Chapter 273

1991 EDITION

State Lands Generally

DEFINITIONS; LAND COMMISSIONER

273.006 Definitions

273.020 Governor as land commissioner

STATE LAND BOARD

273.031 State Land Board; seal

273.035 Governor is chairman of board; quorum; meetings; notice

DIVISION OF STATE LANDS

(Creation and General Powers)

273.041 Division of State Lands

273.045 Administrative policies; rules

273.051 General powers and duties

273.055 Power to acquire and dispose of real property

273.061 Power of eminent domain

273.065 Finality of certain actions

273.071 Oaths; depositions; subpoenas

(Documents)

273.075 Deed to purchaser

273.081 Execution of documents; recordation

273.085 Recording copies of documents

273.091 Recording fees; return of documents

273.095 Copies or transcripts as evidence

(Finances)

273.101 Common School Fund

273.105 Distributable Income Account

273.111 Swamp and Overflow Land Reclamation Fund

273.115 Division use of Common School Fund

273.121 Expenditures of funds under control of division

273.125 Refund of moneys

273.131 Compromise or release of claims

(Cooperation with Other Agencies and Governmental Entities)

273.135 Agreements with other agencies for special services; costs; interagency services

273.141 Nature of services to be performed by certain other agencies

273.145 Division powers in exchanges, settlements and indemnifications

273.151 Cooperation with Federal Government

273.155 Cooperation of state and county agencies

(Director and Staff)

273.161 Director of division; salary of director and staff

273.165 Oath and bond of director

273.171 Duties and authority of director

273.175 Employees of division; compensation; fidelity bonds

273.185 Director to investigate trespasses on state lands; appearance before federal agencies; expenses

REMOVAL OF MATERIAL FROM STATE LANDS

273.225 Application for lease to take material; form

273.231 Removal without compliance with statute

273.235 Division's powers to enforce statute

273.241 Action to recover damages for unlawful removal of material

SALE OF STATE LANDS

273.251 Classification of state lands

273.255 Eligibility to purchase state lands

273.261 Applications generally

273.265 Application for submersible lands

273.271 Acreage purchasable

273.275 Price of state lands; sale to highest bidder

273.281 Payment for state lands

273.285 Certificate of sale to instalment purchaser; records of sale

273.290 Cancellation and forfeiture on default in payments

273.295 Assignment of certificates of sale; deed to assignee

273.300 Issuance of deed

273.306 Execution and record of deeds

273.311 Correction of deeds; refund of purchase price; refund to assignee of certificate of sale issued on fraudulent application

EXCHANGE OF STATE LANDS

273.316 Exchanging state lands to accumulate larger tracts

273.321 Lessees of state land to be notified prior to exchange

STATE LANDS UNLAWFULLY ACQUIRED

273.326 Compromise with owners of state lands unlawfully acquired; disposal of lands received through compromise

273.331 Subdivision and disposal of other lands as condition of compromise

INDEMNITY LANDS

273.335 Object of ORS 273.340 and 273.345

273.340 Ascertainment and procurement of indemnity lands

273.345 Determination of advisability of selection of indemnity lands within national forest reserves

273.350 Selection and sale of indemnity lands

ADJUSTING CERTAIN ERRONEOUS SALES

273.356 Definitions for ORS 273.356 to 273.375
273.360 Applicant to relinquish claim; refund of purchase price and taxes paid
273.365 When refunds not available; source of refunds
273.370 Alternative to refund
273.375 Acquisition by state of applicant's interest; price

SPACE AGE INDUSTRIAL PARK

273.382 Definitions for ORS 273.382 to 273.386
273.384 Administration of Space Age Industrial Park; disposition of income and proceeds
273.386 Sale or other disposition of Space Age Industrial Park
273.388 Acquisition of Space Age Industrial Park by Division of State Lands

DISPOSITION OF LAND NOT NEEDED FOR PUBLIC PURPOSE

273.413 Disposition of unsuitable state lands; sale; use of proceeds; procedures
273.416 Exchange of property held as trust fund asset
273.421 Relinquishing title to United States Government or governmental body or subdivision; continued public use requirement
273.426 Exchange of property; value
273.431 Procedure for determining value of properties to be exchanged
273.436 Lease procedure; payment of taxes
273.441 Agency donation of property for industrial or manufacturing use; conditions
273.447 Disposition of state lands suitable for grazing
273.452 Indemnification contract for occupancy of political subdivision lands
273.456 Lease of space above or below street or highway; conditions; effect on prior dedications

SUBMERSIBLE AND SWAMP LANDS

273.505 Object of ORS 273.511
273.511 Acquisition of submersible and swamp lands; reclamation

TIMBER SALES

273.521 Sale of timber on state lands
273.525 Appraisal of timber; notice; sale conditions
273.531 Decision by division on bids
273.535 Payment and bond by purchaser
273.541 Execution and delivery of instruments

DRILLING LEASES

273.551 Mining and drilling leases on state lands

SOUTH SLOUGH ESTUARY

273.553 South Slough Estuarine Sanctuary; agreement between Oregon and Federal Government
273.554 South Slough Estuarine Sanctuary Management Commission; powers; membership; procedures; expenses
273.556 South Slough Estuarine Sanctuary Management Account
273.557 Appeal to State Land Board
273.558 Enforcement; fines; injunctive relief

NATURAL HERITAGE PROGRAM

273.563 Definitions for ORS 273.563 to 273.591
273.566 Legislative findings
273.571 Natural Heritage Advisory Council; members; terms; qualifications; compensation; duties; rules; property gifts and donations
273.576 State Land Board duties; Oregon Natural Heritage Plan; contents; implementing plan
273.578 Plan approval; review of modifications by board
273.581 Natural heritage areas register; contents; agreements between board and landowners
273.586 Dedication of land for natural heritage conservation purposes; notice and hearing; termination of dedication
273.591 Natural Heritage Program Account

REMOVAL OF VALUABLE MATERIALS

(Semiprecious Stones; Petrified Wood)

273.715 Rules for removal of semiprecious stones and petrified wood from state lands; removal contrary to rules

(Goods; Money; Treasure-trove)

273.718 "Treasure-trove" defined
273.722 Jurisdiction over transactions; rules for exploration and removal
273.728 Permit required for exploration, removal; application; issuance, conditions; removal without permit, effect
273.733 Discovery by person without permit; notification of director
273.737 Finder's duties; control by director; physical delivery to owner or division; placement in museum
273.742 Finder's claim; payment by director

RIGHTS OF WAY

273.751 State land grants to railroads
273.755 Filing maps of railroad location and depot sites; division's duties
273.761 Right of way for water ditches and pipes
273.765 Liability for costs of relocation or extension of mains and outfalls

MINERAL AND GEOTHERMAL RESOURCE RIGHTS

273.775 Definitions for ORS 273.775 to 273.790
273.780 Certain mineral and geothermal resource rights property of state; exploration permit or lease; sale or exchange
273.785 Application of ORS 273.775 to 273.790
273.790 Registry of rights under state board

COMMON SCHOOL GRAZING LANDS

273.805 Definitions for and purpose of ORS 273.805 to 273.825
273.815 Division's powers
273.820 Exchange of lands

273.825 Purchase of lands by lessee or other person

SETTLEMENT OF TITLE TO CERTAIN LANDS IN CLATSOP COUNTY

273.850 State title to certain lands and improvements transferred to Clatsop County; lands not subject to board jurisdiction

273.855 Clatsop County to transfer title to lands and improvements to certain possessors; fee on execution of deed

273.860 Filing fee; use of fees; additional fee to cover costs of investigation

273.865 Application for deed; investigation; deadline on application

273.870 Notice of deed application; protest; hearing; dual applications

273.875 Findings of board; notice; rehearing procedure

273.880 Judicial review procedure

273.885 State prohibited from questioning certain titles

273.890 Application of ORS 273.850 to 273.890 to certain lands; tax refunds prohibited

VALIDATING STATUTES

273.900 Confirmation of title to tide lands and tide flats

273.902 Confirmation of title to swamp and overflow lands; deed to claimant

273.903 Title of certain swamp lands not to be questioned by division; prohibition against sale of certain swamp lands

273.905 Confirmation of state land deeds prior to 1891

273.910 Confirmation of title to state lands purchased before 1918

273.915 Release of claims under pre-1947 deeds reserving right of way

273.920 Validation of mineral leases executed and delivered before August 9, 1961

PENALTIES

273.990 Penalties

CROSS REFERENCES

Abandoned vehicles, disposition, 819.110 to 819.270

After acquired property, lease, 271.310

Boats, regulating operation on waters within political subdivision, 830.175

Department of General Services, powers relating to state property, 279.805, 279.826

Disposition of real property of the state, 271.310

Irrigated area under Reclamation Act, restriction on sales of state lands within, 541.230

Lien held by state, property subject to, acquisition, administration and disposal, 88.720

Military use, acquisition of property, 396.535

Ocean shore, alienation by state agencies prohibited, 390.620

Oregon State University, lands granted state for support, 352.560

Outdoor recreation resources, policy of state, 390.010

Patents, state and federal land, annulment, 12.040, 30.600

Private lands leased to state or public corporations for recreational use, owner's liability limited, 105.670

Proceeds from certain state lands to be placed in Common School Fund, Const. Art. VIII, §§2, 5

Public lands sold or contracted for sale to be placed on assessment roll, 308.270

Records of state lands kept by Secretary of State, 177.090

Removal of property upon expiration of grant or franchise, 221.470

Removal of vehicles illegally parked in disabled parking spaces, 811.620

Right of way over state lands, grant, 261.305, 271.440, 374.305 to 374.325, 530.050, 530.490, 530.500, 541.030, 541.130, 758.010 to 758.020

State agency power concerning lands:

- State Board of Forestry, 526.164, 526.194, 530.010, 530.240
- State Board of Higher Education, 351.060
- State Fish and Wildlife Commission, 496.146, 496.154
- Trustees of State Library, 357.040

State forests, Ch. 530

State lands within drainage district, 547.045

State power project property, disposal, 543.620

State property used for low-income housing, 458.420, 458.405 to 458.460

Submersible and submerged lands, Ch. 274

Willamette River Greenway, 390.310 to 390.368

273.031

State Land Board for sale of school and university lands, Const. Art. VIII, §5

273.051

Administrative procedures governing state agencies, 183.310 to 183.550

Conservation of gas and oil, Ch. 520

Disposition of:

- Property acquired in connection with federal flood control project, 549.625
- Public property, 271.310 to 271.340
- Real property by State Forester, 526.041

Eminent domain power of division, 281.210 to 281.260

Funds from sale of university lands, 352.510

Powers and duties relating to:

- Abandoned property, Ch. 98
- Apperson Fund, 352.600, 352.650
- Burbank Trust Fund, 352.650
- Common School Fund, Ch. 327
- Mining claims, 517.420
- State forests, 530.450 to 530.520

State agencies generally, Ch. 182

273.085

Records of state lands kept by Secretary of State, 177.090

273.101 to 273.131

Investment of funds under control of division, 293.701 to 293.776, 293.810, 293.820

273.151

Reclamation of submersible lands, Ch. 274

273.161

Protection of streams during removals or filling, 196.800 to 196.900

273.165

Allowance for expense of surety bond or letter of credit, 742.354

273.171

Director, duty concerning land title transfers from United States to Oregon, 93.690

Director to send notice of cancellation of state land sale, 311.804

Geothermal well drilling applications submitted to director, 522.065, 522.125

Personal representative for estates of intestate decedents, duties, 113.085

273.175

Allowance for expense of surety bond or letter of credit, 742.354

273.251

Military reservations and lands, Ch. 396

Ocean shore, 390.615

State forestlands, Ch. 530

273.281

Taxation of public lands held under contract to purchase, 307.100

273.290

Cancellation of taxes on cancellation of certificate, 311 804

273.300

Cancellation of fraudulent deed, 327.480

Taxes to be paid before deed issued, 307.100

273.311

Copy of lost deed to state lands, 93.230

273.316

Exchange of:

Public grazing lands for federal lands, 271.375

Public property, 271.310 to 271.340

273.521

Sale of forest products by:

State Board of Forestry, 530.050, 530.500

State Board of Higher Education, 351.155

273.535

Bonds to state not invalidated by omission of statutory provision, 742.370

273.551

County lands, mineral leases, 275.294

Tidal submerged and submersible lands, oil, gas and sulphur leases, 274.705 to 274.860

Use by lessee of timber found on premises, 517.430

273.571

State administrative agencies, generally, 182.010 to 182.100

273.751

Railroad right of way in canyons, 772.030

273.761

Grant of right of way over state lands for ditches, 541.030, 541.130

273.815

Exemption from inheritance taxes for certain interests in livestock grazing lands, 118.085

Public grazing lands, tax exemption under certain leases or rentals, 307.110

273.850

Certain land in Clatsop County, title 1983 c.529

DEFINITIONS; LAND COMMISSIONER

273.005 [1959 c.45 §1; 1967 c.421 §95; renumbered 279.711]

273.006 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Land Board.

(2) "County recording officer" means the county clerk or other county officer carrying out ORS 205.130 to 205.220.

(3) "Director" means the Director of the Division of State Lands.

(4) "Division" means the Division of State Lands.

(5) "Land" includes water, water rights, easements of every nature and all appurtenances to land.

(6) "Material" includes gravel, rock, sand and silt, but does not include hard minerals subject to ORS 274.610, or oil, gas and sulphur subject to ORS 274.705 to 274.860.

(7) "Public land" means any land or improvements thereon owned by the State of Oregon or any agency thereof.

(8) "State land" means public land controlled by the Division of State Lands.

(9) "Terminal disposition" means the permanent relinquishment by an agency of rights in real property, including, but not limited to, sale, exchange, conveyance, relinquishment of title, or donation. [1967 c.421 §2; 1967 c.616 §12; 1969 c.594 §2; 1971 c.88 §5; 1981 c.787 §44; 1991 c.217 §2]

273.010 [Amended by 1961 c.618 §1; 1967 c.421 §49; renumbered 273.251]

273.020 Governor as land commissioner. The Governor is Land Commissioner for the State of Oregon, and shall locate or select the lands to which the state is entitled under the laws of the United States, or otherwise. The Governor shall be allowed all necessary expenses incurred in the performance of duties in this capacity prescribed by law. The Division of State Lands shall assist the Governor as necessary in the performance of these duties. [Amended by 1967 c.421 §50; 1967 c.616 §§1, 1a]

273.030 [Amended by 1967 c.80 §1; repealed by 1967 c.421 §50a (273.255, 273.261 and 273.265 enacted in lieu of 273.030)]

STATE LAND BOARD

273.031 State Land Board; seal. The Governor, Secretary of State and State Treasurer constitute the State Land Board. The board shall carry out the duties prescribed by section 5, Article VIII of the Oregon Constitution, and such other duties as are imposed upon it by law. The board may use a common seal. [1967 c.421 §4 (enacted in lieu of 273.410); 1967 c.616 §2a]

273.035 Governor is chairman of board; quorum; meetings; notice. (1) The Governor shall act as chairman of the State Land Board. The board shall establish rules under ORS 183.325 to 183.410 for holding regular meetings and the means whereby timely notification of regular meetings may be given.

(2) Two members of the board constitute a quorum to transact business and exercise all rights, duties and powers of the board.

(3) The board shall give six days' public notice by delivery personally to each member and by mail to each wire service, newspaper, radio or television station requesting such notice prior to each meeting.

(4) A special meeting may be called at any time upon notice by the Governor, or by a majority of the members of the board. [1967 c.616 §5; 1973 c.406 §1; 1989 c.284 §1]

273.040 [Amended by 1967 c.80 §2; 1967 c.421 §54; renumbered 273.271]

DIVISION OF STATE LANDS

(Creation and General Powers)

273.041 Division of State Lands. The Division of State Lands is created, and consists of the Director of the Division of State Lands and all officers and employees of the division acting under the State Land Board. Subject to ORS 273.171, the division shall exercise all of the administrative functions exercised by the clerk and other personnel of the State Land Board before January 1, 1968. [1967 c.616 §4]

273.045 Administrative policies; rules. The division shall establish its administrative policies in accordance with the laws prescribing its powers and duties and the general policies formulated by the board. Acting subject to the approval of the board and in compliance with ORS 183.310 to 183.550, the director shall promulgate such rules as are necessary to carry out the policies of the division and to attain maximum efficiency in its administration. [1967 c.616 §9]

273.050 [Amended by 1967 c.421 §55; renumbered 273.275]

273.051 General powers and duties. (1) The division may cancel certificates of sale for lands owned by this state, if unlawfully obtained.

(2) The division shall:

(a) Manage, control and protect the common school grazing lands under ORS 273.805 to 273.825 so as to secure the greatest permanent value of the lands to all the people of this state, particularly for the dedicated purposes of the lands and the common schools to which the resources of the lands are devoted.

(b) Give due consideration, in the sale, exchange or leasing of any state lands under its control, to the protection and conservation of all natural resources, including scenic and recreational resources, of such lands, so as to conserve the public health and recreational enjoyment of the people, protect property and human life, and conserve plant, aquatic and animal life. [1967 c.421 §7; 1967 c.616 §27b]

273.055 Power to acquire and dispose of real property. If it finds it advisable in carrying out its duties, the division in the name of the State of Oregon may take title to real and personal property in fee simple or absolutely, in trust or under such other conditions as it considers advisable, and may convey title thereto or execute agreements necessary to carry out its duties. [Formerly 273.710; 1969 c.594 §3]

273.060 [Amended by 1967 c.147 §3; 1967 c.421 §39; renumbered 273.201]

273.061 Power of eminent domain. The power of eminent domain may be exercised by the State of Oregon at the request of the division for the condemnation of property of any kind and all water rights, easements and appurtenances thereto necessary for carrying out its powers and duties. [1967 c.421 §8]

273.065 Finality of certain actions. All acts and decisions of the division as to the legal title, and the right to a certificate of sale or deed from the state, shall be final. [1967 c.421 §11]

273.070 [Amended by 1967 c.421 §40; renumbered 273.205]

273.071 Oaths; depositions; subpoenas. (1) At all hearings pertaining to lands owned by the state, the director may administer oaths and take depositions. The board may issue subpoenas to compel the attendance of witnesses and the production of documents or other necessary written information.

(2) If any person served with a subpoena issued under this section fails to obey the subpoena without legal excuse, or refuses to testify on matters on which the person lawfully may be interrogated, the procedure provided in ORS 183.440 shall be followed to compel obedience. [Formerly 273.430]

(Documents)

273.075 Deed to purchaser. When lands formerly belonging to the State of Oregon are disposed of and final payment has been made, the director shall execute and deliver to the purchaser a deed in a manner and form prescribed by the rules of the division, conveying all right, title and interest which the state may have in and to such lands, except as otherwise provided by law. [Formerly 273.720; 1969 c.594 §4]

273.080 [Amended by 1967 c.421 §41; renumbered 273.211]

273.081 Execution of documents; recordation. The director may execute on behalf of the division all documents required to carry out its powers and duties, in the manner and form prescribed by the rules of the division. All documents so executed shall be admitted to record without acknowledgment. [Formerly 273.450; 1969 c.594 §5]

273.085 Recording copies of documents. Copies of any document executed by the director, or executed by the State Land Board before January 1, 1968, and certified by the director, are entitled to record in the office of any county recording officer. Documents affecting the title to real property shall be recorded in the county where such real property is situated; copies of all other documents executed by the division may be recorded in any county designated by the division. [Formerly 273.555; 1969 c.594 §6]

273.090 [Amended by 1967 c.421 §42; renumbered 273.216]

273.091 Recording fees; return of documents. The person offering a copy of a document mentioned in ORS 273.085 for recording shall pay the recording fee. The division is exempt from the payment of such fees. When a copy of a document has been recorded it shall be returned by the recording officer to the director or other party at whose request it was recorded. [Formerly 273.565]

273.095 Copies or transcripts as evidence. The record of any copy of a document recorded under ORS 273.085, or a transcript thereof certified by the county recording officer, shall be received in evidence in all courts in this state with like force and effect as the original document. [Formerly 273.575]

273.100 [Amended by 1967 c.421 §56; renumbered 273.281]

(Finances)

273.101 Common School Fund. The division shall administer the Common School Fund as provided in ORS 327.405 to 327.480. [1967 c.421 §20]

273.105 Distributable Income Account. (1) The Distributable Income Account is established within the Common School Fund. The division shall administer this account in accordance with section 4, Article VIII, Oregon Constitution, and applicable laws.

(2) The following moneys in the Common School Fund shall be credited to the Distributable Income Account:

(a) Moneys received under ORS 390.715 and 390.725 after deducting the administrative costs of the State Parks and Recreation Department.

(b) So much of the interest income derived from investments of the Common School Fund as remains after payment of the expenses of the State Land Board authorized to be paid under subsection (2), section 2, Article VIII of the Oregon Constitution.

(c) So much of the profits derived from the sale of equity investments of the Common School Fund as the State Land Board deems appropriate after payment of the expenses of the State Land Board authorized to be paid under subsection (2), section 2, Article VIII of the Oregon Constitution.

(d) So much of the dividend income derived from investment of the Common School Fund as the State Land Board considers appropriate after payment of the expenses of the State Land Board authorized to be paid under subsection (2), section 2, Article VIII of the Oregon Constitution, with the balance reinvested in principal.

(e) Other moneys received by the division that are required by law to be deposited in the Distributable Income Account.

(3) Losses resulting from the investment in and subsequent sale of equity investments shall be deducted from the Distributable Income Account and credited to the Common School Fund.

(4) All other moneys received by the division shall be credited to the Common School Fund.

(5) The moneys in the Distributable Income Account are appropriated continuously for apportionment according to ORS 327.410. [1967 c.421 §21; 1969 c.338 §1; 1969 c.601 §29; 1977 c.344 §1; 1987 c.760 §2; 1991 c.348 §1]

273.110 [Amended by 1967 c.421 §57; renumbered 273.285]

273.111 Swamp and Overflow Land Reclamation Fund. There are appropriated such sums of money as are necessary to carry out the purposes of ORS 274.280 to 274.310, out of the Common School Fund in an amount not to exceed the net receipts from operations under ORS 274.530. When sufficient funds become available from the proceeds of the sale or lease of reclaimed lands, all money appropriated by this section and expended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common School Fund. [Formerly 274.300; 1969 c.594 §9]

273.115 Division use of Common School Fund. The division may use so much of the Common School Fund as is necessary for:

(1) The acquisition of lands, easements, and all other interests in real property.

(2) Improvement, operation, and maintenance of property, crops, timber, fixtures and appurtenances whether granted or otherwise acquired at any time. [1967 c.421 §23; 1969 c.338 §2; 1987 c.760 §3]

273.120 [Repealed by 1967 c.421 §206]

273.121 Expenditures of funds under control of division. Notwithstanding any other provision of law, all funds under the control of the division shall be expended by warrant drawn on the State Treasurer, and then only upon proper claim approved by the director or the authorized representative of the director submitted to the Secretary of State for audit. [Formerly 273.445; 1969 c.594 §12]

273.125 Refund of moneys. Whenever it appears to the division that any moneys have been erroneously paid to it, the division may make an appropriate refund. [Formerly 273.470]

273.130 [Amended by 1967 c.421 §58; renumbered 273.290]

273.131 Compromise or release of claims. The division may, whenever in its judgment such course is to the best interest of the state, compromise, settle, release and discharge any mortgage, judgment or other claim in favor of the State of Oregon, and arising out of the sale or lease of property within the jurisdiction of the division, upon such terms as the division may direct. [Formerly 273.460]

(Cooperation with Other Agencies and Governmental Entities)

273.135 Agreements with other agencies for special services; costs; interagency services. (1) The division may enter into written agreements with any governmental agency for the performance of specialized, technical, professional, administrative or other services and for the furnishing of facilities and materials to carry out provisions of law applicable to the division, except those services relating primarily to the management of grazing lands, which shall continue to be performed directly by the division. The activities and programs performed under such agreements remain subject to supervision and control by the division.

(2) All expenses incurred by a governmental agency in performing services and furnishing facilities and materials under an agreement entered into pursuant to subsection (1) of this section shall be paid by the division to such performing agency in the manner other claims are paid. Payments by the division pursuant to this section and ORS 273.141 shall be made from moneys available to the division for the payment of its expenses. Before making any deposit to the credit of the Common School Fund, or any other fund or account managed by the division, the division may first deduct all expenses incurred pursuant to agreements en-

tered into under this section and ORS 273.141.

(3) Any state agency authorized under ORS 283.110 to furnish services, facilities and materials to other state agencies may in like manner furnish such services, facilities and materials to the division under written agreement pursuant to this section. All moneys received by a state agency in payment for services, facilities and materials rendered under a written agreement with the division may be paid, deposited and credited in like manner as provided in ORS 283.110 (2), or credited to the account from which the cost of the services, facilities and materials was originally paid. [Formerly 273.585]

273.140 [Amended by 1967 c.421 §59; renumbered 273.295]

273.141 Nature of services to be performed by certain other agencies. In order to provide the division with the specialized assistance necessary to its operations and the transaction of its business, and in addition to other agreements that may be entered into under ORS 273.135, the division may enter into written agreements with the state agencies designated in this section for the operation of programs and activities assigned to the division. Subject to final review and approval by the division:

(1) The State Forestry Department may perform the functions of the division that relate to forest resources.

(2) The Oregon State Department of Geology and Mineral Industries may perform the functions of the division that relate to mineral resources.

(3) The Director of Veterans' Affairs may perform the functions of the division that relate to investment of funds in mortgages secured by real property.

(4) The State Treasurer may perform the functions of the division that relate to investments of funds administered by the division not described in subsection (3) of this section, and that relate to escheated property. [Formerly 273.595]

273.145 Division powers in exchanges, settlements and indemnifications. The division may enter into contracts with any person owning lands adapted to the purposes of ORS 273.316 to 273.345 and 273.511, for the subdivision, settlement and sale of all or any portion thereof, under the direction and supervision of the division and such conditions as may be agreed to. [Formerly 273.640; 1969 c.594 §15]

273.150 [Amended by 1967 c.421 §60; renumbered 273.300]

273.151 Cooperation with Federal Government. The division may cooperate with the Federal Government for the development, settlement, subdivision and disposition of lands belonging to the State of Oregon, or which otherwise may be made available for carrying out the purposes of ORS 273.316 to 273.345 and 273.511. In such cooperation, the division may provide the lands but the Federal Government shall provide the money necessary to meet the expenses of reclamation, subdivision, necessary improvement and equipment. [Formerly 273.740; 1969 c.594 §16]

273.155 Cooperation of state and county agencies. The division, in carrying out its duties, may call upon all related state and county agencies, including Oregon State University and any state or county officers through whom necessary information and aid may be received. Such agencies, institution and officers shall cooperate with the division without additional compensation. [Formerly 273.750; amended by 1969 c.594 §17]

273.160 [Amended by 1967 c.421 §61; 1967 c.616 §§14, 14a; renumbered 273.306]

(Director and Staff)

273.161 Director of division; salary of director and staff. (1) The State Land Board shall appoint a Director of the Division of State Lands to serve for a term of four years, subject to removal at the discretion of the board.

(2) The director shall receive such salary as is fixed by the board. In addition to salary, subject to applicable law regulating travel and other expenses of state officers, the director shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

(3) The salaries and other expenses of the director and employees of the division shall be paid out of revenues accruing to the Common School Fund. [1967 c.616 §6]

273.165 Oath and bond of director. Before entering upon the duties of office, the director shall take an oath to perform faithfully the duties of the director. The director shall give to the state a fidelity bond, with one or more corporate sureties authorized to do business in this state, in a penal sum fixed by the board. The premium on the bond shall be paid from moneys available for the payment of expenses of the division. [1967 c.616 §7]

273.170 [Renumbered 273.915]

273.171 Duties and authority of director. (1) The director is chief executive officer of the division, and is responsible for the administration of the laws conferring powers or imposing duties upon the division, subject to specific policies formulated by the board and review of the actions of the director by the board.

(2) Under written policy directives adopted by the board and recorded in its minutes, the director has full authority with respect to the retention or disposition of all lands subject to the jurisdiction of the division, including but not limited to the management, sale, leasing, exchange or other conveyance of such lands. [1967 c.616 §8]

273.175 Employees of division; compensation; fidelity bonds. Subject to any applicable provision of the State Personnel Relations Law:

(1) The director shall appoint and discharge such personnel as the director considers necessary for the efficient administration of the laws conferring powers or imposing duties upon the division. The director shall prescribe the authority, powers and duties of all employees of the division. Employees of the division are subject at all times to the direction, supervision and control of the director.

(2) Subject to the approval of the board, the director shall fix the compensation of the employees of the division.

(3) The director may require any employee of the division to give to the state a fidelity bond, with one or more corporate sureties authorized to do business in this state, in a penal sum fixed by the director. The premium on such a bond shall be paid from moneys available for the payment of expenses of the division. [1967 c.616 §10]

273.180 [Amended by 1967 c.421 §89; renumbered 273.751]

273.181 [1967 c.616 §11; repealed by 1975 c.605 §33]

273.185 Director to investigate trespasses on state lands; appearance before federal agencies; expenses. (1) The director shall investigate all trespasses on and damage to state lands and prosecute the same. The director shall appear before appropriate agencies of the United States in all cases involving the title or claim of the state to its granted land or lands selected in lieu thereof.

(2) Expenses incurred under this section shall be paid out of the moneys available to the division for the payment of its expenses. [Formerly 273.530]

273.190 [Amended by 1967 c.421 §90; renumbered 273.755]

273.195 [1981 c.787 §5; renumbered 270.020 in 1991]

273.200 [Amended by 1967 c.421 §91; renumbered 273.761]

273.201 [Formerly 273.060; 1977 c.598 §28; 1981 c.33 §1; 1981 c.787 §45; 1987 c.426 §1; 1989 c.904 §53; repealed by 1991 c.816 §24]

273.205 [Formerly 273.070; repealed by 1991 c.816 §24]

273.210 [Renumbered 273.555 and then 273.085]

273.211 [Formerly 273.080; repealed by 1991 c.816 §24]

273.216 [Formerly 273.090; repealed by 1991 c.816 §24]

273.220 [Renumbered 273.565 and then 273.091]

REMOVAL OF MATERIAL FROM STATE LANDS

273.221 [1967 c.421 §44; repealed by 1969 c.594 §63]

273.225 Application for lease to take material; form. Before any person shall take any material from any real property of the State of Oregon, except in the manner and for the purposes mentioned in ORS 274.525 or 274.550, the person shall apply to the division for a lease. The application shall include a complete description of the location of the contemplated operation, the time and manner of contemplated removal, and such other pertinent information as the division may require. Upon receipt of such application the division may award a lease to the applicant and fix a royalty in the same manner provided in ORS 274.530. [Formerly 274.540; 1969 c.594 §13]

273.230 [Renumbered 273.575 and then 273.095]

273.231 Removal without compliance with statute. (1) No person shall remove material from any real property of the State of Oregon for commercial uses without complying with ORS 273.225, 274.550 and 274.560.

(2) The establishment or placing of a dredging or digging outfit on any waters, the submersible or submerged lands of which belong to the State of Oregon, and the removal of material from the submersible or submerged lands thereof for commercial uses, without having applied for and received a lease under ORS 274.530, is a continuing trespass. [Formerly 274.580; 1969 c.594 §18]

273.235 Division's powers to enforce statute. The division may inspect and audit books, records and accounts of each person removing material from any real property of the State of Oregon, and make other investigation and secure or receive other evidence necessary to determine whether or not the division is being paid the full amount payable to it for the removal of such material. The division may proceed by action or suit to enforce payment for all materials taken from any real property of the State of Oregon, for commercial uses, whether under lease, or otherwise, for which payment has not been made. [Formerly 274.600]

273.240 [Renumbered 271.375]

273.241 Action to recover damages for unlawful removal of material. (1) Removal of material from any property of the State of Oregon under the control of the division by any person without lawful authority is a trespass for which the state, in addition to any action commenced under ORS 273.990, may also commence an action for damages.

If damages are assessed against the defendant in any such action, the state shall be awarded double the amount of damages assessed if the trespass is willful. Proof by the state of its ownership of the premises is prima facie evidence that the trespass, if committed, was willful.

(2) Any action under subsection (1) of this section must be commenced within six years from the date of the trespass or the date on which the trespass is discovered by the state, whichever last occurs. [Formerly 274.605]

273.250 [Amended by 1967 c.421 §87; renumbered 273.705]

SALE OF STATE LANDS

273.251 Classification of state lands. Unless the context or a specially applicable definition requires otherwise, state lands are classified as follows:

(1) "Agricultural college lands." Lands granted to the state by the Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and maintenance of Oregon State University.

(2) "Farmlands." Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken to secure loans from the common school, agricultural college, university or other funds.

(3) "Indemnity lands." Lands selected to satisfy losses in sections 16 and 36, as provided by sections 851 and 852 of title 43, United States Code, as amended, or any other laws of the United States.

(4) "School lands":

(a) Sections 16 and 36 in each township granted to the state by the Act of February 14, 1859 (11 Stat. 383).

(b) Lands selected for internal improvements under the Act of September 4, 1841 (5 Stat. 455), and diverted for common schools with the consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat. 595).

(c) Lands selected for capitol building purposes under the Act of February 14, 1859 (11 Stat. 383).

(5) "Swamp lands." Lands claimed by the state under the Act of September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by the Act of March 12, 1860 (12 Stat. 3).

(6) "Submerged lands." Lands defined as submerged by ORS 274.005.

(7) "Submersible lands." Lands defined as submersible by ORS 274.005.

(8) "University lands." Lands granted to the state under the Act of February 14, 1859 (11 Stat. 383), for the support and maintenance of the University of Oregon. [Formerly 273.010; amended by 1969 c.594 §19]

273.255 Eligibility to purchase state lands. Any individual who is 18 years of age or older and who is a citizen of the United States, or has declared an intention to become a citizen, may apply to purchase state lands. [1967 c.421 §51 (enacted in lieu of 273.030)]

273.260 [Amended by 1967 c.421 §88; renumbered 273.711]

273.261 Applications generally. An individual eligible under ORS 273.255 may file an application with the director for the purchase of state lands other than farmlands. The application must be made in a form prescribed by the division, contain a correct and precise description of the lands applied for in accordance with a survey acceptable to the division, and be verified before an officer authorized by law to administer oaths. [1967 c.421 §52 (enacted in lieu of 273.030)]

273.265 Application for submersible lands. (1) If application is made for the purchase of submersible lands, the applicant must cause such lands to be surveyed at the expense of the applicant by a surveyor, whose selection is subject to prior approval by the division. The survey must connect with and conform to adjacent surveys acceptable to the division, so far as practicable. The applicant must submit to the division, with the application, an accurate map of the lands applied for, showing the boundaries and stating the area. The map must be verified by the surveyor before an officer authorized by law to administer oaths.

(2) Each application to purchase submersible lands must, in addition to all other requirements, contain the applicant's statement that application is made with knowledge of the character of the land applied for and the title of the state thereto, and the waiver of the applicant of all claims upon the state for the return of the purchase price of the lands in the event that the lands, or any part thereof, do not belong to the state. [1967 c.421 §53 (enacted in lieu of 273.030); 1969 c.594 §20]

273.270 [Renumbered 273.910]

273.271 Acreage purchasable. (1) An eligible individual may apply to purchase not more than 640 acres of each of the following classes of land: School, indemnity, university, agricultural college, swamp or submersible lands.

(2) This section shall not interfere with the issuance of deeds to the holders of assignments of certificates of sale as provided in ORS 273.295, nor shall the limitations of this section apply to political subdivisions in this state purchasing such lands for any public use. [Formerly 273.040; 1969 c.594 §21]

273.275 Price of state lands; sale to highest bidder. Except as limited by ORS 270.020 and 273.225 to 273.241 and 274.040, and as in its judgment the interests of the state demand, the division:

(1) Shall fix the price at which all classes of state lands may be sold and the interest to be charged on deferred payments therefor under ORS 273.281, and may provide for the advertisement and sale of such lands to the highest bidder in a manner consistent with ORS 270.020 and 273.225 to 273.241.

(2) May at any time withdraw any or all of such lands from sale. [Formerly 273.050]

273.280 [Renumbered 273.905]

273.281 Payment for state lands. The division shall require applicants for the purchase of submersible lands to pay in full for such lands at the time of purchase. Applicants for the purchase of school, agricultural college, university, swamp or indemnity lands shall make payments at such times, and with such interest for deferred payments as the division may prescribe. However, the obligation may not be allowed to stand for a longer period than five years after the date of issuance of the certificate under ORS 273.285. [Formerly 273.100; 1969 c.594 §22]

273.285 Certificate of sale to instalment purchaser; records of sale. (1) When an applicant to purchase state lands desires to make payments in instalments as provided in ORS 273.281, the division shall, upon receipt of one-fifth of the purchase price of the land applied for, deliver to the purchaser a certificate that the purchaser has contracted to purchase the lands therein described. Upon performance under the contract and upon the surrender of the certificate of sale, the purchaser, or the heirs or assigns of the purchaser, shall be entitled to a deed issued under ORS 273.300 for the lands therein described.

(2) The division shall maintain appropriate records of each sale. [Formerly 273.110]

273.290 Cancellation and forfeiture on default in payments. If any instalment of the purchase price of land, principal or interest, remains unpaid for one year after the same becomes due, the certificate issued under ORS 273.285 shall be canceled by order of the division. All payments thereon shall be forfeited and the land considered vacant and subject to sale as if it had not been previously contracted to be sold. [Formerly 273.130]

273.295 Assignment of certificates of sale; deed to assignee. All assignments of certificates of sale shall be executed and acknowledged in the same manner as a deed to real estate. The assignee, upon full payment of the amount due on the purchase price, and delivery to the division of such certificate and assignment, shall receive a deed for the land described in such certificate, in the name of the assignee. [Formerly 273.140]

273.300 Issuance of deed. Whenever any purchaser of state lands holding a certificate of sale therefor has paid three-fifths or more of the purchase price thereof, the director may execute a deed conveying the lands to such purchaser, upon the purchaser's executing:

(1) A note for the remainder of the purchase price; and

(2) A mortgage on the premises in the same form and manner as other mortgages are executed for loans from the Common School Fund under ORS 327.405 to 327.480. [Formerly 273.150; 1969 c.594 §23]

273.305 [Formerly 273.560; 1967 c.421 §78; renumbered 273.521]

273.306 Execution and record of deeds. (1) Upon full payment of the purchase price and any accrued interest thereon the director shall execute a deed to the purchaser in a form prescribed by the rules of the division.

(2) The division shall maintain appropriate records of all deeds issued under this section. [Formerly 273.160]

273.310 [Formerly 273.570; 1967 c.421 §79; renumbered 273.525]

273.311 Correction of deeds; refund of purchase price; refund to assignee of certificate of sale issued on fraudulent application. (1) In all cases where clerical errors have been made in deeds for any state lands sold, upon satisfactory proof and if the rights of innocent parties have not intervened, the director may execute corrected deeds to the holders thereof.

(2) Where lands, other than submersible lands and unsurveyed or unpatented swamp lands have been sold and the state cannot convey title to the purchaser, the division shall repay the purchaser, or the heirs or assigns of the purchaser, all sums which may have been paid to the division on the purchase price of the lands, including the interest paid upon deferred payments, upon the presentation of a proper application for repayment, satisfactory proof and the surrender of the certificate; or if deed has been issued, upon reconveyance by executed and recorded quitclaim deed of whatever title or color of title was received from the state.

(3) Where a certificate of sale has been issued by the division upon a fraudulent application and the certificate is held by assignment by a third party who had no knowledge of the fraud at the time of assignment, the division may refund to the holder such sums as were paid the division

on the purchase price of the lands covered by the certificate, including the interest paid upon deferred payments, upon the holder making proper application to the division for repayment and surrendering for cancellation the certificate and assignment. [Formerly 273.480; 1969 c.594 §24]

273.315 [Formerly 273.580; 1967 c.421 §80; renumbered 273.531]

EXCHANGE OF STATE LANDS

273.316 Exchanging state lands to accumulate larger tracts. (1) The division may exchange any state lands under its control for any other lands in this state for the purpose of accumulating larger and contiguous tracts of state lands. The division may enter into the necessary contracts to accomplish such purposes, subject to the rights of lessees under ORS 273.321. The exchange may be made on the basis of value or acreage, and the division may pay or accept money as part of the consideration to the extent required for a fair transaction.

(2) The object of this section is to authorize the division to exchange isolated tracts of state lands for the purpose of accumulating larger and contiguous tracts of state lands. [Formerly 273.700; subsection (2) (1967 Replacement Part) enacted as 1967 c.421 §64; subsection (2) enacted as 1967 c.148 §2; 1969 c.594 §25]

273.320 [Formerly 273.590; 1967 c.421 §81; renumbered 273.535]

273.321 Lessees of state land to be notified prior to exchange. (1) Before exchanging any state lands for other lands under ORS 273.316, the division shall give notice to the lessees of those state lands considered for exchange by sending by certified or registered mail a notice containing a general description of the state lands considered for exchange and a listing of the names and addresses of the lessees of such lands. The notice shall state that if written protest to such exchange is received by the division not later than the 20th day after the mailing of the notice, a hearing on such exchange will be held.

(2) If the division receives, not later than the 20th day after the mailing of the notice, written protest to such exchange from a lessee of state lands considered for exchange, the division shall hold a hearing on such exchange. The hearing shall be held not earlier than the 30th day after the mailing of the notice described in subsection (1) of this section. Notice of the hearing shall be mailed by certified or registered mail to all lessees of state lands considered for exchange. At the hearing the lessees of the lands, or their representatives, may present their views on the prospective exchange.

(3) The division shall consider testimony presented at the hearing before making a protested exchange of state lands. [Formerly 273.427]

273.325 [Formerly 273.600; 1967 c.421 §82; 1967 c.616 §§15, 15a; renumbered 273.541]

STATE LANDS UNLAWFULLY ACQUIRED

273.326 Compromise with owners of state lands unlawfully acquired; disposal of lands received through compromise. In all cases where the division believes that any lands were acquired from the state by fraud or in violation of the laws relating to the disposal thereof, it may:

(1) Enter into contracts with the persons asserting ownership thereto for the subdivision and sale thereof on conditions agreed upon by the contracting parties; or

(2) Exchange or accept in lieu thereof other lands suitable for settlement and development or valuable for timber. The division may enter into contracts for disposal and settlement of such other lands as in the case of the lands first mentioned in this section. [Formerly 273.660; 1969 c.594 §26]

273.330 [Formerly 273.610; repealed by 1967 c.421 §206]

273.331 Subdivision and disposal of other lands as condition of compromise. Where the lands which the division believes were acquired from the State of Oregon by fraud or in violation of the laws of the state, are held by any person owning other lands the title to which is not involved, the division may provide as a condition to the contract of settlement described in ORS 273.326 that such other lands, or such portion thereof as the division considers advisable, may also be subdivided and disposed of under the direction and supervision of the division according to the conditions agreed to. [Formerly 273.670]

INDEMNITY LANDS

273.335 Object of ORS 273.340 and 273.345. The object of ORS 273.340 and 273.345 is to make available for settlement and development the lands to which the State of Oregon is entitled as indemnity and the remaining unsold state lands, and to make available for the Common School Fund the proceeds from the sale of such lands. [1967 c.421 §70]

273.340 Ascertainment and procurement of indemnity lands. The division shall ascertain the amount of indemnity lands to which the State of Oregon is entitled from the Federal Government and procure such lands in as large and contiguous tracts as practicable, having in view its

adaptability for agriculture or its value for forestry purposes. [Formerly 273.680]

273.345 Determination of advisability of selection of indemnity lands within national forest reserves. Before making selections under ORS 273.340, the division shall determine the advisability of making such selections in large and contiguous tracts within the national forest reserves. If it is found that such selections will be advantageous to the State of Oregon, the division shall negotiate with the appropriate agency of the United States to procure such lands. If necessary, the division may seek enactment of legislation to accomplish such object. The division may enter into all necessary contracts relating to such lands. [Formerly 273.690]

273.350 Selection and sale of indemnity lands. (1) The director shall:

(a) Select as indemnity lands such vacant government lands as may be applied for by legal applicants, upon receipt of their applications to purchase, together with the nonmineral affidavit and filing fees, as required by the rules and regulations of the Bureau of Land Management, and a payment fixed by the division; and

(b) Upon return of a copy of the selection list approved by the appropriate officer of the United States, pay over to the State Treasurer moneys received on account of the purchase price of such lands.

(2) When such lands have been clear listed or patented to the state by the United States, the division shall issue deeds or certificates to the applicants. However, no certificate or deed shall be issued for indemnity lands until the same have been patented to the state by the United States. If the state fails to secure patent, the money so received shall be repaid to the applicant upon proper application to the division and surrender of the director's receipt. [Formerly 273.540]

273.355 [Formerly part of 517.410; 1967 c.421 §83; renumbered 273.551]

ADJUSTING CERTAIN ERRONEOUS SALES

273.356 Definitions for ORS 273.356 to 273.375. As used in ORS 273.356 to 273.375, unless the context requires otherwise, "grantee" includes the successor in interest of a grantee. [Derived from 1967 c.422 §1]

273.360 Applicant to relinquish claim; refund of purchase price and taxes paid. Upon the execution and delivery to the division by any grantee to whom the State Land Board prior to February 21, 1916, erroneously conveyed various parcels of land in sections 16 and 36 to which the title of the state was found by the board to be defective, of a written instrument sufficient to annul the conveyance of the state to such grantee and to relinquish all other claims against the state arising out of such conveyance, the division pursuant to ORS 273.125 shall:

(1) Refund to such grantee the purchase price paid to the state for such land, with interest at the rate of six percent per annum from the time payment was made; and

(2) Pay to the grantee an amount equal to all ad valorem taxes paid by such grantee with respect to such land before June 19, 1967, without interest. [1967 c.422 §2; 1973 c.685 §1]

273.365 When refunds not available; source of refunds. (1) A refund is not available under ORS 273.356 to 273.375 to any grantee who received from the State Land Board a refund or other settlement with respect to such lands before June 19, 1967, or who may be holding title originally procured or subsequently conveyed by false swearing or fraudulent representation.

(2) Each refund under ORS 273.360 shall be paid to the grantee out of the revenues of the Common School Fund. [1967 c.422 §§3, 4]

273.370 Alternative to refund. If the division finds that the property erroneously conveyed has been identified generally as private property, as evidenced by the inclusion of the property on the assessment rolls of the county in which it is located for a period of 20 years or more immediately preceding, the division may refund to the grantee an amount not to exceed any of the following values:

(1) The current fair market value of the property erroneously conveyed;

(2) The amount of the most recently issued title insurance policy carried on the property, if such a title insurance policy has been issued regularly; or

(3) The estimated current value to the division of the indemnity selection rights reconveyed to the state. [1967 c.422 §5]

273.375 Acquisition by state of applicant's interest; price. In lieu of the procedure set out in ORS 273.360, 273.365 and 273.370, the division may acquire for the use and benefit of the State of Oregon, by purchase or exchange, the interest of any applicant to whom the certificate described in ORS 273.620 (3) (1965 Replacement Part) has been issued before June 19, 1967, or who acts under ORS 273.360, 273.365 and 273.370. The price of any such purchase or acquisition shall be paid to such applicant out of the revenues of the Common School Fund, and shall not exceed the market value of the land that otherwise would have been available to

the applicant under ORS 273.620 (1965 Replacement Part). [1967 c.422 §6]

SPACE AGE INDUSTRIAL PARK

273.380 [Formerly 184.260; repealed by 1969 c.594 §63]

273.382 Definitions for ORS 273.382 to 273.386. As used in ORS 273.382 to 273.386, unless the context requires otherwise:

(1) "Director" means the Director of Department of General Services.

(2) "Lease" means the lease dated July 2, 1963, between the State of Oregon, acting by and through the State Land Board, as the lessor, and The Boeing Company, a Delaware corporation, as the lessee.

(3) "Space Age Industrial Park" means all land and property comprising the leased premises particularly described in the lease and any other land or property added thereto as provided in the lease. [1963 s.s. c.7 §1; 1969 c.594 §27; 1991 c.441 §1]

273.384 Administration of Space Age Industrial Park; disposition of income and proceeds. (1) The Space Age Industrial Park shall be managed and administered by the Director of Department of General Services.

(2) Notwithstanding the provisions of any law, all net income and other net proceeds derived from the rental, lease, sale, disposition or use of the Space Age Industrial Park (after payment of all costs and expenses incident to the maintenance and administration of the Space Age Industrial Park and costs incident to any sale or other disposition thereof) shall be deposited in the State Treasury and credited to the General Fund to be available for general governmental expenses. [1963 s.s. c.7 §9; 1969 c.594 §28; 1977 c.93 §1; 1991 c.441 §2]

273.386 Sale or other disposition of Space Age Industrial Park. Subject to the approval of the Joint Committee on Ways and Means during legislative sessions or the Emergency Board between legislative sessions, the Director of Department of General Services has authority to rent, lease, sell or otherwise dispose in whole or in part, of the Space Age Industrial Park. [1963 s.s. c.7 §10; 1977 c.93 §2; 1991 c.441 §3]

273.388 Acquisition of Space Age Industrial Park by Division of State Lands. (1) The Division of State Lands may acquire at fair market value and manage any or all of the Space Age Industrial Park:

(a) If the lessee thereof relinquishes all rights to any or all lands in the park under lease; and

(b) If a reasonable management plan can be prepared and implemented by the Division of State Lands, as approved by the legislative review agency defined in ORS 291.371.

(2) The Director of Department of General Services shall transfer title to any lands acquired by the Division of State Lands under subsection (1) of this section to the division effective on the date of acquisition.

(3) Any moneys paid by the Division of State Lands under subsection (1) of this section shall be paid to the State Treasury to the credit of the General Fund. [1983 c.677 §1; 1991 c.441 §4]

Note: Sections 6 to 8, chapter 441, Oregon Laws 1991, provide:

Sec. 6. The transfer of these duties, functions and powers to the Department of General Services under this Act [273.382 to 273.388 and 406.030] does not affect any action, suit, proceeding or prosecution involving or with respect to the Space Age Industrial Park begun before and pending at the time of the transfer, except that the Department of General Services shall be substituted for the Department of Veterans' Affairs in such action, suit, proceeding or prosecution. [1991 c.441 §6]

Sec. 7. The rights and obligations of the Department of Veterans' Affairs relating to the Space Age Industrial Park, legally incurred under contracts, leases and business transactions, executed, entered into or begun before the operative date of this Act, are transferred to the Department of General Services. For the purpose of succession to these rights and obligations, the Director of the Department of General Services is considered to be a continuation of the Director of Veterans' Affairs and not a new authority, and the Director of the Department of General Services shall exercise such rights and fulfill such obligations as if they had not been transferred. [1991 c.441 §7]

Sec. 8. All materials, records, books and papers relating to the management of the Space Age Industrial Park are transferred from the Department of Veterans' Affairs to the Department of General Services. [1991 c.441 §8]

273.405 [1971 c.208 §1; repealed by 1981 c.787 §58]

DISPOSITION OF LAND NOT NEEDED FOR PUBLIC PURPOSE

273.406 [1981 c.787 §9; repealed by 1991 c.816 §24]

273.410 [Repealed by 1967 c.421 §3 (273.031 enacted in lieu of 273.410)]

273.411 [1981 c.787 §10; 1985 c.297 §1; repealed by 1991 c.816 §24]

273.413 Disposition of unsuitable state lands; sale; use of proceeds; procedures. (1) The Division of State Lands may dispose of isolated sections and fragments of sections of state lands which are not suitable for management according to long-range policies of the State Land Board. The proceeds of such sales shall be applied and are continuously appropriated to the Division of State Lands for the acquisition of suitable grazing or forested lands that would add to the state lands which are the income base of the Common School Fund.

(2) The proceeds of any sale authorized by subsection (1) of this section shall be deposited in a revolving account in the Common School Fund. The costs of acquisition

authorized by subsection (1) of this section shall be charged to the revolving account.

(3) When requested in writing by the Division of State Lands, the Executive Department shall draw a warrant on the Common School Fund in favor of the Division of State Lands for use as a revolving account. The State Treasurer shall hold the revolving account in special account against which the Division of State Lands may draw checks.

(4) The Division of State Lands may use the revolving account for the purposes specified in subsection (1) of this section.

(5) Before disposing of lands described in subsection (1) of this section, the division shall cause owners or lessees of land adjoining the land to be disposed of to be notified of the pending disposition. The notice shall indicate the time and method of sale, the minimum or reserved price, if any, and shall invite the landowners or lessees to participate as a prospective purchaser if the landowner or lessee wishes to do so.

(6) Before purchasing or selling land, the division shall obtain approval of the governing body of the county or counties in which such land is located.

(7) The division shall prepare sales materials, including catalogues of lands available for sale, and may charge a fee for such materials.

(8) This section does not apply to the sale or management of state-owned submerged and submersible lands subject to ORS chapter 274. [1987 c.156 §1]

Note: 273.413 was added to and made a part of ORS chapter 270 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

273.415 [1971 c.208 §2; repealed by 1981 c.787 §58]

273.416 Exchange of property held as trust fund asset. If any property owned by the state is held as an asset of any special trust fund securing the payment of bonds, it may be exchanged, under the authority granted in ORS 270.110, for other property of equal or superior value, and property so received in exchange shall be an asset of the fund in lieu of the property previously held. [1981 c.787 §11; 1991 c.816 §14]

273.420 [Amended by 1963 c.203 §1; repealed by 1967 c.421 §206 and by 1967 c.616 §29]

273.421 Relinquishing title to United States Government or governmental body or subdivision; continued public use requirement. The state hereby is granted express power to relinquish the title to any of its property not needed for public use to the United States Government or any other governmental body or political subdivision within the state, providing such property shall be used and continue to be used, for a public purpose by the United States Government, or such other governmental body or political subdivision in the State of Oregon. [1981 c.787 §12]

273.422 [1971 c.208 §3; repealed by 1981 c.787 §58]

273.425 [1961 c.676 §2; repealed by 1967 c.421 §206]

273.426 Exchange of property; value. (1) When property is exchanged under the authority of ORS 270.100, 270.110 and 270.130, the value of the real property accepted by the state in exchange for any of its property plus cash, if any, shall not be less than the value of the property relinquished by the state. The provisions of ORS 270.100, 270.110 and 270.130 do not apply when the state is exchanging property under this section.

(2) Property may be exchanged in a transaction involving more than two parties or properties under terms and conditions that reflect the provisions of subsection (1) of this section. [1981 c.787 §13; 1991 c.816 §8]

273.427 [1963 c.99 §1; 1967 c.148 §4; renumbered 273.321]

273.428 [1971 c.208 §4; repealed by 1981 c.787 §58]

273.430 [Amended by 1967 c.421 §13; 1967 c.616 §§16, 16a; renumbered 273.071]

273.431 Procedure for determining value of properties to be exchanged. (1) The value of the respective properties proposed to be exchanged shall be determined by the state agency, board or commission which has supervision and direction of the department or activity of the state for which such property is held or belongs, and if there be no such agency, board or commission, then by the Division of State Lands. The state agency, board or commission may use an appraised value as one indicia of the value of the property.

(2) The state agency, board or commission shall cause the property to be appraised by one or more competent and experienced appraisers. The compensation, if any, of the appraisers shall be borne equally by the respective owners of the property. In case such valuation shall not be mutually satisfactory to the respective owners the same shall not be binding upon them. [1981 c.787 §14; 1991 c.816 §20]

273.435 [1971 c.208 §5; repealed by 1981 c.787 §58]

273.436 Lease procedure; payment of taxes. Every lease entered into pursuant to ORS 270.110 shall be authorized by order of the state agency executing the same and shall provide such terms and conditions as may be fixed and determined by the governmental body executing the same. Any such lease may provide that the lessee shall pay ad valorem taxes assessable against the leased property, or that the state agency shall pay such taxes, in which latter event the anticipated amount of taxes shall be

taken into consideration in fixing the rental charge. [1981 c.787 §15; 1991 c.816 §22]

273.440 [1963 c.394 §1; 1967 c.421 §12; repealed by 1967 c.616 §29]

273.441 Agency donation of property for industrial or manufacturing use; conditions. (1) Any agency of the State of Oregon may donate to any person, firm or corporation selected by such governmental body, conditionally or otherwise, for industrial or manufacturing purposes, or both, and purposes incidental thereto, any real property owned by the governmental body and not needed or likely to be needed for public use.

(2) The donation must include a condition that whenever the donee or successor in interest ceases to use the property for the donated purpose the title to the property shall revert to the donor.

(3) The gift shall be made by statute or formal order and the terms and conditions of the gift shall be set forth in such statute or order. [1981 c.787 §16]

273.445 [1963 c.612 §4, 1967 c.421 §24; 1967 c 616 §17; renumbered 273.121]

273.446 [1973 c.755 §1; repealed by 1981 c.787 §58]

273.447 Disposition of state lands suitable for grazing. The Division of State Lands is hereby authorized to sell, convey, lease or exchange any or all state lands chiefly suitable for grazing, to or with Oregon counties, and with the United States of America for other lands either of equal acreage or of equal value. All powers herein granted to the Division of State Lands are in addition to and not in derogation of powers heretofore conferred by law. [1981 c.787 §17]

273.450 [Amended by 1967 c.421 §15; 1967 c.616 §§18, 18a; renumbered 273.081]

273.451 [1973 c.755 §2; repealed by 1981 c.787 §58]

273.452 Indemnification contract for occupancy of political subdivision lands. The state or any state agency occupying a street or public property of a political subdivision by any structure above, on or under the surface, may provide a contract of indemnity to protect the other political subdivision against loss or damage resulting from such occupancy. [1981 c.787 §18]

273.455 [1973 c.755 §3; repealed by 1981 c.787 §58]

273.456 Lease of space above or below street or highway; conditions; effect on prior dedications. If the state holds the easement or fee title to a street or highway, the state may lease the space above or below that street or highway for private purposes for such period as the controlling state agency determines the space will not be needed for public purposes, and upon such other terms and conditions as the agency finds to be in the public interest. Before leasing the space, the agency shall determine that the use of the space will not unreasonably interfere with the public use and utility use of the street or highway, and shall notify the property owners abutting the space proposed to be leased under this section and give them an opportunity to be heard with respect to the proposed leasing. Lease of space above or below a street or highway for private purposes shall not affect prior dedication or grant of the area for street or highway purposes. [1981 c.787 §19]

273.459 [1973 c.755 §4; repealed by 1981 c.787 §58]

273.460 [Amended by 1967 c.421 §25; renumbered 273.131]

273.461 [1981 c.787 §20; renumbered 270.025 in 1991]

273.465 [1973 c.755 §5; repealed by 1981 c.787 §58]

273.470 [Amended by 1967 c.421 §26; renumbered 273.125]

273.480 [Amended by 1967 c.421 §62; renumbered 273.311]

273.481 [1981 c.787 §21; repealed by 1983 c.642 §11]

273.486 [1981 c. 787 §§22, 23; repealed by 1983 c.642 §11]

273.490 [Amended by 1967 c.2 §2; 1967 c.421 §33; repealed by 1967 c.616 §29]

273.491 [1981 c.787 §24; repealed by 1983 c 642 §11]

273.496 [1981 c.787 §25; repealed by 1983 c.642 §11]

SUBMERSIBLE AND SWAMP LANDS

273.505 Object of ORS 273.511. The object of ORS 273.511 is to ascertain and determine the title of the State of Oregon to the beds of shallow and dry lakes and the lands around lakes exposed to reliction or otherwise. [1967 c.421 §76]

273.510 [Amended by 1967 c.421 §37; repealed by 1967 c.616 §29]

273.511 Acquisition of submersible and swamp lands; reclamation. The division shall ascertain the amount of land to which it is entitled under the Acts of Congress relative to submersible and swamp lands, acquire title thereto and enter into contracts for drainage and reclamation in order that the lands may be available for development and settlement. [Formerly 273.730; 1969 c.594 §29]

273.520 [Amended by 1965 c.14 §42; 1967 c.421 §38; repealed by 1967 c.616 §29]

TIMBER SALES

273.521 Sale of timber on state lands. The division may sell and dispose of the timber on lands of the State of Oregon, regardless of acreage and in such quantities to each purchaser as the division shall prescribe. All sales of timber shall be made to the highest and best bidder at public auction, or through sealed bids, as the division may determine prior to offering the timber for sale. [Formerly 273.305]

273.525 Appraisal of timber; notice; sale conditions. (1) Before offering any timber for sale under ORS 273.521, the division shall cause the timber to be appraised in a manner that it considers appropriate.

(2) Prior to sale, notice thereof shall be given by the division for not less than four weeks by publication once each week in one or more newspapers of general circulation in the county in which such timber is situated, and in such other manner as the division considers appropriate. The notice shall designate by legal subdivision the land having such timber thereon, shall state the appraised value of such timber and the minimum price at which the same may be sold and shall contain a brief statement of the terms of sale. No sale of timber shall be made at less than the appraised value.

(3) The timber on one or any number of legal subdivisions may be offered and sold separately, or in one body, as the division considers appropriate. In cases in which notice has been given by publication and no satisfactory bid has been received, or in cases in which the bidder fails to complete the purchase, the division may, at any time during a period of six months after the advertised date of sale, sell the timber in such manner as it considers appropriate, but the sale price shall not be less than the minimum terms offered in the notice of sale or the highest bid received, whichever is the larger amount. [Formerly 273.310]

273.530 [Amended by 1967 c.421 §36; 1967 c.616 §§19, 19a; renumbered 273.185]

273.531 Decision by division on bids. When more than one bid has been received, or in case of doubt as to which of a number of bids is the highest and most advantageous for the state, the decision of the division is conclusive and not subject to review by the courts. [Formerly 273.315]

273.535 Payment and bond by purchaser. A certified check for not less than 20 percent of the amount of the bid shall accompany each bid, which, in the case of the successful bidder, shall be retained by the division as a first payment. Subsequent payments shall be at stated intervals, and in advance of cutting. The successful bidder shall execute to the division a surety bond approved by the division in an amount not less than the sale value of the timber involved. The bond shall contain clauses stipulating that cutting regulations, including method of slash disposal and observance of the state forest protection laws, shall be an obligation of the bond. [Formerly 273.320]

273.540 [Amended by 1967 c.421 §73; renumbered 273.350]

273.541 Execution and delivery of instruments. All documents required in carrying out ORS 273.521 to 273.541 shall be executed by the director, and all bonds, contracts and other instruments required by ORS 273.521 to 273.541 for the protection of the interests of the state shall be delivered to the division. [Formerly 273.325]

273.550 [Repealed by 1967 c.81 §1]

DRILLING LEASES

273.551 Mining and drilling leases on state lands. (1) The Division of State Lands, as to any land or mineral and geothermal resource rights subject to its jurisdiction and control and without restricting, limiting or repealing any other powers and authority which it has, after consultation with the State Department of Geology and Mineral Industries and with concurrence of any state agency acting for the state with respect to surface rights in the subject land, may execute leases and contracts for the mining of gold, silver, copper, lead, cinnabar, gas and oil, or other valuable minerals or the exploration and development of geothermal resources upon conditions agreed upon by the division and the lessee.

(2) All leases may be without limitation as to time; but the division may cancel any lease upon failure by the lessee to exercise due diligence in the prosecution of the prospecting, development or continued operation of the mine or well, and shall insert in every such lease appropriate provisions for such cancellation.

(3) The authority granted by this section and ORS 517.420 shall include the execution of leases and contracts covering submersible and submerged lands, as defined in ORS 274.005, the leasing of which is not otherwise expressly authorized by statute.

(4) Leases and contracts executed under this section and ORS 517.420 are not sales within the purview of ORS 270.100.

(5) The division may charge a reasonable fee, to be paid by the applicant, for making necessary investigations before the execution of any such lease.

(6) This section does not apply to permits or leases under ORS 274.705 to 274.860. [Formerly 273.355; 1974 s.s. c.51 §6; 1975 c.552 §42; 1991 c.217 §4; 1991 c.816 §17]

SOUTH SLOUGH ESTUARY

273.553 South Slough Estuarine Sanctuary; agreement between Oregon and Federal Government. (1) It is the policy of the State of Oregon to maintain the South Slough of Coos Bay, from Valino Island southward, inclusive, as a national estuarine sanctuary, acquired as the South Slough

Estuary Sanctuary pursuant to chapter 415, Oregon Laws 1975, as the first estuarine sanctuary in the United States to be created under Section 312 of the Coastal Zone Management Act of 1972 (P.L. 92-583). The management policy for the sanctuary shall be to:

(a) Maintain the integrity of the estuary;

(b) Protect the estuary from uses and activities; both within and beyond its boundaries, which may alter or affect the ecosystem and its natural dynamic processes; and

(c) Preserve the area for long-term scientific and educational uses.

(2) Responsibility for completing purchase of the South Slough Estuarine Sanctuary shall remain vested with the Division of State Lands, which shall be the agency acting for the State of Oregon in any transaction respecting the purchase of acreage for such sanctuary on or after October 4, 1977.

(3) Except as necessary to achieve the policy set forth in subsection (1) of this section and any standards established in the Coastal Zone Management Act of 1972 (P.L. 92-583) or any rules, regulations or agreements adopted pursuant thereto, the sanctuary shall be open to the public. However, to protect the estuarine ecosystems, public use of the sanctuary shall be limited and controlled by the commission created under ORS 273.554 in consultation with any technical management team established pursuant to an agreement between the State of Oregon and the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration of the United States Department of Commerce. The commission created under ORS 273.554 shall adopt rules to carry out the intent of this subsection.

(4) Administration of the sanctuary shall be provided by and pursuant to the authority granted the commission created under ORS 273.554, subject to any agreement respecting the sanctuary between the State of Oregon and the Office of Coastal Zone Management.

(5) The agency which acquired title to the sanctuary shall cause title to be cleared in the name of the State of Oregon. [1977 c.496 §1]

273.554 South Slough Estuarine Sanctuary Management Commission; powers; membership; procedures; expenses. (1) For the purpose of providing for the administration of the South Slough Estuarine Sanctuary in a manner consistent with the provisions of ORS 273.553, there is created the South Slough Estuarine Sanctuary Management Commission which shall have the authority, in accordance with the policies formulated by the State Land Board, to:

(a) Conduct the day-to-day operation and management of the South Slough Estuarine Sanctuary with the administrative support of the Division of State Lands;

(b) Appoint a manager and other staff necessary to carry out this section; and

(c) Apply for, receive and expend moneys from the Federal Government and from this state or any agency thereof for the purpose of carrying out this section.

(2) The South Slough Estuarine Sanctuary Management Commission shall consist of eight members appointed by the Governor as follows:

(a) A representative of common schools in the area of the sanctuary;

(b) One authorized representative of the Coos County Board of Commissioners;

(c) One authorized representative of the governing body of the Port of Coos Bay;

(d) The Director of the Division of State Lands or a designee thereof, who shall serve as permanent chairperson of the commission;

(e) One authorized representative of the federal Office of Ocean and Coastal Resources Management;

(f) Two representatives with an interest in marine science, one from the University of Oregon Institute of Marine Biology at Charleston and one from Oregon State University; and

(g) One member selected from the general public at large.

(3) The members appointed by the Governor under paragraphs (a), (f) and (g) of subsection (2) of this section shall serve for terms of four years and members appointed under paragraphs (b) and (c) of subsection (2) of this section shall serve for terms of two years. The commission shall select one of its members as vice chairperson. The chairperson and vice chairperson shall have duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairperson shall act as the chairperson of the commission in the absence of the chairperson. The vice chairperson shall serve for a term of one year, subject to reelection by the commission.

(4) Each member of the commission shall have one vote, except that the member who is the authorized representative of the federal Office of Ocean and Coastal Resources Management shall be a nonvoting member. A majority of the commission constitutes a quorum for the transaction of business.

(5) Members of the commission are not entitled to compensation, but in the discretion of the State Land Board may be re-

imbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to laws regulating travel and other expenses of state officers and employees. [1977 c.496 §2; 1983 c.485 §1]

273.555 [Formerly 273.210; 1967 c.421 §16; renumbered 273.085]

273.556 South Slough Estuarine Sanctuary Management Account. (1) The South Slough Estuarine Sanctuary Management Account is established in the General Fund of the State Treasury. Except for moneys otherwise designated by statute, all moneys received by the South Slough Estuarine Sanctuary Management Commission shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously and shall be used by the commission for the purpose of carrying out ORS 273.554.

(2) The commission shall keep a record of all moneys deposited in the 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. [1977 c.496 §3]

273.557 Appeal to State Land Board. (1) Jurisdiction for review of actions and proposed actions of the commission which are claimed to be in violation of any provision of ORS 273.553 or 273.554 is conferred upon the State Land Board. Proceedings for review of such actions may be instituted by filing a request for review with the State Land Board.

(2) The request for review by the State Land Board need only state the action or proposed action of the commission in question and the particular provisions of ORS 273.553 or 273.554 which are violated thereby. Copies of the request for review shall be served by registered or certified mail upon the commission.

(3) The State Land Board may affirm, reverse or modify the action under review and make such other disposition of the matter as it deems necessary to carry out the provisions of ORS 273.553 and 273.554. The State Land Board shall make its decision within 60 days after the date on which the request for review was filed. [1977 c.496 §5]

273.558 Enforcement; fines; injunctive relief. (1) Violation of a rule adopted under ORS 273.553 (3) is punishable, upon conviction, by a fine of not more than $100 for each day of violation.

(2) In addition to all other remedies, when it appears to the South Slough Estuarine Sanctuary Management Commission that a person has engaged in, or is engaging in, any act which violates a rule adopted under ORS 273.553 (3), the commission may direct the Attorney General to apply to the court for an injunction restraining the person from violating such rule. [1977 c.496 §4]

273.560 [Renumbered 273.305 and then 273.521]

NATURAL HERITAGE PROGRAM

273.561 [1979 c.711 §1; repealed by 1983 c.786 §1]

273.562 [1973 c.532 §2; repealed by 1979 c.711 §10]

273.563 Definitions for ORS 273.563 to 273.591. As used in ORS 273.563 to 273.591 and 307.550 and 307.560, unless the context requires otherwise:

(1) "Agency" means a local, state or federal agency, board, commission or department.

(2) "Board" means the State Land Board.

(3) "Candidate natural area" means a natural resource area that may be considered for registration or dedication.

(4) "Commodity" means timber, minerals, livestock, agricultural products or any other product of the land which is an important economic resource.

(5) "Council" means the Natural Heritage Advisory Council established in ORS 273.571.

(6) "Data bank" means the Natural Heritage Program element inventory of element classification, data analysis, priority setting, owner and other data provided in ORS 273.576 (1)(a).

(7) "Dedicate" means the formal recognition and protection of a natural area for natural heritage conservation purposes.

(8) "Elements" means both the natural heritage resources and the special species.

(9) "Instrument" means any written document intended to convey an interest in real property under ORS 93.710, or an agreement between parties according to the Natural Heritage Program or the Oregon Natural Heritage Plan.

(10) "Natural area" means a unit of land or water or both that may be considered for dedication under ORS 273.563 to 273.591 and that has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values, be valuable as habitat for plant and animal species or for the study and appreciation of the natural features.

(11) "Natural heritage conservation area" means an area dedicated under the provisions of ORS 273.586.

(12) "Natural heritage resources" means the terrestrial ecosystem types, aquatic ecosystem types and unique geologic types

as defined in the Oregon Natural Heritage Plan or a unit of land or water that contains a natural resource.

(13) "Plan" means the Oregon Natural Heritage Plan established under ORS 273.576, which governs the Natural Heritage Program in selecting areas for natural heritage conservation.

(14) "Program" means the Natural Heritage Program as established in ORS 273.566.

(15) "Register" means the Oregon Register of Natural Heritage Areas established under ORS 273.581.

(16) "Special species" means those species of plants and animals determined by the council to be significant in value in a natural heritage conservation area and defined in the Oregon Natural Heritage Plan. [1983 c.786 §2]

273.565 [Formerly 273.220; 1967 c.421 §17; renumbered 273.091]

273.566 Legislative findings. (1) The Legislative Assembly finds that many valuable natural heritage elements are represented in natural areas which can be protected through the voluntary cooperation of private landowners and public land managers. These areas will comprise a discrete and limited system of natural heritage conservation areas which are selected to represent the full range of Oregon's natural heritage resources. These areas shall have substantially retained their natural character, or, if altered in character, shall in addition to their natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of the natural features. As such they will be living museums for scientific research, educational purposes and nature interpretation.

(2) The Legislative Assembly also finds that it is necessary to establish a process and means for public and private sector cooperation in the development of this system of conservation areas. Private landowners and public land managers should be encouraged to voluntarily participate in the program through conservation activities which benefit all Oregonians.

(3) In order to assure that natural heritage conservation activities cause the minimum of conflict with other resource uses and that they are cost effective, the Legislative Assembly finds that the Natural Heritage Advisory Council should provide a specific framework for natural heritage conservation decision making through a classification and planning process known as the Natural Heritage Program. Future natural heritage conservation areas should avoid unnecessary duplication of already protected natural heritage elements. Each natural heritage conservation decision should address alternative methods of accomplishing the same purpose and should consider cost effectiveness.

(4) The Legislative Assembly recognizes that there is a need for systematic, accessible information concerning the locations of the resources of Oregon's natural heritage including special plant and animal species, native terrestrial ecosystems, aquatic ecosystems, and geologic features, and especially including the areas already protected that contain these elements. [1979 c.711 §2; 1983 c.786 §3]

273.567 [1973 c.532 §1; repealed by 1979 c.711 §10]

273.570 [Amended by 1953 c.122 §2; renumbered 273.310 and then 273.525]

273.571 Natural Heritage Advisory Council; members; terms; qualifications; compensation; duties; rules; property gifts and donations. (1) The Natural Heritage Advisory Council is hereby established. The council shall consist of 16 members, nine of whom shall be chosen as follows and who shall elect from its membership a chairperson:

(a) Four individuals, appointed by the Governor, shall be recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology; and

(b) Five citizens, appointed by the Governor, shall be selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources.

(2) Appointed members shall serve for four-year terms.

(3) In addition to the nine members appointed by the Governor, the State Fish and Wildlife Director, the State Forester, the State Highway Engineer, the Chancellor of the State Board of Higher Education, Director of Agriculture, State Parks and Recreation Director and the Director of the Division of State Lands or an authorized representative of each such officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment of the Governor.

(5) All appointments of members of the council by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(6) Members of the council shall serve without compensation, but the board may pay the expenses reasonably incurred by the council in the performance of its functions upon presentation of vouchers signed by the chairperson of the council pursuant to ORS 292.495.

(7) The council shall:

(a) Meet at least quarterly;

(b) Develop policy for the Natural Heritage Program through the review and approval of the Oregon Natural Heritage Plan;

(c) Review nominations for registration and the voluntary dedication of natural heritage conservation areas, and approve instruments of dedication for such areas;

(d) Advise the State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Parks and Recreation Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and

(e) Advise the board in the adoption of rules that it considers necessary in carrying out ORS 273.563 to 273.591.

(8) The board shall adopt any rules pursuant to ORS 183.310 to 183.550 that it considers necessary to carry out ORS 273.563 to 273.591.

(9) Acting through the Division of State Lands, the council may accept gifts or donations of real property. Such real property shall be held in the name of the State of Oregon by the State Land Board and shall be used for the purpose of carrying out the provisions of ORS 273.563 to 273.591. [1979 c.711 §3; 1983 c.786 §4; 1987 c.172 §1; 1989 c.63 §1; 1991 c.121 §1]

273.572 [1973 c.532 §3; repealed by 1979 c.711 §10]

273.575 [Formerly 273.230; 1967 c.421 §18; renumbered 273.095]

273.576 State Land Board duties; Oregon Natural Heritage Plan; contents; implementing plan. (1)(a) The board, with the assistance of the council, shall maintain a natural heritage office to provide assistance in the selection and nomination of areas containing natural heritage elements for registration or dedication. The office shall maintain a classification of natural heritage elements, an inventory of their locations and a data bank for such information. All data obtained after October 3, 1979, through personal observation on private land shall be entered into the data bank only with the written permission of the landowner.

(b) The Oregon Natural Heritage Plan established by chapter 208, Oregon Laws 1981, shall govern the Natural Heritage Program in the conduct of activities to create and manage a system of natural heritage conservation areas which are complimentary to and consistent with the research natural area program on federal lands in Oregon. This plan lists the natural heritage elements that should be represented on the register and in natural heritage conservation areas and provides criteria for the selection and approval of candidate natural areas for registration and dedication under ORS 273.563 to 273.591. In selecting natural heritage conservation areas, the inclusion of natural heritage resources, and especially those which are not adequately protected elsewhere, shall be given primary consideration. Inclusion and protection of special species shall be an important additional consideration in selecting natural heritage conservation areas, and wherever possible, individual species shall be protected in association with natural heritage resources or in assemblages of those species determined by the council to have special significance.

(2) The board may advise owners of natural heritage conservation areas concerning the management and use of such areas and may make available to state, federal and local agencies that manage lands within Oregon, information concerning the conservation of natural heritage elements.

(3) The board may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any foundation, individual or organization for the purpose of carrying out the provisions of ORS 273.563 to 273.591. [1979 c.711 §5; 1983 c.786 §5]

273.577 [1973 c.532 §4; repealed by 1979 c.711 §10]

273.578 Plan approval; review of modifications by board. (1) The Sixty-first Legislative Assembly approves the Oregon Natural Heritage Plan submitted under ORS 273.576.

(2) The board may review and approve or disapprove any modification to the plan submitted by the council. [1981 c.208 §§2, 3; 1983 c.786 §6]

273.580 [Renumbered 273.315 and then 273.531]

273.581 Natural heritage areas register; contents; agreements between board and landowners. (1) The council shall maintain a state register of areas containing significant natural heritage elements to be called the Oregon Register of Natural Heritage Areas.

(2) The council shall from time to time identify areas from the natural heritage data bank which qualify for registration. Priority shall be based on the Oregon Natural Heritage Plan and shall generally be given to those elements which are rarest, most threatened or underrepresented in the heritage conservation system on a statewide basis. Natural heritage conservation areas shall not unnecessarily duplicate resources or special species already adequately protected by other methods of land protection. Whenever feasible, areas that qualify for registration shall be located on lands which have been

allocated primarily to special noncommodity uses.

(3) The council shall review each registration proposal, including the landowner's written permission for registration if the area is located on privately owned land.

(4) After review by the council, the board may place sites onto the register or remove sites from the register.

(5) A voluntary management agreement may be developed between the board and the owners of the sites on the register. [1979 c.711 §6; 1983 c.786 §7]

273.582 [1973 c.532 §5; repealed by 1979 c.711 §10]

273.585 [1963 c.612 §2; 1967 c.421 §27; renumbered 273.135]

273.586 Dedication of land for natural heritage conservation purposes; notice and hearing; termination of dedication. (1) A private individual or organization which is the owner of any registered natural area may voluntarily agree to dedicate that area as a natural heritage conservation area by executing with the board an instrument of dedication. The instrument of dedication shall be effective upon its recording in the real property records of the office of the clerk of the county in which any or all of the natural heritage conservation area is located.

(2) Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591 following the providing of opportunity for adequate public notice and hearing by the agency. The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education, the State Parks and Recreation Commission and the State Land Board shall, with the advice and assistance of the council, establish procedures for the dedication of natural heritage conservation areas on land, the title of which is held by the State of Oregon, and which is under that agency's management and control.

(3) The instrument of dedication shall contain any information or provisions as the private owner, organization or agency and council consider necessary to complete the dedication.

(4) Dedication of a natural heritage conservation area may be terminated as follows:

(a) The dedication of a natural heritage conservation area by a public agency may be terminated following the providing of opportunity for adequate public notice and hearing and a finding by that agency of an imperative and unavoidable necessity, or a finding by that agency, with the approval of the council, that the natural heritage conservation area is no longer needed according to the guidelines of the Oregon Natural Heritage Plan.

(b) The dedication of a natural heritage conservation area by a private individual or organization may be terminated by the private individual or organization after the council is assured that there has been compliance with the procedures required by the terms of the dedication instrument.

(c) The dedication of a natural heritage conservation area may be terminated by the board upon the advice of the council if the area is no longer needed according to the guidelines of the plan, or has permanently lost its natural character. [1979 c.711 §7; 1983 c.786 §8; 1991 c.121 §2]

273.587 [1973 c.532 §9; repealed by 1979 c.711 §10]

273.590 [Renumbered 273.320 and then 273.535]

273.591 Natural Heritage Program Account. The Natural Heritage Program Account is established within the General Fund of the State Treasury. All moneys received by the board for the purposes of ORS 273.563 to 273.591 shall be paid into the State Treasury and credited to the account. All moneys in the account are continuously appropriated for the use of the board in carrying out the provisions of ORS 273.563 to 273.591. [1979 c.711 §8]

273.592 [1973 c.532 §§6, 7; repealed by 1979 c.711 §10]

273.595 [1963 c.612 §3; 1967 c.421 §28; renumbered 273.141]

273.597 [1973 c.532 §8; repealed by 1979 c.711 §10]

273.600 [Renumbered 273.325 and then 273.541]

273.605 [1971 c.615 §1; 1973 c.772 §7; 1974 s.s. c.71 §2; 1981 c.787 §46; 1985 c.565 §41; 1987 c.320 §151; repealed by 1991 c.816 §24]

273.610 [Renumbered 273.330]

273.615 [1971 c.615 §2; 1981 c.787 §47; repealed by 1991 c.816 §24]

273.620 [Amended by 1967 c.421 §74; repealed by 1967 c.422 §7]

273.625 [1971 c.615 §3; 1981 c.787 §48; 1983 c.599 §2; repealed by 1991 c.816 §24]

273.628 [1983 c.599 §5; 1991 c.816 §18; renumbered 270.190 in 1991]

273.630 [Repealed by 1967 c.421 §206]

273.635 [1971 c.615 §4; 1981 c.787 §49; 1983 c.599 §3; repealed by 1991 c.816 §24]

273.639 [1981 c.787 §7; 1991 c.816 §15; renumbered 270.165 in 1991]

273.640 [Amended by 1967 c.421 §30; renumbered 273.145]

273.645 [1971 c.615 §5; 1981 c.787 §50; 1989 c.171 §36; repealed by 1991 c.816 §24]

273.650 [Repealed by 1967 c.148 §5]

273.655 [1971 c.615 §6; 1983 c.599 §6; 1985 c.565 §42; 1987 c.879 §10; 1991 c.816 §12; renumbered 270.120 in 1991]

273.660 [Amended by 1967 c.421 §67; renumbered 273.326]

273.665 [1971 c.615 §7; 1981 c.787 §51; repealed by 1991 c.816 §24]

273.670 [Amended by 1967 c.421 §68; renumbered 273.331]

273.675 [1971 c.615 §8; 1981 c.787 §57; 1983 c.660 §2; 1991 c.816 §13; renumbered 270.180 in 1991]

273.680 [Amended by 1967 c.421 §71; renumbered 273.340]

273.685 [1971 c.615 §9; 1981 c.787 §52; repealed by 1991 c.816 §24]

273.690 [Amended by 1967 c.421 §72; renumbered 273.345]

273.695 [1971 c.615 §10, 1991 c.816 §16; renumbered 270.155 in 1991]

273.700 [Amended by 1967 c.148 §3; renumbered 273.316]

REMOVAL OF VALUABLE MATERIALS

273.705 [Formerly 273.250; 1977 c.397 §1; 1983 c.620 §13; 1985 c.198 §3; renumbered 390.235 in 1989]

273.710 [Amended by 1967 c.421 §9; renumbered 273.055]

273.711 [Formerly 273.260; 1977 c.397 §2; renumbered 390.237 in 1989]

(Semiprecious Stones; Petrified Wood)

273.715 Rules for removal of semiprecious stones and petrified wood from state lands; removal contrary to rules. (1) The division shall prescribe rules governing the exploration for and removal of semiprecious stones and petrified wood from lands owned by the State of Oregon and under the jurisdiction of the division. Such rules shall be designed to maximize the public benefit of these resources, and shall permit the free use of lands under jurisdiction of the division for collection for noncommercial purposes of reasonable quantities of petrified wood and semiprecious stones.

(2) The division, by rule, shall require payment of a reasonable fee for a permit for the exploration for and removal of semiprecious stones and petrified wood sufficient to cover the expenses of the division incurred under this section with respect to the permit.

(3) No person shall remove petrified wood or semiprecious stones for commercial purposes or in a quantity having a value of $500 or more without a permit issued by the division under this section.

(4) If any person removes semiprecious stones or petrified wood from lands owned by the State of Oregon without a permit as required under this section or in a manner contrary to rules prescribed under this section, all the materials or objects so removed or the value of such materials or objects shall be subject to disposal by the division as property of the State of Oregon. [1967 c.174 §2; 1973 c.642 §5]

(Goods; Money; Treasure-trove)

273.718 "Treasure-trove" defined. As used in ORS 273.722 to 273.742, "treasure-trove" means money, coin, gold, silver, precious jewels, plate and bullion found hidden in the earth or other private place where the true owner thereof is unknown. [1973 c.642 §7]

273.720 [Amended by 1967 c.421 §14; renumbered 273.075]

273.722 Jurisdiction over transactions; rules for exploration and removal. (1) The board, through the division, shall act for the State of Oregon in any transaction with respect to goods, money or treasure-trove found on or within lands owned by the State of Oregon.

(2) The division shall prescribe rules for the exploration and removal of money, goods or treasure-trove on or within lands owned by the State of Oregon. [1973 c.642 §8]

273.728 Permit required for exploration, removal; application; issuance, conditions; removal without permit, effect. (1) No person shall explore for any goods, money or treasure-trove on lands owned by the State of Oregon or remove any such goods, money or treasure-trove from lands owned by the State of Oregon without a permit issued by the director therefor.

(2) Each applicant for a permit to explore for and remove money, goods or treasure-trove from lands owned by the State of Oregon shall file a written application, on a form prescribed by the director, with the director. Each such application shall include the nature and amount of property to be sought and, if found, removed and the specific location where the explorations will be conducted.

(3) The director shall issue a permit for the exploration and removal of goods, money or treasure-trove and shall impose such conditions as are required under the circumstances. The conditions shall include requirements that the permittee notify the director of the discovery of any goods, money or treasure-trove having a value of more than $500, provide a description of such goods, money or treasure-trove and provide an accurate description of the place where such goods, money or treasure-trove was found.

(4) If any person removes any goods, money or treasure-trove from lands owned by the State of Oregon without a permit as required under this section, in a manner contrary to the rules prescribed under ORS 273.722 (2) or in a manner contrary to any conditions included in a permit issued therefor under subsection (3) of this section, all of the goods, money or treasure-trove so removed or the value of such goods, money or treasure-trove shall be subject to disposal by the division as property of the State of Oregon. The proceeds from any such goods, money or treasure-trove shall accrue to the Common School Fund. [1973 c.642 §9]

273.730 [Amended by 1967 c.421 §77; renumbered 273.511]

273.733 Discovery by person without permit; notification of director. Any person who does not have a permit for the exploration for and removal of goods, money or treasure-trove from state-owned lands and who discovers goods, money or treasure-trove, having a value of more than $500, on state-owned lands shall immediately notify the director of such discovery and provide to the director, in writing, a description of such goods, money or treasure-trove and an accurate description of the site where the goods, money or treasure-trove was discovered. [1973 c.642 §10]

273.737 Finder's duties; control by director; physical delivery to owner or division; placement in museum. (1) Upon receipt of the notification from a permittee of the finding of any goods, money or treasure-trove as required under ORS 273.728 (3) or of any notification made as required under ORS 273.733, the director shall assume control over but not take physical custody of such goods, money or treasure-trove and make reasonable efforts to ascertain the identity of the true owner of such goods, money or treasure-trove.

(2) If the director ascertains the identity of the true owner of goods, money or treasure-trove taken into the control of the director pursuant to subsection (1) of this section, the director shall require that the physical custody of the property be delivered to the true owner upon payment by such owner to the finder of such property of a reasonable finder's fee.

(3) Notwithstanding ORS 98.005 to 98.025, if the director, after reasonable efforts, cannot ascertain the identity of the true owner of any goods, money or treasure-trove reported as provided in ORS 273.728 (3) or 273.733, the goods, money or treasure-trove shall become the property of the State of Oregon and shall be delivered by the finder to the division, subject to a claim by the finder. The proceeds from such goods, money or treasure-trove shall accrue to the Common School Fund.

(4) Upon receipt of property described in subsection (3) of this section, the director shall determine whether the property is of sufficient historical value to justify its placement in a museum for the enjoyment and educational benefit of the public. Upon a finding by the director that all or a portion of such property should be placed in a museum, the director shall designate the museum or depository for such property or portion. Upon the request of the director such property shall be delivered to the director by the finder, subject to a claim by the finder. [1973 c.642 §11]

273.740 [Amended by 1967 c.421 §31; renumbered 273.151]

273.742 Finder's claim; payment by director. With respect to property delivered to the director under ORS 273.737 (3), the finder may make a claim to the division with respect to such property and upon proof of the claim of the finder the director shall pay to the finder:

(1) The first $5,000 of the face value of any money and not more than 50 percent of the face value of such money over $5,000; or

(2) In the case of goods or treasure-trove placed in a museum upon a determination of the director under ORS 273.737 (3), the value of such goods or treasure-trove not exceeding $5,000 and not more than 50 percent of the value of the remainder of such goods or treasure-trove, to be paid by the director from moneys within the Distributable Income Account in the Common School Fund; or

(3) In the case of goods or treasure-trove not placed in a museum, the portion of such goods or treasure-trove equal to the first $5,000 or value thereof and such portion of the remainder of such goods or treasure-trove that is equal to not more than 50 percent of the value of such remainder. [1973 c.642 §12; 1987 c.350 §1]

273.750 [Amended by 1967 c.421 §32; renumbered 273.155]

RIGHTS OF WAY

273.751 State land grants to railroads. There is granted to all persons constructing railways built after February 21, 1891, within the boundaries of the state, and to their successors and assigns:

(1) A right of way through any unimproved state lands, of the width of 100 feet, being 50 feet in width on each side of the center line of the road.

(2) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the division.

(3) The right to take, from the lands of this state adjacent to the route lines of the road, material necessary for the construction of the roads.

(4) The right to construct and maintain railroad bridges over any navigable waters in this state. All bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the division, and shall be so constructed as not unnecessarily to interfere with navigation. [Formerly 273.180]

273.755 Filing maps of railroad location and depot sites; division's duties.

(1) Whenever a railway company mentioned in ORS 273.751, or its successors or assigns, files with the division a map of the definite location of its road lines through any state lands, the division thereafter shall except from sale such right of way and lands for purposes named in ORS 273.751.

(2) Whenever a railway company has selected a tract of state lands for any purpose mentioned in ORS 273.751, the company shall file with the division a map of the same, with a description connected with surveys acceptable to the division. After such map has been filed, after completion of construction of a railroad through such lands and upon payment for the lands at the rate of $1 per acre, the division shall execute and deliver to the company, its successors or assigns, deeds for the tracts of lands so selected. [Formerly 273.190]

273.760 [Repealed by 1967 c.421 §206]

273.761 Right of way for water ditches and pipes. (1) A right of way for construction of a water ditch to be used for irrigation, manufacturing or mining purposes, ditches or water pipes for conveying water to political subdivisions for domestic purposes, or for the extinguishment of fires, is granted for a distance of 25 feet on each side of such ditches or water pipes to any person who may construct such water ditches or water pipes over any submersible, swamp or school lands.

(2) A right of way for the construction and maintenance of domestic and industrial water supply mains, sanitary pressure mains and storm water outfalls is granted for a distance of 25 feet on each side of such mains and outfalls to any municipal corporation that constructs and maintains them in or over submerged or submersible lands or new lands created thereon.

(3) All deeds, leases and easements granted by the State of Oregon for any of the lands mentioned in this section shall be made subject to any vested rights of the owners of such water ditches, water pipes, mains or outfalls as may have been acquired under this section.

(4) The person or municipal corporation constructing such water ditches, water pipes, mains or outfalls shall file with the division a copy of the field notes of the survey of such ditches, water pipes, mains or outfalls, showing their location.

(5) Any construction, maintenance, relocation or extension of a main or outfall described in subsection (2) of this section shall be carried out in accordance with any applicable rules of the division. [Formerly 273.200; 1973 c.511 §2]

273.765 Liability for costs of relocation or extension of mains and outfalls. Any person adding or removing any material to or from submerged or submersible land so as to make necessary or advisable the relocation or extension of a main or outfall described in ORS 273.761 (2) shall be liable to the municipal corporation for all expenses incurred by it in relocating or extending such main or outfall. [1973 c.511 §1]

273.770 [Repealed by 1967 c.421 §206]

MINERAL AND GEOTHERMAL RESOURCE RIGHTS

273.775 Definitions for ORS 273.775 to 273.790. (1) "Mineral" includes oil, gas, sulfur, coal, gold, silver, copper, lead, cinnabar, iron, manganese and other metallic ore, and any other solid, liquid or gaseous material or substance excavated or otherwise developed for commercial, industrial or construction use from natural deposits situated within or upon state lands, including mineral waters of all kinds.

(2) "Geothermal resources" shall have the same meaning given in ORS 522.005. [1974 s.s. c.51 §3; 1975 c.522 §41; 1981 c.588 §1; 1981 c.694 §1; 1983 c.740 §70a]

273.780 Certain mineral and geothermal resource rights property of state; exploration permit or lease; sale or exchange. (1) Mineral and geothermal resource rights in property owned by any state agency and mineral and geothermal resource rights retained as an interest in lands previously sold, granted or otherwise conveyed by the state or any agency thereof are property of the State of Oregon. Except as provided in ORS 273.785, proceeds therefrom shall accrue to the Common School Fund, and the State Land Board is declared to be the state agency acting for the state in any transaction respecting such mineral and geothermal resource rights.

(2) In addition to applicable requirements of ORS chapter 522, such mineral and geothermal resource rights shall be subject to exploration permit or lease by the Division of State Lands, in accordance with rules and conditions established by law or adopted by the division.

(3) Such mineral and geothermal resource rights shall be retained by the state in the absence of a finding by the State Land Board upon adequate facts presented to it that their sale or exchange is for the purpose of obtaining the greatest benefit for the people of this state, consistent with the conservation of lands under its jurisdiction under sound techniques of land management. [1974 s.s. c.51 §2; 1975 c.552 §40]

273.785 Application of ORS 273.775 to 273.790. Excluded from the operation of ORS 273.551 and 273.775 to 273.790 are:

(1) Soil, clay, stone, sand and gravel acquired or used by state agencies for the purpose of constructing or repairing roads or other state facilities, or the proceeds from such materials;

(2) Any mineral or geothermal resource rights or proceeds therefrom acquired and held by the State Fish and Wildlife Commission pursuant to Public Law 415, 75th Congress (50 Stat. 917, 16 U.S.C. 777); or if other disposition is required by federal rules or regulations or any agreement entered into at the time of acquisition of the mineral or geothermal resource rights by the state;

(3) Proceeds of mineral and geothermal resource rights acquired by the state pursuant to ORS 530.010 and 530.030, other than those distributed under ORS 530.110 (1)(c); and

(4) Any mineral or geothermal resource rights or proceeds therefrom acquired by the Director of Veterans' Affairs for the state pursuant to ORS 88.720, 406.050 (2), 407.135 or 407.145. After consultation, the Division of State Lands and the Director of Veterans' Affairs shall enter into an interagency agreement governing consultation between them concerning mineral and geothermal resource values on properties acquired by the director for the state. The Director of Veterans' Affairs shall also adopt rules relating to the release of mineral and geothermal rights on such properties. The exclusion under this subsection shall be effective for such rights or proceeds acquired by the director after January 1, 1974. [1974 s.s. c.51 §4; 1991 c.467 §1]

273.790 Registry of rights under state board. The Division of State Lands shall establish and maintain a registry of mineral and geothermal resource rights placed under the jurisdiction of the State Land Board. [1974 s.s. c.51 §5]

COMMON SCHOOL GRAZING LANDS

273.805 Definitions for and purpose of ORS 273.805 to 273.825. (1) As used in ORS 273.805 to 273.825, "common school grazing lands" means lands owned by the State of Oregon and under the control of the division that are chiefly suitable for the grazing of animals, as determined by the division, and which are within, but not limited to, the following land classifications:

(a) Lands defined by ORS 273.251 as indemnity lands, school lands or farmlands.

(b) Lands which have escheated to the state.

(2) Nothing in ORS 273.805 to 273.825 is intended to be an express or implied limitation upon the powers of the division to acquire, lease, manage, control or protect land pursuant to authority otherwise granted by law. ORS 273.805 to 273.825 and 327.430 are not the result of a legislative intent or belief that the division is without authority to acquire, lease, manage, protect or control common school grazing lands. [1963 c.517 §§1, 5; 1967 c.421 §84]

273.810 [1963 c.517 §2; repealed by 1967 c.421 §206]

273.815 Division's powers. In order to accomplish the purpose of ORS 273.805 to 273.825, the division may, with respect to common school grazing lands:

(1) Protect the lands from fire, disease and insect pests, cooperate with others in such protection and enter into all agreements necessary or convenient therefor.

(2) Lease the lands subject to such terms and conditions as the division prescribes. Leases shall be of sufficient duration so as to encourage the rehabilitation and improvement of the lands by the lessee.

(3) Loan moneys belonging to the Common School Fund to lessees of the lands for the purpose of rehabilitating and improving the lands. The security for such loans shall be as prescribed by the division but shall not be more than equal in value to the amount loaned.

(4) Reseed or reforest the lands, including the destruction of undesirable vegetation, and cooperate with others for such reseeding or reforestation, and make all agreements necessary or convenient thereto.

(5) Require such undertakings, including performance bonds, as it considers appropriate to secure performance of any agreement or loan authorized by ORS 273.805 to 273.825. [1963 c.517 §3; 1967 c.421 §85]

273.820 Exchange of lands. The division may exchange common school grazing lands for land of approximately equal aggregate value, when such exchange is in furtherance of the purposes of ORS 273.805 to 273.825. No exchange shall be made until the title to the lands to be received has been validated by the Attorney General. All lands received in exchange shall have the same status and be subject to the same provisions of law as lands given in exchange therefor. [1963 c.517 §4; 1967 c.421 §86]

273.825 Purchase of lands by lessee or other person. (1) The lessee of any common school grazing land, upon its classification for sale by the division, may purchase such land at a price and on terms prescribed under subsection (2) of this section if the lessee is an individual person, a resident of this state and owns, in fee simple, land imme-

diately adjacent to the common school grazing land for which the lessee has applied. For purposes of this section, lands are considered to be adjacent if their boundaries are common or intersect at a common point.

(2) Application to purchase common school grazing land under subsection (1) of this section must be made in a manner prescribed by the rules of the division. Upon receiving an application, the division shall determine whether the applicant qualifies under subsection (1) of this section. If the applicant qualifies, the division shall cause an appraisal to be made of the land for which application has been made. The division then shall fix a price for such land. ORS 270.020, 273.225 to 273.241 and 273.275 do not apply to the sale of land under this subsection. The applicant shall pay not less than 10 percent of the purchase price at the time of purchase, and shall pay the remainder in 10 equal instalments, at least one instalment to be paid each year, over a period not to exceed 10 years from the time of purchase, with interest at the rate fixed by the division for purposes of ORS 327.425.

(3) If application to purchase common school grazing land is made by a person other than the lessee of such land, the division promptly shall notify the lessee by registered or certified mail. Not later than the 90th day after notice was mailed to the lessee, the lessee may make written application in a manner prescribed by the rules of the division to purchase such land. If the division determines that the lessee qualifies under subsection (1) of this section, the division shall proceed under subsection (2) of this section. If the division determines that the lessee does not so qualify, or if the lessee does not make timely application as required by this subsection, the division shall proceed to sell such land in accordance with applicable provisions of law other than this section. [1967 c.147 §2]

SETTLEMENT OF TITLE TO CERTAIN LANDS IN CLATSOP COUNTY

273.850 State title to certain lands and improvements transferred to Clatsop County; lands not subject to board jurisdiction. (1) In the manner and under the conditions set out in ORS 273.850 to 273.890, and notwithstanding any other law, the State of Oregon shall remise, release and forever quitclaim to Clatsop County all rights, title and interest that may remain or be vested in the state with respect to lands described in subsection (2) of this section and any improvements thereon (excluding bridges, wharves, quays, docks, piers, marinas or similar structures protruding above the line of ordinary high water), that are located within the following described area: Those portions of sections 12 and 13 of township 8 north, range 10 west of the Willamette Meridian, and sections 2, 7, 8, 9, 10, 11, 16, 17 and 18, and the south one-half of section 3, of township 8 north, range 9 west of the Willamette Meridian, that are within the boundaries of the City of Astoria as such boundaries existed on June 13, 1969.

(2) Subsection (1) of this section applies to lands created before May 28, 1963, by artificial fill or deposit on lands formerly submersible or submerged, if such lands were possessed under color of title by a person or governmental entity, or predecessors in interest of such person or governmental entity, throughout the period beginning when such lands were created and ending on January 1, 1970.

(3) Nothing in ORS 273.850 to 273.890 applies with respect to land that remained submerged or submersible on May 28, 1963.

(4) For purposes of section 5, Article VIII, Oregon Constitution, lands described in subsections (1) and (2) of this section are not under the jurisdiction of the State Land Board on or after January 1, 1970. [1969 c.495 §§1, 4]

273.855 Clatsop County to transfer title to lands and improvements to certain possessors; fee on execution of deed. (1) ORS 273.850 (1) and (2) apply with respect to any lands described therein only when the Board of County Commissioners of Clatsop County executes and delivers a deed remising, releasing and forever quitclaiming all rights, title and interest that may remain or be vested in such county with respect to such lands, to a person or governmental entity that has been found under subsections (3), (4) and (5) of this section and ORS 273.860 to 273.880 to have such possession of the lands as of the time of application for a deed under ORS 273.850 to 273.890 as would bar an action or suit for recovery of the lands by a private person under no disability holding legal title thereto. However, in the case of lands heretofore or hereafter acquired by Clatsop County through foreclosure for delinquent ad valorem taxes or otherwise, ORS 273.850 (1) and (2) apply with respect to any lands described therein when it has been found under subsections (3), (4) and (5) of this section and ORS 273.860 to 273.880 that Clatsop County or its predecessor in interest with respect to such lands has such possession of the lands as would bar an action or suit for recovery of the lands by a private person under no disability holding legal title thereto.

(2) A deed executed under this section is intended only to evidence the action of the State of Oregon and Clatsop County in

remising, releasing and quitclaiming their rights, title and interest, and does not confer any rights, title or interest on the recipient of the deed or indicate any judgment of the State of Oregon or Clatsop County with respect to any other rights, title or interest that remain or be vested in the recipient of the deed.

(3) Except as provided in ORS 273.870 (2) the Board of County Commissioners of Clatsop County shall not execute any deed under subsections (1) and (2) of this section, until the expiration of the time for appeal from the decision of the board or of the circuit court, as the case may be.

(4) Before any deed to such land is executed under subsections (1) and (2) of this section, the applicant shall pay to the county treasurer a sum equal to $10 per acre or any portion thereof.

(5) The county treasurer shall remit all of such moneys received under subsection (4) of this section to the State Treasurer, who shall deposit it in the Common School Fund to be credited to the Distributable Income Account. [1969 c.495 §§5, 11, 12, 14]

273.860 Filing fee; use of fees; additional fee to cover costs of investigation. Each applicant under ORS 273.865 (1) shall pay, at the time of filing an application, a fee of $25. Moneys received under this section shall be deposited with the county treasurer and be available for payment of the expenses of the Board of County Commissioners of Clatsop County in carrying out ORS 273.855 (3), (4) and (5) and 273.860 to 273.880. In addition to such fee, if the county board determines that an investigation under ORS 273.865 (2) is necessary, it may require the applicant, prior to execution of any deed under ORS 273.855 (1), to pay an additional fee sufficient to pay the costs incurred by the county board in excess of $25 in carrying out its duties with respect to that application under ORS 273.855 (3), (4) and (5) and 273.860 to 273.880. [1969 c.495 §7]

273.865 Application for deed; investigation; deadline on application. (1) Application for a deed under ORS 273.855 (1) shall be made to the Board of County Commissioners of Clatsop County in a manner and form prescribed by the county board. The application shall include:

(a) A legal description of the lands applied for, and, as nearly as practicable, the time the land was filled or deposited;

(b) The names and addresses of persons other than the applicant who are in occupancy or, to the knowledge of the applicant, may have any claim to or interest in the lands described in the application;

(c) Evidence that the applicant, if other than a governmental entity, has paid all ad valorem taxes that were assessed with respect to the lands during the period the applicant asserts to have possessed the lands;

(d) Evidence establishing that the applicant or the predecessors in interest of the applicant have had such possession of the lands as of the time of application for a deed under ORS 273.850 to 273.890 as would bar an action or suit for recovery of the lands by a private person under no disability holding legal title thereto.

(2) The Board of County Commissioners of Clatsop County may cause an investigation to be made to determine whether the facts alleged in an application are correct.

(3) The Board of County Commissioners of Clatsop County shall not accept any applications under ORS 273.850 to 273.890 after December 31, 1971. However, this does not affect proceedings with respect to applications filed not later than December 31, 1971. [1969 c.495 §§6, 9, 15]

273.870 Notice of deed application; protest; hearing; dual applications. (1) The Board of County Commissioners of Clatsop County shall give public notice of each application received by it under ORS 273.865 (1), prior to its consideration thereof, by advertisement not less than once each week for four successive weeks in a newspaper of general circulation in Clatsop County. Such notice need not describe the lands applied for in legal terms, but by the use of common descriptions or maps shall be designed to identify the lands in a manner intelligible to the layman. Each notice shall indicate that a protest against the execution of the deed applied for may be filed, in a manner prescribed by the county board, with the county board not later than the 60th day after the fourth publication of the notice, or within such further time as the county board authorizes on a showing of good cause. Not later than the fifth day after the first publication of the notice, the county board shall send written notice of the application to the Division of State Lands.

(2) If no protest is received within the time provided for in subsection (1) of this section, and if the county board thereafter determines that the application conforms to the requirements of ORS 273.865 (1), the county board shall execute and deliver to the applicant a deed in accordance with ORS 273.855 (1).

(3) If protest is received within the time provided for in subsection (1) of this section, the county board shall cause a hearing to be held with respect to the protest, in a manner

prescribed by its rules, prior to the making of its findings with respect to an application.

(4) If two or more applications are filed with respect to the same lands, the county board shall cause a hearing to be held at which all such applicants may appear or be represented. [1969 c.495 §8]

273.875 Findings of board; notice; rehearing procedure. The findings of the Board of County Commissioners of Clatsop County with respect to an application shall be set out concisely in writing, and a copy served on the applicant not later than the 10th day after they are rendered. Not later than the 30th day after receipt of a copy of such findings or within such further time as the county board authorizes on a showing of good cause, an applicant may request a rehearing if the applicant was denied on grounds that there was insufficient evidence under ORS 273.865 (1)(d). If the county board grants a rehearing, it shall give notice thereof as provided in ORS 273.870. The findings of the county board after a rehearing, or after the time for requesting a rehearing has elapsed, are final, subject only to judicial review as provided in ORS 273.880. [1969 c.495 §10]

273.880 Judicial review procedure. (1) Jurisdiction for judicial review of actions of the Board of County Commissioners of Clatsop County under ORS 273.855 (3), (4) and (5) and 273.860 to 273.880 is conferred on the circuit court for the county in which the land applied for is located. Proceedings for review shall be instituted by filing a petition not later than the 60th day after the date on which the findings of the county board became final. The petition shall state the nature of the petitioner's interest, the facts showing how the petitioner is aggrieved by the county board's decision, and the grounds on which the petitioner contends that the decision should be reversed or set aside. True copies of the petition shall be served by registered or certified mail on the county board and all other parties of record in the proceeding. No responsive pleading is required of the county board. In its discretion the court may permit other interested persons to intervene.

(2) Not later than the 30th day after service of the petition, or within such further time as the court may allow, the county board shall transmit to the court the original or a certified copy of the entire record of the proceeding under review; however, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(3) If, before the date set for hearing, application is made to the court for leave to present additional evidence to the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good and substantial reasons for failure to present it in the proceeding before the county board, the court may order that the additional evidence be taken before the county board on such conditions as the court deems proper. The county board may modify its findings and decision by reason of the additional evidence and, within a time to be fixed by the court, shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision, or its certificate that it elects to stand on its original findings and decision, as the case may be.

(4) The review shall be conducted by the court without a jury as a suit in equity and shall be confined to the record, except that, in cases of alleged irregularities in procedure before the county board, not shown in the record, testimony thereon may be taken in the court. The court, on request, shall hear oral argument and receive written briefs.

(5) The court may adopt the county board's findings of fact and affirm the decision of the county board; or it may reverse and set aside the county board's decision, or reverse and remand for further proceedings, after review of all the facts disclosed by the record, and any additional facts established under subsection (4) of this section. The court thereupon shall enter its decree. In the case of reversal the court shall make special findings of fact based on evidence in the record and conclusions of law indicating clearly all respects in which the county board's decision is erroneous.

(6) Any party to the proceedings before the circuit court may appeal from the decree of that court to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals from the circuit courts in suits in equity. [1969 c.495 §13; 1979 c.562 §10]

273.885 State prohibited from questioning certain titles. The State of Oregon shall not call into question the title of any person possessing lands described in ORS 273.850 (1) to (3) before January 1, 1973. The State of Oregon shall not call into question the title of any person possessing lands described in ORS 273.850 (1), if an application with respect to such lands has been filed under ORS 273.850 to 273.880 and is pending before the Board of County Commissioners of Clatsop County, or with respect to which

judicial review under ORS 273.880 remains available or has not been finally rendered. [1969 c.495 §17]

273.890 Application of ORS 273.850 to 273.890 to certain lands; tax refunds prohibited. (1) Nothing in ORS 273.850 to 273.890 affects controversies among persons and governmental entities asserting proprietary rights, title and interests with respect to lands described in ORS 273.850 (1).

(2) No ad valorem taxes paid or owing with respect to lands described in ORS 273.850 (1) shall be refunded or canceled on the ground that the State of Oregon may have been the legal owner of such lands before January 1, 1970. [1969 c.495 §§2, 3]

VALIDATING STATUTES

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

Note: 1872 p.129, as amended by 1874 p.76 and 1876 p.69, (subsequently repealed by 1878 p.41 §34) provided: "The title of this state to tide or overflowed lands upon said Willamette, Coquille, Coos and Umpqua rivers is hereby granted and confirmed to the owners of the adjacent lands, or when any such tide or overflowed lands have been sold, then in that case, to the purchaser or purchasers of such tide or overflowed lands from such owner of such adjacent lands, or some previous owner thereof, as the case may be."

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

(2) Upon application of any such claimant to the division, with proof of claim evidenced by United States patent or final certificate of proof of settlement and payment, issued from the United States Land Office, the division shall execute and deliver to such claimant, without charge, a quitclaim deed of the state's right and title to the lands so claimed. [Formerly 274.120]

273.903 Title of certain swamp lands not to be questioned by division; prohibition against sale of certain swamp lands. The division shall not call in question the title of any person to any swamp lands which the person may not have acquired by full and complete compliance with the preemption or homestead laws of the United States, nor shall the division sell to anyone any unsurveyed swamp lands, or swamp lands on which any settler shall have made and perfected bona fide legal entry under the laws of the United States. "Swamp lands," as used in this section, means lands classified as swamp lands pursuant to ORS 273.251. [Formerly 274.130]

273.905 Confirmation of state land deeds prior to 1891. All deeds prior to February 20, 1891, to state, school, and university lands, the purchase price of which was paid to the board of commissioners for the sale of school and university lands and for the investment of the fund arising therefrom, hereby are confirmed to the grantees of the state, or to their lawful heirs or assigns, together with all rights, title or interest which the state might or could have in any of the said lands. This section shall not apply to or confirm the title to any lands which were procured by false swearing or by fraudulent representations. [Formerly 273.280]

273.910 Confirmation of title to state lands purchased before 1918. In all cases prior to May 21, 1917, where state deeds were issued to lands claimed by this state under the laws of the United States, the legal title to which had not yet vested in the state at the date of such deeds, the after-acquired title of this state in or to such lands shall be deemed vested in such purchasers who purchased such lands in good faith, and their heirs and assigns, from the time such legal title passed or may pass out of the United States. Nothing in this section shall prevent the State of Oregon from proceeding at any time to set aside on the ground of fraud any deed made by the state, nor shall anything contained in this section be deemed to prejudice the rights of any person claiming title to any public land adversely to the State of Oregon or to the United States. [Formerly 273.270]

273.915 Release of claims under pre-1947 deeds reserving right of way. The State of Oregon hereby remises, releases and forever quitclaims unto the grantees therein, their heirs and assigns, all rights, titles and interest that may have remained or vested in

the State of Oregon under deeds executed prior to July 5, 1947, by the State Land Board wherein there was attempted to be reserved a "right of way for ditches, canals and reservoir sites for irrigation purposes, constructed, or which may be constructed, by authority of the United States." [Formerly 273.170]

273.920 Validation of mineral leases executed and delivered before August 9, 1961. All leases and conveyances granting the right to explore or prospect for minerals or oil and gas, and for the drilling, mining and removal of the same on or from lands or mineral rights under the jurisdiction and control of any state agency, board or commission, which were executed and delivered by such agency, board or commission prior to August 9, 1961, are hereby validated and declared to be legal and enforceable. [Formerly part of 517.410]

PENALTIES

273.990 Penalties. (1) Violation of ORS 273.231 is a misdemeanor.

(2) Violation of ORS 390.235 (1)(a) or 358.920 is a Class B misdemeanor. [1967 c.421 §93; 1969 c.594 §30; 1977 c.397 §3; 1983 c.620 §14]