

TITLE 44

FORESTRY AND FOREST PRODUCTS

- Chapter 526. Forestry Administration
527. Insect and Disease Control; Forest Practices
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Chapter 526

1993 EDITION

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GENERAL PROVISIONS

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

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

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

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

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

(5) "Nonindustrial private forest landowner" means any forest landowner who does not own a forest products manufacturing facility that employs more than six people.

(6) "Nonindustrial private forestland" means any forestland owned by a nonindustrial private forest landowner. [Amended by 1961 c.123 §3; 1965 c.253 §1; 1977 c.893 §14]

526.008 State Forestry Department. The State Forestry Department consists of the State Forester and the deputy, assistants and employees of the forester, acting under direction of the State Board of Forestry. [1961 c.123 §1; 1965 c.253 §2]

STATE BOARD OF FORESTRY

526.009 State Board of Forestry; chairperson; terms; vacancies; confirmation; qualifications; removal. (1) There is created a State Board of Forestry consisting of seven members appointed by the Governor. The members appointed to the board shall be subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. The Governor shall designate one member of the board as chairperson to hold that position until that member's term expires or until relieved by the Governor as provided in subsection (6) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2) The term of office of a member of the board is four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive full terms. In case of a vacancy for any cause, the Governor shall make an appointment as provided in subsection (1) of this section.

(3) Appointments made by the Governor under subsection (1) of this section shall include appointment of at least one member from each of the forest regions established

under ORS 527.640 and the rules adopted thereunder by January 1, 1987.

(4) No more than three members of the board may derive any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

(5) Except as provided in subsection (4) of this section, no member of the board shall have any relationship or pecuniary interest that would interfere with the member representing the public interest.

(6) The Governor may at any time remove any member of the board for inefficiency, incompetence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to continue to meet the criteria of appointment pursuant to this section. [1965 c.253 §4; 1973 c.230 §1; 1979 c.394 §1; 1983 c.759 §5; 1987 c.919 §6]

526.010 [Amended by 1953 c.68 §19; 1953 c.372 §22; 1957 c.654 §1; 1959 c.571 §1; 1963 c.63 §1; 1965 c.253 §5; 1967 c.429 §51; 1973 c.230 §2; 1973 c.792 §22; 1975 c.94 §1; 1979 c.394 §2; 1983 c.759 §6; repealed by 1987 c.919 §80]

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

526.016 General duties; limits; compensation and expenses; meetings; rules.

(1) The board shall supervise all matters of forest policy and management under the jurisdiction of this state and approve claims for expenses incurred under the statutes administered by the board except as otherwise provided by law. Advisory committees may be appointed by the board to make recommendations concerning any function vested by law in the board. Notwithstanding any other provisions of law, the board shall not supervise or direct the State Forester in matters relating to the geographic scheduling, annual volume and species allocation, appraisals and competitive timber sale techniques used in the sale of forest products from lands managed under the provisions of ORS chapter 530.

(2) The members of the board are entitled to compensation and expenses as provided in ORS 292.495.

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

(4) In accordance with the applicable provisions of ORS 183.310 to 183.550, the board shall adopt rules to perform the functions defined by statute. [1965 c.253 §6; 1969 c.314 §62; 1973 c.230 §3; 1983 c.759 §8; 1987 c.919 §8]

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

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

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

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

(3) The board shall fix the compensation of the State Forester. In addition to their salaries, the forester, the deputy and assistants shall be reimbursed, subject to the limitations otherwise provided by law, for their actual and necessary travel and other expenses incurred in the performance of their duties. [1965 c.253 §7; 1983 c.759 §13]

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

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

(3) Except as provided in subsection (1) of this section, the board may require a fidelity bond, with one or more corporate sureties authorized to do business in this state, of any officer or employee of the department. The board shall fix the amount of the bond, which otherwise is subject to subsections (1) and (2) of this section. [Formerly 526.070; 1967 c.419 §16]

526.040 [Repealed by 1953 c.43 §2]

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

(1) In compliance with ORS 183.310 to 183.550, promulgate rules consistent with law for the enforcement of the state forest laws relating directly to the protection of forestland and the conservation of forest resources.

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

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

(4) Collect data relative to forest conditions.

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

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

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

(8) Advise and encourage reforestation.

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

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

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

(12) Coordinate any activities of the State Forestry Department related to a watershed enhancement project approved by the Governor's Watershed Enhancement Board under ORS 541.375 with activities of other cooperating state and federal agencies participating in the project.

(13) Prescribe uniform state standards for certification of wildland fire training courses and educational programs. [1965 c.253 §10 (enacted in lieu of 526.020); 1969 c.249 §2; 1975 c.605 §27; 1987 c.734 §13; 1993 c.415 §5]

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

(a) Shall, upon request, and whenever the forester deems that it is in the public interest, assist and cooperate with any federal or state department or any institution, political subdivision or person owning or controlling forestland within this state, in the preparation of plans for their protection, management, replacement or extension. Unless otherwise provided by law, the parties ob-

taining such assistance shall pay the necessary costs of travel, subsistence and other field expenses incurred by the forester or the assistants of the forester in the preparation and execution of these plans.

(b) May enter into contracts with the applicants under which the forester will supervise the execution of the plans. However, the costs of carrying out the plans shall be paid by the applicants.

(2) In carrying out this section the forester may require the applicant to deposit in one or more installments the moneys needed to cover the cost of preparing and executing the plans. These deposits shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of this section. [Formerly 526.030]

526.048 [1977 c.893 §16; renumbered 526.425]

526.050 [Repealed by 1953 c.23 §2]

526.052 Credits for former forest protective association employees. (1) For purposes of this section, "forest protective association" or "association" has the meaning for that term provided in ORS 477.001.

(2) Subject to subsection (3) of this section, a person employed by a forest protective association at a time when the association was under contract or cooperative agreement with the forester or board by authority of ORS chapter 477 and this chapter, with specific reference to ORS 477.406 to 477.412, or predecessor statutes, shall receive the following credits when transferring directly from association employment to employment by the State Forestry Department:

(a) Sick leave accrual earned during employment as an association employee.

(b) Rate of accumulating annual leave based on years of service as an association employee.

(c) Credit for current service under the Public Employees' Retirement System equal to periods of service as an association employee as determined by the Public Employees' Retirement Board, if the person, before the effective date of retirement of the person as an employee member of the system, applies in writing to the retirement board for that credit or any part thereof and pays to the retirement board in a lump sum for credit to the account of the person in the Public Employees' Retirement Fund an amount determined by the retirement board to be equal to the total amount of employee and employer contributions with interest that would have accumulated had the person been a member of the system as an employee of the State Forestry Department in a position

equivalent to that held by the person for the periods of service or part thereof as an association employee.

(3) The credits granted by subsection (2) of this section shall be granted if the employee makes an immediate transfer from association employment to state employment, and if the person earned employment credits as an association employee under standards comparable to laws and rules of the State of Oregon governing similar credits in state employment. [1969 c.249 §5; 1973 c.46 §6; 1987 c.617 §14]

FUNDS AND FINANCES

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

(2) The forester shall keep a record of all moneys deposited in the State Forestry Department Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. All moneys in the account received pursuant to ORS 527.610 to 527.770 and 527.992 shall be used only for carrying out the duties, functions and powers of the department in administering ORS 527.610 to 527.770 and 527.992.

(3) The Urban and Community Forestry Subaccount is established as a subaccount of the State Forestry Department Account. Moneys in the Urban and Community Forestry Subaccount are appropriated continuously to the State Forestry Department to be used for urban and community forestry activities described in ORS 469.634 and 469.652. [1957 c.83 §1; 1965 c.253 §12; 1975 c.224 §7; 1989 c.966 §58; 1993 c.388 §5]

Note: Section 6, chapter 388, Oregon Laws 1993, provides:

Sec. 6. This Act [section 5 of which created 526.060 (3) by amendment] is repealed on December 31, 1999, if no utility by that date has collected moneys for urban and community forest activities pursuant to this Act. [1993 c.388 §6]

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

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

526.090 Acceptance and use of moneys under Agricultural Act of 1956 (soil bank and reforestation provisions). The forester, under the supervision and direction of the board, may receive moneys from the Federal Government in connection with cooperative work and programs set out in the Agricultural Act of 1956, as amended (Public Law 84-540, 70 Stat. 188), particularly the provisions of Title I (7 U.S.C. §§1801 to 1837) and Title IV (16 U.S.C. §§568e to 568g), and Acts amendatory thereof and supplemental or complementary thereto. [1957 c.83 §4; 1965 c.253 §14]

526.095 Clarke-McNary Act accepted; State Forester is agent of state. The State of Oregon has accepted the provisions of the Clarke-McNary Act (43 Stat. 653), as amended, and will observe and comply with the requirements of that Act. The forester, under the supervision and direction of the board, is the agent of the State of Oregon for the purposes of that Act, and may cooperate with the authorities of the United States having powers and duties under that Act to do all things necessary to secure to the State of Oregon the benefits of that Act or Acts amendatory thereof and supplemental or complementary thereto. [1957 c.83 §2; 1965 c.253 §15]

526.105 Disposition of receipts under ORS 526.090 and 526.095. All moneys received pursuant to the Acts of Congress mentioned in ORS 526.090 and 526.095 shall be paid into the State Treasury, credited to the State Forestry Department Account, and used exclusively for the purposes of the respective Acts. [1965 c.253 §17]

526.110 [Repealed by 1953 c.327 §6]

526.111 State Forestry Department Revolving Account; purposes. (1) Notwithstanding ORS 291.238 or any other law, a revolving account in the sum of \$200,000 deposited with the State Treasurer shall be at the disposal of the forester for the payment of:

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

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

(2) The forester may draw checks upon the State Treasurer in making disbursements from the revolving account for the purposes stated in this section. Reimbursement of such disbursements shall be made from funds and accounts budgeted and allotted for expenses of the State Forestry Department. The revolving account is not subject to allotment or allocation of moneys pursuant to ORS

291.234 to 291.260. [1953 c.327 §1; 1965 c.253 §18; 1969 c.249 §1; 1987 c.155 §1]

526.120 [Repealed by 1953 c.327 §6]

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

(2) The forester shall maintain such records as readily disclose the true status of vouchers payable from, and checks outstanding against, the revolving account and the balance to the credit thereof. [1953 c.327 §2; 1957 c.83 §23; 1965 c.253 §19; 1983 c.740 §207]

526.130 [Repealed by 1953 c.327 §6]

MANAGEMENT OF EQUIPMENT AND PROPERTY

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

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

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

(2) The federal agency must be a cooperator with the forester and board in common activities and programs for which the equipment is leased. [1965 c.87 §2]

526.140 [Repealed by 1953 c.327 §6]

526.142 Definition for ORS 526.142 to 526.152. As used in ORS 526.142 to 526.152, "equipment" includes the necessary materials and supplies for the operation of equipment in the equipment pool authorized by ORS 526.144. [1965 c.253 §21]

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

(a) Determine each activity or program of the board that shall participate in the equipment pool, and in so doing, cause the

transfer of moneys from the account representing such activity or program in an amount determined advisable for equipment pool purposes. However, in each instance the transfer of moneys must be based on the proportionate use of the equipment pool, or the proposed use thereof, by the activity or program.

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

(2) Forest protective associations or agencies under contract or cooperative agreement with the board pursuant to ORS 477.406 may, with the approval of the board, participate in the equipment pool for the purposes of the contract or agreement. Participation by such an association or agency shall be on the same basis as an activity or program of the board that participates in the equipment pool. [1965 c.253 §22]

526.146 Charges. (1) All items transferred under ORS 526.144, together with any equipment purchased from moneys transferred to the equipment pool, are available for all activities or programs participating in the equipment pool. However, upon use of such equipment for any activity or program, a reasonable use charge shall be made against such activity or program. The charge shall be based upon the maintenance and replacement costs for the equipment used, including operational expenses.

(2) At the end of each month the forester, under the supervision and direction of the board, shall render a statement on a basis of mileage or rental against each activity or program for transportation or equipment used or furnished for such activity or program. Administrative costs in connection with the operation of the equipment pool shall be included in the computation of the mileage or rental statement. The forester shall at all times keep records showing the mileage and rental charges, and against which activity or program the charges are a claim. The amount specified in the statement shall be a charge against the moneys available for such activity or program. All amounts so charged shall be credited to the State Forestry Department Account and, notwithstanding ORS 291.238, are available and shall be used exclusively for:

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

(b) Administrative expenses of the forester and the board in connection therewith; and

(c) The payment of insurance premiums for such equipment. [1965 c.253 §23]

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

(2) At the option of the board, the lease agreements made under this section may be merged under the equipment pool administration and equities set forth in ORS 526.152. [1965 c.253 §24]

526.150 [Repealed by 1953 c.327 §6]

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

(2) Should the equipment pool be terminated by the board, each activity or program shall have an equity in the moneys of the pool and in the cash value of the equipment and personalty of the pool. The equity shall be in proportion to the amount of moneys and value of the equipment and personalty transferred to the pool under ORS 526.144. By this subsection, each activity or program participating in the equipment pool has a continuing and recognized interest in the total value of the pool so long as the equipment pool exists unless otherwise such equity is purchased. [1965 c.253 §25]

526.156 Forest Trust Land Advisory Committee; membership; terms; advisory function. (1) A Forest Trust Land Advisory Committee is established to be composed of three members, appointed by the Governor, who are elected officials of county governing bodies from counties in which lands subject to ORS 530.010 to 530.170 are located.

(2) The term of office of a member is four years. Appointments may be made from a list submitted by the Association of Oregon Counties.

(3) Members may receive reimbursement for actual and reasonable traveling and other expenses necessarily incurred in performing

official duties. This reimbursement shall not be deemed lucrative.

(4) The committee shall advise the board and the State Forester on the management of lands subject to the provisions of ORS 530.010 to 530.170 and on other matters in which counties may have a responsibility pertaining to forestland. The board and the State Forester shall consult with the committee with regard to such matters. [Formerly 527.735]

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

ACQUISITION AND DISPOSITION OF REAL PROPERTY

526.162 Taking title in fee simple. In all cases where a title in fee simple to real property is acquired by the board under ORS 526.166 or 526.168, such title shall be taken in the name of the State of Oregon. [Formerly 526.176]

526.164 Exchange of property. The board may convey to any person all or parts of the real property described in ORS 526.166 or 526.168, in exchange for other property, real or personal, which, in the judgment of the board, is of equal or superior value for public use. [Formerly 526.174]

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

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

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

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

(4) Any other use or purpose necessary in carrying out the powers and duties of the board or forester. [1965 c.253 §29]

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

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

(2) Forest patrol or communication sites.

(3) Rights of way for pipelines, communication lines and power lines. [1965 c.253 §30]

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

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

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

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

526.178 Going upon private property. The State Board of Forestry, or any duly authorized representative of the board, may go upon private property for the purposes of examination, inspection or survey to determine the advisability or practicability of acquiring real property, or any interest in real property. The board may exercise this authority prior to the filing or commencement of condemnation proceedings, but in the exercise of such authority the owner shall not be unnecessarily inconvenienced or disturbed in the use and enjoyment of the property of the owner. [1959 c.287 §4]

526.180 [1959 c.287 §5; repealed by 1971 c.741 §38]

526.182 [1959 c.287 §6; repealed by 1971 c.741 §38]

526.184 [1959 c.287 §7; repealed by 1971 c.741 §38]

526.186 [1959 c.287 §8; repealed by 1971 c.741 §38]

526.188 [1959 c.287 §9; repealed by 1971 c.741 §38]

526.190 [1959 c.287 §10; repealed by 1971 c.741 §38]

526.192 Attorney General to conduct proceedings. After request of the State Board of Forestry pursuant to ORS 35.235 (1), the Attorney General shall commence and prosecute, in any court of competent jurisdiction in the name of the State of Oregon, the necessary or appropriate suit, action or proceeding for condemnation of the amount of or interest in the property required for such purposes, and for the assessment of the damages for the taking thereof. [1959 c.287 §12; 1983 c.740 §208]

526.194 Disposition or leasing of property. The State Board of Forestry may sell, lease, exchange, permit use of or otherwise dispose of any real property, or interest therein, acquired pursuant to ORS 526.162 to 526.194, when, in the judgment of the board, such will best serve the interests of the state. In the case of real property, interest in or title to the same may be conveyed by deed or other instrument executed in the name of the state, by and through the board. All funds or moneys derived from the sale or lease of any such property shall be paid by the board to the State Treasurer and by the State Treasurer credited to the funds from which moneys originally were used for the acquisition of the property involved. [1959 c.287 §11]

FOREST RESEARCH AND EXPERIMENTATION

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

526.215 State Board of Higher Education to conduct research and experimentation programs. To aid in the economic development of the State of Oregon, the State Board of Higher Education shall institute and carry on research and experimentation to develop the maximum yield from the forestlands of Oregon, to obtain the fullest utilization of the forest resource, and to study air and water pollution as it relates to the forest products industries. [1961 c.297 §2(1); 1967 c.377 §6]

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

526.225 Forest Research Laboratory; cooperative programs; advisory committee. (1) The State Board of Higher Education shall establish a Forest Research Laboratory at Oregon State University and shall cooperate with individuals, corporations, associations and public agencies wherever and whenever advisable to further the purposes of ORS 526.215, and may enter into any necessary agreements therefor.

(2) In order that there may be close coordination between the research and experimentation programs and the wise management and use of Oregon's forests for the production of goods and services that benefit all its citizens, the State Board of Higher Education shall appoint a Forest Research Laboratory Advisory Committee composed of 15 members. Nine members shall be individuals who are actively and principally engaged in timber management on forestlands, harvesting or the processing of forest products, one of whom shall be from a small woodland owner's association, three members shall be individuals who are the heads of state and federal public forestry agencies and three members shall be individuals from the public at large. No individual who is a public member may have any relationship or pecuniary interest that would interfere with that individual representing the public interest. The advisory committee shall render practical counsel in the fields of forest management and use and forest harvest and utilization as they relate to the economic and social well-being of the people of Oregon. [1961 c.297 §2(2); 1965 c.253 §31; 1965 c.433 §1; 1975 c.96 §1; 1991 c.223 §1]

526.230 [Repealed by 1961 c.297 §12]

526.235 State forest nursery; sale of nursery stock; disposition and use of sales receipts. (1) A state nursery may be operated by the forester and the board to provide forest tree seedlings for the reforestation of forestland. Such nursery

program is to provide for the growth, care and maintenance of nursery stock and for the sale of such stock to private, state and other public owners of forestland.

(2) Each year the forester shall determine the costs of nursery operation and shall offer nursery stock for sale to forest owners at prices that will recover actual costs.

(3) All revenues derived from the operation of the forest nursery shall be credited to the State Forestry Department Account.

(4) Notwithstanding ORS 291.238, the moneys credited to the State Forestry Department Account under subsection (3) of this section, shall be continuously available on a revolving basis exclusively for forest nursery purposes. [1971 c.59 §2]

526.240 [Repealed by 1961 c.297 §12]

526.245 Excess revenues from operation of state forest nursery during 1969-1971 biennium; disposition; use. Upon July 1, 1971, and notwithstanding ORS 291.238, any revenues derived from the operations of the forest nursery in excess of nursery expenditures during the 1969-1971 biennium shall be credited to the State Forestry Department Account and shall be continuously available on a revolving basis exclusively for forest nursery purposes. [1971 c.59 §3]

Note: 526.245 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

MANAGEMENT REPORTS

526.255 Long range management, marketing and harvest report. The forester shall submit a biennial report to the Governor and to those committees of the Legislative Assembly with responsibility for forestry matters. The report shall contain matters that include, but are not limited to:

(1) The long range management plans based on current resource descriptions and technical assumptions, including sustained yield calculations for the purpose of maintaining economic stability in each management region.

(2) Marketing, reforestation and intensive management programs for the last completed biennium and the current biennium, and projected programs for the ensuing biennium. The marketing report shall include volume and value of new sales, volume and value of timber harvested and timber sales receipts distributed to counties and to the Common School Fund.

(3) The programmed harvest level on federal lands or federal policy changes that

would impact that level of harvest on lands in Oregon. [1983 c.759 §15]

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

526.265 Hearings to publish report and receive testimony; management regions.

(1) The State Forester may conduct biennial public hearings in each management region to report the matters included in ORS 526.255 and to accept public testimony.

(2) For the purpose of this section and ORS 526.255, the following forest management regions are established:

(a) Northwest Region, consisting of Clatsop, Columbia, Tillamook, Washington and Yamhill Counties.

(b) Willamette Region, consisting of Multnomah, Clackamas, Marion, Polk, Lincoln, Benton, Linn and Lane Counties.

(c) Southern Region, consisting of Douglas, Coos, Curry, Josephine and Jackson Counties.

(d) Eastern Region, consisting of Hood River, Wasco, Gilliam, Sherman, Morrow, Umatilla, Union, Wallowa, Jefferson, Wheeler, Grant, Baker, Deschutes, Crook, Klamath, Lake, Harney and Malheur Counties. [1983 c.759 §16]

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

COUNTY FORESTLAND CLASSIFICATION

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

(1) "Committee" means a county forestland classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be. [1965 c.253 §33]

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

(2) The committee shall elect from among its members a chairman and a secretary and may elect or employ other officers, agents and employees, as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

(3) The governing body of the county may provide for the committee and its employees such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions. The members of the committee shall receive no compensation for their services but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties. [Amended by 1965 c.253 §34; 1967 c.429 §30]

526.320 Investigation of forestlands by committees; determination of adaptability for particular uses. Upon establishment of a committee under ORS 526.310, the committee shall investigate and study all forestland within its county and determine which of the land is suitable primarily for the production of timber, which is suitable primarily for joint use for timber production and the grazing of livestock, and which is suitable primarily for grazing or other agricultural use. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved. [Amended by 1965 c.253 §35; 1967 c.429 §31]

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

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

(b) Class 2, timber and grazing class, includes all forestland primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semipermanent joint use, or as a temporary joint use during the interim between logging and reforestation.

(c) Class 3, agricultural class, includes all forestland primarily suitable for grazing or other agricultural use.

(2) The committee first shall adopt a preliminary classification and upon its completion shall cause notice thereof to be published once a week for two consecutive

weeks in a newspaper of general circulation in the county and to be posted in three public places within the county. The notice shall state the time and place for hearing or receiving objections, remonstrances or suggestions as to the proposed classification and the place where a statement of the preliminary classification may be inspected. [1965 c.253 §37; 1967 c.429 §32]

526.328 Hearing; final classification; reclassification. (1) The committee shall hold a public hearing at the time and place stated in the notice published under ORS 526.324 (2), or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed classification. Following the hearing the committee may make such changes in the preliminary classification as it finds to be proper, and thereafter shall make its final classification.

(2) All action by the committee in classifying or reclassifying forestland shall be by formal written order which must include a statement of findings of fact on the basis of which the order is made, and must include a map showing the classifications or reclassifications made. The original of the order shall be filed immediately with the county clerk of the county, who shall maintain it available for public inspection. A copy of the order certified by the secretary of the committee shall be sent to the board. [1965 c.253 §38]

526.330 [Repealed by 1965 c.253 §153]

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

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury. [1965 c.253 §39; 1979 c.284 §163]

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

committee, including formal written order and findings of fact.

(2) Classifications by the forester have the same force and effect as though made by a committee for that county. However, classifications made by the forester cease to be effective if replaced by classifications made pursuant to ORS 526.328 by the appropriate committee. [Amended by 1965 c.253 §40]

526.350 Policy in administering forest and fire laws; contracts for care of forestland; fire control; burning permits.

(1) All forest laws relating to forestland classified pursuant to ORS 526.328 or 526.340, and all rules promulgated under such laws, shall be so administered as best to promote the primary use for which that land is classified. Any contract by the board or the State Forester with any forest protective association or agency for the care of any such forestland shall provide that the care shall be in accord with the provisions of this section relating to that land.

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

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

(b) Class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semipermanent joint use.

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

(3) The forester, on forestland classified pursuant to ORS 526.328 or 526.340, shall administer the forest laws of this state in accordance with the policy stated in this section as it applies to the land involved. [Amended by 1965 c.253 §41]

526.360 State Forester to assist in developing forestland for agricultural uses; supervision of certain burning; refusal of supervision or permit; liability for damage.

(1) The board and the forester shall assist to the extent possible in developing, for grazing or agricultural uses, all forestland classified pursuant to ORS 526.328 or 526.340 for such uses, including the burning of brush or other flammable material for the purpose of:

(a) Removing a fire hazard to any property;

(b) Preparing seed beds; or

(c) Removing obstructions to or interference with the proper seeding or agricultural or grazing development or use of that land.

(2) Upon request of the owner or the agent of the owner of any forestland classified as class 2 or 3, the forester shall supervise burning operations thereon for any of the purposes stated in subsection (1) of this section. The owner or the agent of the owner shall supply such assistance as the forester may require while there is danger of the fire spreading. The forester may, however, refuse to supervise burning or to issue any burning permit when such burning would create an unwarranted hazard.

(3) When any burning for any of the purposes stated in subsection (1) of this section on forestland classified as class 2 or 3 is started under the supervision of and supervised by the forester, no person shall be liable for property damage resulting from that burning unless the damage is caused by the negligence of the person. [Amended by 1965 c.253 §42; 1967 c.429 §33]

526.370 Seeding agreements as condition of supervision of burning on certain lands; seeding at owner's expense on breach; lien; foreclosure. (1) The forester may, as a condition precedent to supervising of any burning of class 2 or 3 lands, as provided in ORS 526.360, require the owner or the agent of the owner in control of the land involved to agree in writing to seed properly the land over which the burning operation is to be conducted, with such seed or seed mixtures as may be suitable for that area.

(2) In the event of failure by the owner or agent of the owner to seed the property in accordance with such agreement, the governing body of that county may cause the seeding to be done and the cost thereof may be recovered by the governing body from the owner or the agent of the owner by legal action. The cost shall constitute a lien upon the land seeded. The governing body shall cause a written statement and notice of such lien, describing the land and stating the amount of the cost, to be certified under oath and filed in the office of the county clerk within 90 days following the completion of reseeding. The lien may be foreclosed, within six months after such filing, by suit, in the manner provided by law for foreclosure of liens for labor and material. [Amended by 1965 c.253 §43]

526.410 [Repealed by 1953 c.138 §2]

526.420 [Repealed by 1953 c.139 §2]

NONINDUSTRIAL PRIVATE LANDOWNER ASSISTANCE

(Generally)

526.425 Management assistance to nonindustrial private forest landowners. Recognizing that nonindustrial private forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, it is hereby declared to be the public policy of the State of Oregon to encourage management of nonindustrial private forestlands for tree production. Therefore, under the direction of the board and to the extent funds are available, the State Forester shall:

(1) Provide for coordinated technical and financial assistance to the nonindustrial private forest landowner;

(2) Provide management planning for nonindustrial private forestlands;

(3) Advise and encourage nonindustrial private forest landowners to carry out young growth management activities, such as converting underproductive forestlands, reforestation, release, precommercial thinning and salvaging insect or disease damaged trees;

(4) Administer federal programs, such as the Agricultural Conservation Program or Forestry Incentives Program, that are designed to help encourage management of nonindustrial private forestlands;

(5) Advise and encourage nonindustrial private forest landowners to form cooperatives or aggregates for the purpose of more efficiently carrying out their young growth management activities;

(6) Periodically advise and recommend changes to the Legislative Assembly on laws conflicting with the intent of this statute; and

(7) In compliance with ORS 183.310 to 183.550, promulgate rules consistent with law for providing management planning for nonindustrial private forestlands. [Formerly 526.048]

(Woodland Management Act of 1979)

526.450 Short title. ORS 315.104, 318.031 and 526.450 to 526.475 may be cited as the "Woodland Management Act of 1979." [1979 c.578 §1]

526.455 Definitions for ORS 526.450 to 526.475. As used in ORS 315.104, 318.031 and 526.450 to 526.475, unless the context requires otherwise:

(1) "Approved forest management practice" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other

young growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.

(2) "Board" means State Board of Forestry.

(3) "Commercial forestland" means land for which a primary use is the growing and harvesting of forest tree species and other forest resource values.

(4) "Eligible owner" means any private individual, group, Indian tribe or other native group, association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commercial forestland.

(5) "Forest management plan" means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan.

(6) "Forest management practices" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management and other young growth management practices that increase wood growth.

(7) "Industrial private forestlands" means lands capable of producing crops of industrial wood, greater than 10 acres and owned by other than an eligible owner.

(8) "Industrial wood" means forest products used to sustain a sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.

(9) "Landowner" means any private individual, group, Indian tribe or other native group, association, corporation or other legal entity, owning both the forestland and any timber thereon.

(10) "Nonindustrial private forestlands" means lands capable of producing crops of industrial wood and owned by an eligible owner.

(11) "State Forester" means the individual appointed pursuant to ORS 526.031, or the authorized representative of the State Forester.

(12) "Timber" means wood growth, mature or immature, growing or dead, standing or down of species acceptable for regeneration under the Oregon Forest Practices Act.

(13) "Underproductive forestlands" means commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act. [1979 c.578 §2]

526.460 Policy to manage forests to maximize benefits. (1) The State of Oregon recognizes that the forest makes a vital contribution to Oregon. Economic benefits provided include a large tax base, substantial employment and wood products for a world market. The environmental benefits include maintenance of a forest cover and soil, air and water resources. Other benefits provided are habitats for wildlife and aquatic life, recreation and forest range. Management of all forestlands in Oregon should be encouraged to provide continuous production of all forest benefits.

(2) Nonindustrial private forestlands are an important part of Oregon's forest resource base. They can make major contributions to Oregon's economy and provide many other social benefits. Therefore, it is the policy of the State of Oregon to provide conditions favorable for long term forestry investments that lead to increased management of and harvest from these lands. [1979 c.578 §3]

526.465 Purpose of ORS 526.450 to 526.475. The purpose of ORS 315.104, 318.031 and 526.450 to 526.475 is to encourage long term forestry investments that lead to increased management of Oregon's forestlands by:

(1) Providing the forest owner with tax relief during the timber growth period.

(2) Promoting programs that provide forest credit on young stands and encourage harvesting of mature forest crops.

(3) Promoting the establishment of new forest crops on cutover, denuded or underproductive privately owned forestlands.

(4) Protecting the public interest by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild game. [1979 c.578 §4]

526.470 Forest tree seed bank; sale to recover costs; disposition of funds; records. (1) A state forest tree seed bank may be operated by the State Forester and the board to provide forest tree seed for the raising of forest tree seedlings suitable for reforestation. Such tree seed bank is to provide for the purchase, collection, storage, care and maintenance of forest tree seed and for the sale of such tree seed to private, state and other public owners of forest nurseries or forestland.

(2) Each year the State Forester shall determine the costs of tree seed bank operation and shall offer tree seed for sale to forest or nursery owners at prices that will recover actual costs.

(3) All revenues derived from the operation of the tree seed bank shall be credited to the State Forestry Department Account.

(4) Notwithstanding ORS 291.328, the moneys credited to the State Forestry Department Account under subsection (3) of this section shall be continuously available on a revolving basis exclusively for forest nursery purposes.

(5) The State Forester shall keep a record of all moneys deposited in the State Forestry Department Account for forest nursery purposes. 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. [1979 c.578 §5]

526.475 Appeal of decisions by State Forester. (1) Any owner affected by a determination of the State Forester made under ORS 315.104, 318.031 and 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it may adopt. An appeal to set aside any decision of the board with respect to ORS 315.104 or 318.031 may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under ORS chapter 305.

(2) Any owner affected by a determination of the Department of Revenue made under ORS 315.104 or 318.031 may appeal directly to the Department of Revenue under such rules as it may adopt. An appeal from an order of the Director of the Department of Revenue may be taken to the Oregon Tax Court in the manner provided by ORS chapter 305. [1979 c.578 §11]

URBAN AND COMMUNITY FORESTRY

526.500 Definitions for ORS 526.500 to 526.515. As used in ORS 526.500 to 526.515, unless the context requires otherwise:

(1) "Urban forest" means the area in and around a city that contains trees and associated plant and animal life. The area may be public or private and may include single trees, small groups of trees or trees in large groups that would be identified commonly as a forest or woodland.

(2) "Urban and community forestry" means the practice of managing, planning, maintaining and promoting the health of the urban forest as a community resource. [1993 c.347 §2]

526.505 Policy. Trees not only are important to the economic and environmental well-being of Oregon, but also represent a significant component of the quality of life for urban residents. As a matter of policy, it is important to promote and protect the hu-

man habitat values that accrue from a healthy urban forest. Therefore, it is declared to be the public policy of the State of Oregon to encourage cities to plant and properly care for trees within the cities' urban growth boundaries and develop management plans to protect and promote urban forests. [1993 c.347 §3]

526.510 Department to provide technical assistance to governmental units. (1) The State Forestry Department shall provide technical assistance to cities, counties, other governmental units, nonprofit and civic organizations and other groups interested in planting and caring for trees in communities. Technical assistance may include, but is not limited to, the following areas:

(a) Establishing and maintaining local urban and community forestry programs;

(b) Developing local tree management ordinances;

(c) Developing public information programs to promote awareness of the values and benefits of the urban forest as a resource of the urban community;

(d) Implementing appropriate tree management and care practices;

(e) Performing street tree inventories; and

(f) Planning and coordinating local tree planting projects.

(2) The department shall make the fullest use of cooperative agreements, projects and resource sharing with local grass roots organizations, community action groups, businesses, local and state agencies, federal agencies, public and private schools, colleges and universities in designing, developing and implementing local programs, plans and activities. [1993 c.347 §4]

526.515 Gifts, grants and donations; fees for services. (1) The State Forestry Department may receive and disburse such gifts, grants, bequests, federal moneys and endowments and donations of labor, material, seedlings, trees and equipment from public and private sources for the purpose of conducting an urban and community forestry program. In addition, the department is authorized to charge fees for services and for attendance at workshops and conferences and to sell various publications and other materials that the department prepares.

(2) All revenues received under subsection (1) of this section and any interest earned on all cash balances except federal moneys shall be credited to the State Forestry Department Account and may be expended only for urban and community forestry purposes. [1993 c.347 §5]

**OREGON FOREST RESOURCES
INSTITUTE
(Generally)**

526.600 Definitions for ORS 526.600 to 526.685. As used in ORS 526.600 to 526.685, unless the context requires otherwise:

(1) "Institute" means the Oregon Forest Resources Institute.

(2) "Producer" means a producer of forest products and includes any person, partnership, association, corporation, cooperative or other business entity involved in the growing, harvesting or producing of timber or timber products. [1991 c.949 §2]

526.605 Findings. The State of Oregon recognizes that the forest products industry is the largest industry in the state. It provides monetary returns to labor, forestland owners, mill owners and operators, public timber purchasers, timber harvesters, investors and others. It is a source of local and state taxes. It is a major supporter of many secondary businesses that supply goods and services in our communities. The welfare of the state is therefore largely dependent on the health and vigor of the forest products industry. [1991 c.949 §3]

526.610 Oregon Forest Resources Institute; board of directors; eligibility; election; ex officio members. (1) There hereby is created the Oregon Forest Resources Institute. The institute shall be governed by a board of directors formed as provided in this section. Elected members of the board shall be elected by producers as provided in this section. The term of office of a member is three years.

(2) The State Forester shall solicit nominations and conduct an election for elected members of the board. The elected members shall meet the following qualifications at the time of the election:

(a) One member who is a producer of 50 million board feet per year or less shall be elected from each forest region established under ORS 527.640.

(b) One member who is a producer of more than 50 million board feet per year, but less than 150 million board feet per year, shall be elected from each forest region established under ORS 527.640.

(c) One member who is a producer of 150 million or more board feet per year shall be elected from each forest region established under ORS 527.640.

(d) One member who owns between 100 and 2,000 acres of forestland and who has no direct financial interest in any forest products processing activity shall be elected statewide.

(3) Eligible voters for the elected members described in subsection (2) of this section shall be only those persons who are of that described class.

(4) The cost of the nomination and election process shall be paid by the institute.

(5) In addition to the membership described in subsection (2) of this section, the elected members shall appoint a member who is an hourly wage employee of a producer or a person who represents such employees. The appointed member shall serve for a term of three years.

(6)(a) In addition to the membership otherwise provided in this section, the following persons shall serve as nonvoting members:

(A) The Dean of the College of Forestry at Oregon State University shall serve ex officio.

(B) The chair of the Wood Products Competitiveness Corporation shall serve ex officio or in the event that the corporation does not exist a representative of the secondary wood products processing industry appointed by the Director of the Economic Development Department.

(C) An individual jointly appointed by the President of the Senate and the Speaker of the House of Representatives to represent the public. The public representative shall not be a member of or significantly affiliated with any organization of or business in the timber industry or any organization or business known to support or promote environmental or conservation issues.

(b) Members referred to in this subsection are not subject to ORS 526.615 to 526.625. [1991 c.949 §4; 1993 c.584 §3]

526.615 Qualifications of board members. Each member of the board of directors shall have the following qualifications:

(1) Be a citizen of the United States.

(2) Be a bona fide resident of this state.

(3) Be a producer in this state or an employee of such a producer.

(4) Have been actively engaged in producing forest products for a period of at least five years.

(5) Derive a substantial proportion of income from the production of forest products.

(6) Have demonstrated, through membership in producers' organizations, a profound interest in the development of Oregon's forest products industry. [1991 c.949 §6]

526.620 Terms of members; vacancies. Each elected member of the board of direc-

tors shall be elected for a term ending three years from the date of the expiration of the term for which the member's predecessor was elected. If there is a vacancy on the board of the elected member, other than a vacancy caused by expiration of a term, the board shall fill the vacancy by appointment for the remainder of the unexpired term with a person who represents the same region and the same producer size class as the member whose term was vacated. [1991 c.949 §7]

526.625 Effect of failure to maintain qualification; removal of member. (1) The board of directors shall immediately declare the office of any member of the board of directors vacant whenever the member ceases to be an active producer in this state, becomes a resident of another state or is unable to perform the duties of office.

(2) The board of directors may remove any member of the board of directors for inefficiency, neglect of duty or misconduct in office, but not until after a public hearing thereon and service upon such member of a copy of the charges together with a notice of the time and place of such hearing. Service shall be made not less than 10 days prior to the hearing. At the hearing the member shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer the charges and explain the facts alleged. [1991 c.949 §8]

526.630 Expenses of members and staff. Directors, officers and employees of the institute may receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The board of directors shall adopt uniform and reasonable rules governing the incurring and paying of such expenses. [1991 c.949 §9]

526.632 Employees not subject to certain personnel regulation. Notwithstanding any other provision of law, wages or salaries of employees of the institute are not subject to personnel compensation plans for state employees established by the Oregon Department of Administrative Services under ORS 240.235 to 240.250. [1993 c.584 §2]

526.635 Officers. (1) The board of directors annually shall elect a chairperson.

(2) The board of directors shall meet regularly at least once each quarter, and at such other times as called by the chairperson. [1991 c.949 §10]

526.640 General authority of institute. The institute shall enhance and provide support for Oregon's forest products industry. In achieving these objectives the institute may:

(1) Increase public understanding of the practice of forestry and the use and benefits of forest products.

(2) Support education and cooperative efforts among private forest landowners and within the forest products industry to:

(a) Practice good stewardship of the land, and protect water and other public resources to the maximum extent practicable;

(b) Encourage the conversion of under-productive rural lands to forest uses, and provide information to private landowners on the means to facilitate such conversions;

(c) Encourage, facilitate and assist private forest landowners to meet or exceed state and federal regulations governing forest operations;

(d) Evaluate and communicate to private forest landowners the stewardship responsibility expectations of the public; and

(e) In cooperation with the State Forestry Department, Oregon State University and other appropriate government or private entities, serve as a clearinghouse for the dissemination of information to private forest landowners, through conferences, workshops and other means, about modern land management practices.

(3) Conduct research and help facilitate continued improvement in wood utilization and in secondary wood products manufacturing. [1991 c.949 §11]

526.645 Additional powers. In addition to the functions listed in ORS 526.640, the institute may:

(1) Conduct research and disseminate reliable information based upon such research.

(2) Sue and be sued as an institute without individual liability for acts of the board of directors within the scope of the powers conferred upon it by law.

(3) Enter into contracts which the board of directors considers necessary to carry out the duties, functions and powers imposed upon the institute by law.

(4) Borrow money in amounts not to exceed 50 percent of the board of directors' estimate of the institute's revenue from the current year's harvest.

(5) Appoint subordinate officers and employees of the institute and prescribe their duties and fix their compensation.

(6) Adopt, rescind, modify or amend all proper orders, regulations, rules and resolutions for the exercise of its duties, functions and powers. [1991 c.949 §12]

(Financial Administration)

526.650 Expenditure of funds restricted. (1) Notwithstanding ORS 526.645 (2), no funds shall be expended by the institute for the purpose of supporting or opposing litigation or other legal action which is unrelated to the administration of the institute.

(2) No funds shall be expended by the institute for the purpose of influencing, or attempting to influence, any legislation or any rulemaking or other administrative activity of any state board, commission or agency. [1991 c.949 §13]

526.655 Acceptance of grants, donations and gifts. The institute may accept grants, donations or gifts from any source for expenditures for any purposes consistent with the purposes of ORS 526.600 to 526.685. All funds so received shall be handled as specified in ORS 526.600 to 526.685 for other moneys received by the institute. [1991 c.949 §14]

526.660 Application of budget and expenditure control laws. The provisions of ORS 576.410 to 576.450, pertaining to budget and expenditure control, apply to budgets and expenditures of the institute except that:

(1) All references in such statutes to the Director of Agriculture shall be considered references to the State Forester.

(2) All references in such statutes to the board shall be considered references to the State Board of Forestry.

(3) All references in such statutes to the commission shall be considered references to the board of directors of the institute.

(4) Copies of proposed budgets required by ORS 576.425 (1) shall not be sent to county extension agents, but shall be available for inspection at the institute office and at the office of the State Forester in Salem. [1991 c.949 §16]

526.665 Exemption from certain financial administration laws. Except as otherwise provided in ORS 526.600 to 526.685, ORS 291.026, 291.202 to 291.222, 291.232 to 291.260, 291.322 to 291.336, 292.210 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and 293.590 to 293.640 do not apply to the institute or to the administration and enforcement of ORS 526.600 to 526.685. [1991 c.949 §17]

526.670 Books and records; audit. The institute shall keep accurate books, records and accounts of all its dealings which shall be open to inspection and audit by the Secretary of State. [1991 c.949 §18]

526.675 Oregon Forest Resources Institute Fund; use of moneys. The Oregon Forest Resources Institute Fund is created in

the State Treasury, separate and distinct from the General Fund. Except as otherwise provided by law, all moneys received by the institute shall be paid into the State Treasury and credited to the fund. All moneys in the fund are appropriated continuously to the institute to carry out its duties, functions and powers. Interest earnings on all moneys in the fund shall be retained in the fund. [1991 c.949 §20]

(Miscellaneous)

526.680 State not liable for institute activities. The State of Oregon is not liable for the acts or omissions of the institute or agents or officers thereof. [1991 c.949 §15]

526.685 Dissolution procedure. (1) After two years from September 29, 1991, producers of 35 percent or more of all merchantable forest products harvested on forestland in the previous year may petition the State Forester to hold a referendum on discontinuance of the institute. The referendum shall be held in such manner as the State Forester, by rule, may prescribe.

(2) If the State Forester determines that producers who harvested 60 percent or more of all merchantable forest products harvested on forestland in the previous year vote in the referendum in favor of discontinuance of the institute, the institute, as rapidly as possible, shall convert its assets to cash and do all other things necessary to terminate its activities. Upon the termination of activities, all moneys in the Oregon Forest Resources Institute Fund shall be paid into the Forest Research and Experiment Account.

(3) When a referendum on discontinuance of the institute is held and there are insufficient votes in favor of discontinuance, a subsequent referendum on discontinuance shall not be held within five years from the date of the result of the previous referendum ordered by the State Forester. [1991 c.949 §19]

FOREST RESOURCE TRUST

526.700 Forest Resource Trust; purpose; trustees; advisory committee; rules; duties of. (1) The Forest Resource Trust is established in the State Forestry Department. The Forest Resource Trust shall provide funds for financial, technical and related assistance to nonindustrial private forestland owners for stand establishment and improved management of forestlands for timber production as well as wildlife, water quality and other environmental purposes.

(2) The members of the State Board of Forestry shall have overall responsibility for management of the Forest Resource Trust. The board is authorized to establish policies and programs in addition to those created by

ORS 526.700 to 526.730 to further the purposes of the trust.

(3) The board shall appoint an advisory committee consisting of no more than 15 members representing the public, nonindustrial private forestland owners, the forest products industry, forest consultants and contractors, the financial community, environmental and conservation organizations and other related interests including affected state agencies. The advisory committee shall assist the board in setting policy for the best use and investment of funds available to the trust and otherwise assist board members in the performance of their duties as trustees.

(4) In accordance with any applicable provisions of ORS 183.310 to 183.550, the board shall adopt rules to carry out the duties, functions and powers of the Forest Resource Trust and to guide implementation of the stand establishment program created under ORS 526.705.

(5) The State Forester is responsible for implementing board policies and programs for the Forest Resource Trust. [1993 c.765 §57]

526.705 Stand establishment program; financial assistance terms and conditions.

(1) To carry out the duties, functions and powers of the Forest Resource Trust, there is created a voluntary stand establishment program to finance the establishment and maintenance of healthy stands of trees in an environmentally responsible manner on unstocked and underproducing nonindustrial private forestlands. The goal of the stand establishment program is to reforest 250,000 acres by the year 2010.

(2) In advancing moneys and providing other assistance for stand establishment, the State Board of Forestry shall:

(a) Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with moderate to high probability of success in reforestation or environmental restoration; and

(b) Consider development of financial and other incentives for good land management, compliance with plans for established stands, and for growth to maturity and harvest.

(3) The board shall establish options for the repayment of advanced moneys consistent with subsection (2) of this section and including but not limited to the following, singly or in combination:

(a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts upon harvest after payment of harvest and severance taxes;

(b) Financial agreements; and

(c) Repayment in full with interest if a landowner fails to get the stand free to grow

as that term is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the landowner.

(4) The terms of repayment shall be based on considerations that represent the best use and investment of funds including:

(a) Reasonable assumptions regarding future timber prices and yield;

(b) Rates of return sufficient to provide a reasonable and prudent payback to the Forest Resource Trust of costs including, but not limited to, site preparation, planting, animal protection, release, planning and layout of treatment units, supervising the activities, and accounting and legal work;

(c) Offsets attributable to measurable anticipated public benefits such as job creation, tax revenue, increased timber supply and environmental improvement; and

(d) The extent to which landowner contributions of money, labor or other resources reduce the risk to the Forest Resource Trust.

(5) Participating landowners shall not be required to comply with forest practices beyond those required by state and federal law with the exception of planting standards which may be more than the required minimum. Participating landowners who voluntarily agree to manage the established stand beyond minimum standards may be eligible for financial and other incentives if consistent with subsections (2) and (3) of this section. Payments to any landowner for stand establishment shall not exceed \$100,000 in any two-year period. [1993 c.765 §58]

526.710 State Forestry Department to assist board. To assist the State Board of Forestry in carrying out the duties of the Forest Resource Trust, the State Forestry Department shall:

(1) Identify potentially suitable lands and market stand improvement services to the owners of those lands.

(2) Provide technical and other management assistance to participating landowners.

(3) Monitor compliance with the stand establishment program by participating landowners.

(4) Encourage involvement of the landowner.

(5) Encourage the use of private contractors, consultants and forestry extension programs.

(6) Develop project plans in cooperation with landowners that establish clear benchmarks for compliance with terms of the plan. [1993 c.765 §59]

526.715 Contracts between State Forester and landowners; security agreements for financial aid repayment; eligi-

ble landowners. (1) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter into agreements with eligible landowners to carry out the provisions of the stand establishment program. The agreements shall include, but are not limited to, the following matters:

(a) Providing up to full financing to the landowner for stand establishment from such moneys as may be available in the Forest Resource Trust Fund; and

(b) Setting forth the obligations of the landowner for repayment of moneys advanced for the establishment of the stand including, but not limited to, the following provisions:

(A) Terms for sharing the revenue gained from the sales of timber and forest products, including salvage, from the tree stands established under the program;

(B) Release from the financial obligation for any portion of the stand established under the program and irretrievably lost to insects, disease, fire, storm, flood or other natural destruction through no fault of the landowner;

(C) Assurance that the rights and obligations of the owner and the Forest Resource Trust and all of the terms of the landowner agreement are covenants that run with the land upon sale, lease or transfer of the land benefiting from the program prior to the repayment of moneys advanced unless otherwise agreed;

(D) Financial terms allowing the owner to terminate the agreement prior to harvesting timber from the stand established under the program;

(E) Agreement that there is no obligation to repay the moneys advanced prior to sale of timber and forest products from the land in the program;

(F) Terms to protect the contractual agreement from modification unless agreed to by both parties;

(G) Allowance for different prescriptions for stand establishment consistent with the established rate of return; and

(H) Provisions for access to the land by the State Forester.

(2) In addition to the agreements provided for in subsection (1) of this section, the State Forester, on behalf of the Forest Resource Trust, may require landowners to execute security agreements in favor of the Forest Resource Trust to secure any repayment or other obligations of the landowner under the stand management program. Any such security interest shall have priority from the date of recording or filing.

(3) For purposes of this section, "eligible landowner" means a landowner who:

(a) Owns land that qualifies as under-producing nonindustrial private forestland as defined by the State Forester.

(b) Has not used ORS 527.760 to avoid reforestation.

(c) Has not begun conversion of acreage prior to entering into an agreement with the State Forester. [1993 c.765 §60]

526.720 Forest Resource Trust Fund. The Forest Resource Trust Fund is created in the State Treasury, separate and distinct from the General Fund. The Forest Resource Trust Fund shall consist of all moneys received from whatever source to carry out the duties, functions and powers of the Forest Resource Trust. All earnings on moneys in the fund shall be retained in the fund. All moneys in the fund are appropriated continuously to the State Forestry Department to carry out the duties, functions and powers of the Forest Resource Trust, including State Forestry Department administrative expenses. [1993 c.765 §61]

526.725 Agreements with private or governmental organizations; land acquisitions; investment of funds; trust on governmental agencies or officers not created. (1) The State Board of Forestry may enter into agreements with other private or governmental organizations and may accept contributions, gifts or grants from any source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys received by the board pursuant to this section shall be deposited in the Forest Resource Trust Fund.

(2) The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease or purchase, land only to the extent necessary to carry out the duties, functions and powers of the trust.

(3) Agreements with private parties under subsection (1) of this section may specify the terms under which funds are invested and benefits accrue to the private party to the extent the agreement is consistent with the provisions of ORS 526.700 to 526.730.

(4) Nothing in ORS 526.700 to 526.730 is intended to create an enforceable trust on any agency or officer of the State of Oregon. [1993 c.765 §62]

526.730 Report to legislature; program evaluation. The State Board of Forestry, after consultation with the advisory committee appointed pursuant to ORS 526.700, shall prepare and submit a biennial report to the Legislative Assembly with regard to program accomplishments, the future structure of the Forest Resource Trust, alternatives to deliv-

ery of trust services by the department and changes to qualifications for landowner participation in the program. The board shall also enter into an agreement with an independent party to evaluate program goals, administration, problems and outcomes. The evaluation shall be made a part of any biennial report to the Legislative Assembly and shall be used by the board in consultation with the advisory committee in modifying terms and policies of the Forest Resource Trust. [1993 c.765 §63]

TIMBER EXPORT REGULATION

526.801 Definitions for ORS 526.801 to 526.831 and 526.992. As used in ORS 526.801 to 526.831 and 526.992:

(1) "Export" means that unprocessed timber is loaded on a vessel or other conveyance with a foreign destination or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.

(2) "Person" means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. "Person" includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(3) "Private lands" means lands within the State of Oregon owned by a person. "Private lands" does not include federal lands or nonfederal public lands, or any lands the title to which is:

(a) Held in trust by the United States for the benefit of any Indian tribe or individual.

(b) Held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(4) "Public body" means an agency of the State of Oregon or of any other political subdivision.

(5) "Public lands" means lands owned by the State of Oregon or by any other political subdivision.

(6) "Unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. "Unprocessed timber" does not include timber processed into any one of the following:

(a) Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four sides, not intended for remanufacture.

(b) Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on four sides, not to exceed 12 inches (nominal) in thickness.

(c) Lumber, construction timbers or cants for remanufacture, that do not meet the grades referred to in paragraph (b) of this subsection and are sawn on four sides, with wane less than one-fourth of any face, not exceeding eight and three-fourths inches in thickness.

(d) Chips, pulp or pulp products.

(e) Veneer or plywood.

(f) Poles, posts or piling cut or treated with preservatives for use as such.

(g) Shakes or shingles.

(h) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(i) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants or other domestic operations for the purpose of conversion of the logs into chips.

(j) Firewood cut in pieces 48 inches or less in length. [1991 c.942 §2]

~~526.805~~ [1961 c.700 §1; 1963 c.298 §1; 1981 c.823 §1; repealed by 1991 c.942 §12]

526.806 Prohibition against export of unprocessed timber; prohibition against certain public timber purchases. (1) It is unlawful to export unprocessed timber originating from public lands in Oregon.

(2) All unprocessed timber that originates from public lands is prohibited from export.

(3) In addition to all other requirements of law, no person who is prohibited from purchasing timber directly from a public agency may purchase public timber from any other person. Acquisitions of Western Red Cedar that are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibitions contained in this subsection. [1991 c.942 §§3, 5, 6]

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

526.811 Exemption from export prohibition. The prohibitions against export contained in ORS 526.801 to 526.831 and 526.992 shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the United States Secretary of Agriculture or Secretary of the Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States. [1991 c.942 §7]

~~526.815~~ [1963 c.298 §3; repealed by 1981 c.823 §3]

526.816 Certification by bidders for public timber. In addition to all other requirements of law, any person submitting a bid for the purchase of public timber must certify to the following:

(1) The person will not export directly or indirectly unprocessed public timber;

(2) The person will not sell, transfer, exchange or otherwise convey unprocessed public timber to any other person without obtaining a certification from the person of the person's intent to comply with ORS 526.801 to 526.831 and 526.992; and

(3) Unless exempted by rule of a public agency, the person has not exported unprocessed timber from private lands in Oregon for a period of not less than 24 months prior to the date of submission of the bid. [1991 c.942 §4]

526.820 [1963 c.298 §5; 1977 c.23 §1; repealed by 1981 c.823 §3]

526.821 Political subdivisions to establish rules. All political subdivisions engaged in selling public timber shall establish, by rule, the standards and procedures to implement the provisions of ORS 526.801 to 526.831 and 526.992. [1991 c.942 §8]

526.825 [1963 c.298 §4; 1967 c.34 §4; repealed by 1981 c.823 §3]

526.826 Barring timber export violators from unprocessed public timber purchases. A public agency may debar any person who violates any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto, from entering into any contract for the purchase of unprocessed timber from public lands for a period of not more than five years. Such person shall also be precluded from taking delivery of public timber purchased by another party for the period of debarment. [1991 c.942 §10]

526.830 [1963 c.298 §6; repealed by 1977 c.23 §2]

526.831 Contract cancellation for timber export violation. A public agency may cancel any contract entered into with a person found to have violated any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto. [1991 c.942 §11]

526.835 [Formerly 526.810; 1981 c.823 §2; 1981 c.823 §2; repealed by 1991 c.942 §12]

PENALTIES

526.990 Criminal penalty. Violation of any rule promulgated under ORS 526.041 (1) is, upon conviction, punishable as a misdemeanor. [1969 c.249 §4]

526.992 Timber export violation criminal and civil penalties. (1) A person who, with willful disregard for the prohibitions contained in ORS 526.801 to 526.831 and 526.992 against exporting public timber, ex-

ported or caused to be exported unprocessed timber originating from public lands in violation of this chapter is guilty of a Class C felony and may be assessed a civil penalty not to exceed \$500,000 for each violation or three times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) If the agency concerned finds, on the record and after an opportunity for a hearing, that a person has violated any provision of ORS 526.801 to 526.831 and 526.992 or any rule issued pursuant thereto relating to lands which the agency administers (notwithstanding that such violation may not have caused the export of unprocessed public timber in violation of this chapter), such agency may:

(a) Assess against such person a civil penalty not more than \$75,000 for each violation if it is determined that the violation was casual or involuntary.

(b) Assess against such person a civil penalty not more than \$500,000 or three times the gross value of the unprocessed timber involved in the violation, whichever amount is greater, if it is determined that the person committed such violation willfully. Any person who willfully commits such a violation is guilty of a Class C felony.

(c) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing of the imposition of the penalty. The notice may be personally served on the person incurring the penalty or may be sent by registered or certified mail.

(d) The person incurring the penalty shall have 20 days from the date of receiving the notice to make written application for a hearing.

(e) Any person who makes application as provided for in paragraph (d) of this subsection shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(f) Judicial review of an order made after a hearing under paragraph (e) of this subsection shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(g) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(h) All moneys recovered pursuant to this section shall be paid into the State Forestry Department Account and may be used only to pay the expenses of administration, inves-

tigation and enforcement of ORS 526.801 to 526.831 and 526.992 by the State Forester or any law enforcement agency. [1991 c.942 §9]
