted in lieu of 526.020)]

526.046 State Forester to cooperate with other agencies and persons; payment of expenses; contracts for supervision; deposit for costs. (1) Under the direction of the board, the forester:

(a) Shall, upon request, and whenever he deems that it is in the public interest, assist and cooperate with any federal or state department or any institution, political subdivision or person owning or controlling forest land within this 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 forester or his assistants in the preparation and execution of these plans.

(b) May enter into contracts with the applicants under which he will supervise the execution of the plans. However, the costs

of carrying out the plans shall be paid by the applicants.

(2) In carrying out this section the 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. These deposits shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of this section.

[Formerly 526.030]

526.050 [Repealed by 1953 c.23 §2]

FUNDS AND FINANCES

526.060 State Forestry Department Account. (1) Excepting the sinking fund moneys designated in ORS 530.280 and reimbursements for the revolving account under ORS 526.121, all assessments, federal apportionments or contributions, and other moneys received by the forester or board shall be paid into the State Treasury and credited to the State Forestry Department Account in the General Fund. All moneys in the State Forestry Department Account are appropriated continuously, and shall be used by the forester, under the supervision and direction of the board, for the purposes authorized by law.

(2) The forester shall keep a record of all moneys deposited in the State Forestry Department 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; 1965 c.253 §12]

526.070 [1957 c.83 §22; 1965 c.253 §8; renumbered 526.036]

526.080 [1957 c.83 §25; renumbered 526.131]

526.090 Acceptance and use of moneys under Agricultural Act of 1956 (soil bank and reforestation provisions). The forester, under the supervision and direction of the board, may receive moneys from the Federal Government in connection with cooperative work and programs set out in the Agricultural Act of 1956, as amended (Public Law 84-540, 70 Stat. 188), particularly the provisions of Title I (7 U.S.C. §§ 1801 to 1837) and Title IV (16 U.S.C. §§ 568e to 568g), and Acts amendatory thereof and supplemental or complementary thereto.

[1957 c.83 §4; 1965 c.253 §14]

526.095 Clarke-McNary Act accepted; State Forester is agent of state. The State of Oregon has accepted the provisions of the

Clarke-McNary Act (43 Stat. 653), as amended, and will observe and comply with the requirements of that Act. The forester, under the supervision and direction of the board, 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 to do all things necessary to secure to the State of Oregon the benefits of that Act or Acts amendatory thereof and supplemental or complementary thereto.

[1957 c.83 §2; 1965 c.253 §15]

526.105 Disposition of receipts under ORS 526.090 and 526.095. All moneys received pursuant to the Acts of Congress mentioned in ORS 526.090 and 526.095 shall be paid into the State Treasury, credited to the State Forestry Department Account, and used exclusively for the purposes of the respective Acts.

[1965 c.253 §17]

526.110 [Repealed by 1953 c.327 §6]

526.111 State Forestry Department Revolving Account; purposes. (1) Notwithstanding ORS 291.238 or any other law, a revolving account in the sum of \$75,000 deposited with the State Treasurer shall be at the disposal of the forester for the payment of:

(a) Lawful expenses incurred under the direction of the forester and the board in the prevention or suppression of fire and the protection of forest lands; and

(b) Miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation.

(2) The forester may draw checks upon the State Treasurer in making disbursements for the purposes stated in this section. The revolving account is not subject to allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

[1953 c.327 §1; 1965 c.253 §18]

526.120 [Repealed by 1953 c.327 §6]

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

(2) The forester shall maintain such

records as readily disclose the true status of vouchers payable from, and checks outstanding against, the revolving account and the balance to the credit thereof.

[1953 c.327 §2; 1957 c.83 §23; 1965 c.253 §19]

526.130 [Repealed by 1953 c.327 §6]

MANAGEMENT OF EQUIPMENT AND SURPLUS PROPERTY

526.131 Purchase or acceptance of federal 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.

[Formerly 526.080]

526.135 Leasing departmental equipment to federal agency. The forester, with the approval of the board, may lease equipment that is under the jurisdiction and control of the forester and board to any agency of the United States. However:

(1) The lease must include a reasonable rental fee and require the lessee to maintain the equipment during the lease period; and

(2) The federal agency must be a cooperator with the forester and board in common activities and programs for which the equipment is leased.

[1965 c.87 §2]

526.140 [Repealed by 1953 c.327 §6]

526.142 Definition for ORS 526.142 to 526.152. As used in ORS 526.142 to 526.152, "equipment" includes the necessary materials and supplies for the operation of equipment in the equipment pool authorized by ORS 526.144.

[1965 c.253 §21]

526.144 Equipment pool; participation.

(1) The equipment pool operated by the forester and the board, which furnishes transportation and equipment for the various activities and programs of the board, is for the acquisition, operation, storage, maintenance and replacement of equipment. Notwithstanding any other law, the forester, under the direction of the board, may:

(a) Determine each activity or program of the board that shall participate in the equipment pool, and in so doing, cause the transfer of moneys from the account representing such activity or program in an amount determined advisable for equipment pool purposes. However, in each instance the transfer of moneys must be based on 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 records shall reveal the cash value of the transferred items as of the date of the transfer.

(2) Forest protective associations or agencies under contract or cooperative agreement with the board pursuant to ORS 477.406 may, with the approval of the board, participate in the equipment pool for the purposes of the contract or agreement. Participation by such an association or agency shall be on the same basis as an activity or program of the board that participates in the equipment pool.

[1965 c.253 §22]

526.146 Charges. (1) All items transferred under ORS 526.144, together with any equipment purchased from moneys transferred to the equipment pool, are available for all activities or programs participating in the equipment pool. However, upon use of such equipment for any activity or program, a reasonable use charge shall be made 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 forester, under the supervision and direction of the board, 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. Administrative costs in connection with the operation of the equipment pool shall be included in the computation of the mileage or rental statement. The forester shall at all times keep records showing the mileage and rental charges, and against which activity or program the charges are a claim. The amount specified in the statement shall be a charge against the moneys available for such activity or program. All amounts so charged shall be credited to the State Forestry Department Account and, notwithstanding ORS 291.238, are available and shall be used exclusively for:

(a) The acquisition, operation, storage, maintenance, repair and replacement of equipment by the forester;

(b) Administrative expenses of the for-

ester and the board in connection therewith; and

(c) The payment of insurance premiums for such equipment.

[1965 c.253 §23]

526.148 Leasing communication equipment. (1) The forester and board may lease communication equipment owned or acquired under ORS 526.144 to any forest protective association or agency under contract or agreement with the board for the protection of forest land against fire. However, the communication equipment may be used only for purposes of the forest protection system designated in ORS 477.005. Any lease so made must provide for a rental at the current rates established for the equipment pool. All amounts so charged shall be credited as provided in ORS 526.146.

(2) At the option of the board, the lease agreements made under this section may be merged under the equipment pool administration and equities set forth in ORS 526.152.

[1965 c.253 §24]

526.150 [Repealed by 1953 c.327 §6]

526.152 Disposition of equipment; termination of pool. (1) Any proceeds from the sale or other disposition of equipment of the equipment pool shall be credited to the State Forestry Department Account for equipment pool purposes.

(2) 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. The equity shall be in proportion to the amount of moneys and value of the equipment and personalty transferred to the pool under ORS 526.144. By this subsection, each activity or program participating in the equipment pool has 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.

[1965 c.253 §25]

526.160 [1953 c.74 §1; 1957 c.83 §9; 1959 c.61 §1; 1963 c.242 §1; repealed by 1965 c.253 §153]

ACQUISITION AND DISPOSITION OF REAL PROPERTY

(General Provisions)

526.162 Taking title in fee simple. In all cases where a title in fee simple to real property is acquired by the board under ORS

526.166 or 526.168, such title shall be taken in the name of the State of Oregon.

[Formerly 526.176]

526.164 Exchange of property. The board may convey to any person all or parts of the real property described in ORS 526.166 or 526.168, in exchange for other property, real or personal, which, in the judgment of the board, is of equal or superior value for public use.

[Formerly 526.174]

(Purchase, Agreement or Donation)

526.166 Acquisition of real property by purchase, agreement or donation. In addition to any authority otherwise granted by law, the board may acquire, by purchase, agreement or donation, real property or any interest therein, including easements and ways, found necessary by the board for:

(1) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or forester.

(2) Forest patrol sites, administrative sites, nursery sites, communication sites, construction of shops, equipment sheds and office buildings.

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

(4) Any other use or purpose necessary in carrying out the powers and duties of the board or forester.

[1965 c.253 §29]

(Eminent Domain)

526.168 Acquisition of real property by eminent domain. In addition to any authority otherwise granted by law, the board may acquire, by the exercise of the power of eminent domain, real property or any interest therein, including easements and ways, found necessary by the board for:

(1) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or forester.

(2) Forest patrol or communication sites.

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

[1965 c.253 §30]

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

526.172 [1959 c.287 §1; repealed by 1965 c.253 §153]

526.174 [1959 c.287 §2; 1965 c.253 §27; renumbered 526.164]

526.176 [1959 c.287 §3; 1965 c.253 §26; renumbered 526.162]

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 526.162 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 526.162 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 526.162 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]

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, to obtain the fullest utilization of the forest resource, and to study air and water pollution as it relates to the forest products industries.

[1961 c.297 §2(1); 1967 c.377 §6]

Note: 1967 c.377 §§1 to 5 provide:

Sec. 1. The State Board of Higher Education, through the Forest Research Laboratory at Oregon State University and in collaboration with advisory committees appointed under ORS 526.225, shall cause to be conducted a research program on air and water pollution as it relates to the forest products industries of this state, with particular attention to the prevention of such pollution by means that are consistent with the continued growth and development of such industry.

Sec. 2. The State Board of Higher Education may:

(1) Purchase necessary equipment, materials and supplies for the Forest Research Laboratory.

(2) Receive moneys from any source and expend the same in accordance with sections 1 to 3 of this Act.

(3) Enter into agreements with state or local agencies and private groups or institutions to assist in carrying out sections 1 to 3 of this Act, and to make reimbursement therefor.

Sec. 3. The State Board of Higher Education shall cause a preliminary report of the study conducted under sections 1 to 3 of this Act to be submitted to the Fifty-fifth Legislative Assembly by February 1, 1969, and a final report by August 31, 1969, to the Governor, to the members of the Fifty-fifth Legislative Assembly, to the Sanitary Authority of the State of Oregon and to representative groups and members of the forest products industry, the final report to contain all the findings and recommendations of the board.

Sec. 5. Sections 1 to 4 of this Act expire and stand repealed on September 1, 1969.

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

526.225 Forest Research Laboratory; cooperative programs; advisory committees.

(1) 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 ORS 526.215, and may enter into any necessary agreements therefor.

(2) In order that there may be close coordination between the 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 Wood Products Association, American Plywood Association, Western Forest Industries Association, Southern Oregon Timber Industries Association, Western Wood Preservers Institute, West Coast Lumber Inspection Bureau, or any of their successor organizations, and public forest agencies actively engaged in the promotion of forest growth or forest products manufacture. The advisory committees shall render practical counsel in the fields of forest management and forest products research.

(3) In addition to the organizations designated in subsection (2) of this section, 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); 1965 c.253 §31; 1965 c.433 §1]

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]

COUNTY FOREST LAND CLASSIFICATION

526.305 Definitions for ORS 526.305 to 526.370. As used in ORS 526.305 to 526.370, unless the context requires otherwise:

(1) "Committee" means a county forest land classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be.

[1965 c.253 §33]

526.310 County classification committees. (1) The governing body 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 forester, one by the Director of Oregon Agricultural Experiment Station and three by the governing body. Of the members appointed by the governing body, one must be an owner of forest land or a representative thereof, and one must be an owner of grazing land or a representative thereof. Each appointing authority shall file with the forester the name of its appointee or appointees, and the persons so named shall constitute the committee for the county. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the forester by that authority of written notice of removal and the name of the new appointee.

(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 finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

(3) The governing body of the county may provide for the committee and its employes such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions. The members of the committee shall receive no compensation for their services but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties.

[Amended by 1965 c.253 §34; 1967 c.429 §30]

526.320 Investigation of forest lands by committees; determination of adaptability for particular uses. Upon establishment of a committee under ORS 526.310, the committee shall 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, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved. [Amended by 1965 c.253 §35; 1967 c.429 §31]

526.324 Classification of forest land by committee; publication. (1) Upon the basis of its investigation and determination under ORS 526.320, a committee shall assign all forest land within its county to one of the following classes:

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

(b) Class 2, timber and grazing class, includes 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, agricultural class, includes all forest land primarily suitable for grazing or other agricultural use.

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

[1965 c.253 §37; 1967 c.429 §32]

526.328 Hearing; final classification; reclassification. (1) The committee shall hold a public hearing at the time and place stated in the notice published under subsection (2) of ORS 526.324, 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 the hearing the committee may make such changes in the preliminary classification as it finds to be proper, and thereafter shall make its final classification.

(2) All action by the committee in classifying or reclassifying forest land shall be by

formal written order which must include a statement of findings of fact on the basis of which the order is made, and must include a map showing the classifications or reclassifications made. The original of the order shall be filed immediately with the county clerk of the county, who shall maintain it available for public inspection. A copy of the order certified by the secretary of the committee shall be sent to the board.

[1965 c.253 §38]

526.330 [Repealed by 1965 c.253 §153]

526.332 Appeal. (1) Any owner of land classified under ORS 526.328 or 526.340 who is aggrieved by the classification may, within 30 days after the date of the order making the classification, appeal to the circuit court for the county. The appeal shall be taken by serving the notice of appeal on the secretary of the committee or, if the classification was made under ORS 526.340, on the State Forester, and by filing such a notice with the county clerk.

(2) The appeal shall be tried by the circuit court as a suit in equity.

[1965 c.253 §39]

526.340 Classification by State Forester.

(1) In the event no classification of forest land is made by a committee within a county in which such land is situated because no committee was appointed or, if appointed, a committee did not act or acted in a manner inconsistent with law, the board may authorize the forester to make the study, investigation and determinations and to make the preliminary and final classifications that were otherwise to be made by a committee, and in the manner provided for a committee, including formal written order and findings of fact.

(2) Classifications by the forester have the same force and effect as though made by a committee for that county. However, classifications made by the forester cease to be effective if replaced by classifications made pursuant to ORS 526.328 by the appropriate committee.

[Amended by 1965 c.253 §40]

526.350 Policy in administering forest and fire laws; contracts for care of forest land; fire control; burning permits. (1) All forest laws relating to forest land classified pursuant to ORS 526.328 or 526.340, and all rules 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 board or the State Forester with any forest protective association or agency for the care of any such forest land shall provide that the care shall be in accord with the provisions of this section relating to that land.

(2) It shall be the policy of the board and the forester as to all forest land classified in:

(a) Class 1, to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values.

(b) 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.

(c) Class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production.

(3) The forester, on forest land classified pursuant to ORS 526.328 or 526.340, shall administer the forest laws of this state in accordance with the policy stated in this section as it applies to the land involved.

[Amended by 1965 c.253 §41]

526.360 State Forester to assist in developing forest land for agricultural uses; supervision of burning on class 2 and 3 lands; refusal of supervision or permit; liability for damage from burning. (1) The board and the forester shall assist to the extent possible in developing, for grazing or agricultural uses, all forest land classified pursuant to ORS 526.328 or 526.340 for such uses, including the burning of brush or other flammable material for the purpose of:

(a) Removing a fire hazard to any property;

(b) Preparing seed beds; or

(c) 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 as class 2 or 3, the forester shall supervise burning operations thereon for any of the purposes stated in subsection (1) of this section. The owner or his agent shall supply such assistance as the forester may require while there is danger of the fire spreading. The forester may, however, refuse to supervise burning or to issue any burning permit

when such burning would create an unwarranted hazard.

(3) When any burning for any of the purposes stated in subsection (1) of this section on forest land classified as class 2 or 3 is started under the supervision of and supervised by the forester, no person shall be liable for property damage resulting from that burning unless the damage is caused by his negligence.

[Amended by 1965 c.253 §42; 1967 c.429 §33]

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. (1) The forester may, as a condition precedent to supervising of 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.

(2) In the event of failure by the owner or his agent to seed the property in accordance with such agreement, the governing body of that county may cause the seeding to be done and the cost thereof may be recovered by the governing body from the owner or his agent by legal action. The cost shall constitute a lien upon the land seeded. The governing body shall cause a written statement and notice of such lien, describing the land and stating the amount of the cost, to be certified under oath and filed in the office of the county clerk within 90 days following the completion of reseeding. 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.

[Amended by 1965 c.253 §43]

526.410 [Repealed by 1953 c.138 §2]

526.420 [Repealed by 1953 c.139 §2]

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 Treasury, credited to the General Fund and available for general governmental expenses.

[1963 c.298 §4; 1967 c.34 §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 granting 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 Forestry Department 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, Robert W. Lundy, 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, 1967.

Robert W. Lundy
Legislative Counsel

