

**Division of State Lands
Administrative Overview
July 2002**

Introduction

The Division of State Lands (DSL) is the administrative arm of the State Land Board, which is composed of the governor, secretary of state, and state treasurer. Under constitutional and statutory guidelines, the board is responsible for the management of state-owned lands, assets in the Common School Fund, off-shore lands and coastal estuarine tidelands, submerged and submersible lands of the navigable waterways within the state, unclaimed property, estates with no heirs and any additional functions assigned by the Legislative Assembly. The Board decides cases, adopts rules, issues policy statements, and approves DSL recommendations.

DSL operates in accordance with general policies formulated by the Board and through the laws prescribing its own duties and powers. DSL's mission is "to ensure a legacy for Oregonians and their public schools through sound stewardship of lands, wetlands, waterways, unclaimed property, estates and the Common School Fund." Revenues from all agency activities are deposited in the Common School Fund. Fund values in recent years have totaled about \$750 million, depending on market conditions. Resources dedicated to the Common School Fund include: 630,000 acres of range and agricultural lands, beds and banks of all navigable rivers and lakes, tidal and submerged offshore land and over 133,000 acres of forest land. DSL also administers the Removal/Fill Law under ORS 196.800 - 196.990, serves as the state's lead wetlands protection agency under ORS 196.600 - 196.692, and administers estates under ORS 111 - 116 and the Unclaimed Property Law under ORS 98. DSL further provides administrative services to the South Slough National Estuarine Research Reserve near Coos Bay and the Natural Heritage Advisory Council. DSL is headquartered in Salem with an eastern regional office in Bend.

The Common School Fund is a constitutional trust created to manage assets derived from common school trust land granted by the federal government to Oregon at statehood. The intent of the land grant to the state was to provide a source of revenue to fund public education (K-12). The State Treasurer and the Oregon Investment Council invest the fund. Interest from the Common School Fund is paid semi-annually to Oregon's 36 counties on the basis of school-age population, for the support of public schools. Annual distributions in recent years have fluctuated from \$9 million to \$40 million depending on board policies and market conditions.

History

The State Land Board is Oregon's oldest board. It was established in 1859 (Oregon Constitution - Article VIII, Section 5) as the "Board of Commissioners for the sale of school, and University lands, and for the investment of the funds arising therefrom." The board has

retained the same membership (governor, secretary of state, and state treasurer) throughout its history.

In 1859, the Oregon Admissions Act (Section 4) ceded to the state the 16th and 36th section of every township for public school use. Where the land had been previously deeded, the state was allowed to choose other public lands "in lieu of" these lands. Income generated from this property forms the basis of the Common School Fund. This trust fund was established by the constitution in order to support and maintain district schools. Other original fund assets included money paid for exemptions from military service, money accrued to the state from escheats and forfeitures, grants, gifts, bequests, 500,000 acres allowed to Oregon by an 1841 act of Congress, and 5% of all proceeds from the sale of federal land. Amendments passed in 1968 and 1980 have added additional revenue sources (Article VIII, Section 2). The federal government granted Oregon ownership of the beds and banks of all navigable waterways in the state, including ocean tidelands. Proceeds from the management of these natural resources now goes into the principal of the Common School Fund.

Oregon's Admission Act also gave lands to be used in establishing institutions of higher education. These became the basis of the Agricultural College (Oregon State University) Trust Fund and the University of Oregon Trust Fund. Money accrued from investing assets are distributed annually toward teachers' salaries at the schools. DSL still retains oversight responsibility for these trust funds.

Land Board Early History

Much of the board's early history was spent defining its powers and procedures. In 1860, the Legislative Assembly authorized the governor to select and locate the lands and salt springs granted to Oregon by the federal government (O.L. 1860, p.72). It repealed this act two years later and replaced it with one designating the governor as Land Commissioner, with the same selection powers he held under the old law (O.L. 1862, p. 105).

No formal procedure existed for selling selected lands to settlers until 1864 (O.L. [Deady] 1843-1872, p. 631). Apparently there were few takers, as the first sale occurred in 1871 (O.L. 1872, p. 120). The Legislative Assembly amended the process later by dropping the five dollar filing fee, in hopes of stimulating sales (O.L. 1874, p. 69). Sales of university and college land were treated differently (O.L. 1872, p. 133). The Legislative Assembly passed two laws concerning the sale of swamp, overflowed, and tide lands in 1872. One stated the procedures under which land could be sold (O.L. 1872, p. 129), while the other placed ten percent of the money received into the Common School Fund (O.L. 1872, p. 128). Owner property rights were further spelled out in 1874 (O.L. 1874, p. 77) and 1876 (O.L. 1876, p. 69).

Legislative refinement of the board's policies, powers, and duties continued with a major bill passed in 1878. The new law amended selection and sales procedures, authorized the governor to appoint a land selection agent, set administrative procedures for records-keeping, make contracts, set meeting dates, control money collecting and distribution, and created the office of clerk to the board (O.L. 1878, p.41). An act passed in 1880 fully detailed the clerk's purpose and function (O.L. 1880, p.11). This office was the direct fore-runner to the DSL.

The 1878 law set procedures and policies of the board for the next two decades. No major legislation occurred during the period affecting the Board's operations. An act declaring what should constitute the Common School Fund passed the Legislative Assembly in 1887 (O.L. 1887, p. 63) and was amended in 1891 (O.L. 1891, p. 144). Other laws concerned policy on deed title to lands sold, railway right-of-ways, tide lands (O.L. 1891, pp. 102, 135, 179, 189) and the selection of indemnity (in lieu of) lands (O.L. 1895, p. 7).

Agency Renamed

In 1899, a major administrative reorganization renamed the agency the "State Land Board" and provided comprehensive guidelines for the selection and sale of school lands and for the management of the money gained (O.L. 1899, p. 156). (*The constitution was not altered to reflect the name change, as no legal mechanism existed for amending it until 1911.*) Laws also passed concerning the sale of university land and the creation of the office of "state land agent" (O.L. 1899, pp. 93, 95).

The Legislative Assembly issued a summation of the board's functions and policies eight years later. Repealing the 1889 act and the 1903 and 1905 laws on indemnity land selection and university fund investment, the new law provided for the "acquisition, management, control, leasing, sale and disposition...of all lands...from any and all sources, and for the management and investment of the moneys arising there from...." Specific duties and salaries were given for the clerk and land agent, along with administrative procedures for conducting the board's work (O.L. 1907, c. 117).

Separate legislation created the A.R. Burbank Trust Fund for the use and benefit of orphan homes in Salem and Portland (O.L. 1907, p. 51). The act named as trustees the governor, secretary of state, and state treasurer. The fund operates on principles similar to the Common School Fund and is still administered by the State Land Board. Currently, the Boys and Girls Club, and Waverly Childrens' Home, in Portland, receive annual interest earnings from the fund.

The board lost control of reclamation contracts and settlement on desert lands (O.L. 1901, p. 378) when the Desert Land Board was created (O.L. 1909, c. 226). However, the Legislative Assembly authorized the board in 1913 to enter into contracts for the drainage and reclamation of swamp, marsh, and lake land for later sale. Funds derived from the activity would be deposited into the Common School Fund (O.L. 1913, c. 11).

That same year, the office of the State Land Agent was abolished and its duties transferred to the Clerk of the Land Board (O.L. 1913, c. 15).

Oregonians approved a constitutional amendment in 1916 that sanctioned the new name of the board without wiping off the old one. Article XIa created the Rural Credits Loan Fund, which allowed the State Land Board to make loans to farmers through the issuance and sale of pledge bonds. The Legislative Assembly established the fund a year later (O.L. 1917, c. 398).

The board's early leasing programs emphasized the most important factors in Oregon's economy: mining, timber, and agriculture. In 1917, it expanded with the adoption of kelp and seaweed leases on off-shore beds (O.L. 1917, c. 398). Three years later the Legislative

Assembly in special session authorized the leasing of the beds of navigable streams and waters for the removal and sale of the sand, gravel, and rock they contain (O.L. 1920 SS, c. 32). Its lucrateness was immediately grasped by the Legislative Assembly, who asserted the state's title to lakes and meandered lakebeds and authorized the board to purchase, sell, and convey upland and riparian rights to them (O.L. 1921, c. 280).

In 1921, the Legislative Assembly passed a law making the board the custodian of all notes, bonds, and other securities covering loans made from the various trust funds it administers (O.L. 1921, c. 57). In 1925, two more funds were placed under its control. J.T. Apperson left money to the state to be used to assist deserving students at the Agricultural College (now Oregon State University) (O.L. 1925, c. 20). Loans made from the J.T. Apperson Agricultural College Education Fund are still issued today under the terms of the will by OSU's Financial Aid Office. Administrative responsibility for the loan fund was transferred to OSU from DSL in 1995. The board also acquired the Samuel R. Thurston Monument Fund, income from which was used for the care of the monument erected in 1855 in Odd Fellow's Cemetery, Salem.

In 1925, the board's office staff consisted of the clerk, an assistant clerk, a special field inspector, and four clerks and stenographers. The board was represented in each Oregon county by an attorney paid on a fee basis. The attorney examined abstracts of title, transmitted applications for loans, and assisted in collecting and foreclosing mortgages. By 1937, they were joined in the field by land agents whose duty it was to sell and lease state lands within their territory and collect rentals on state property.

Legislative Actions in the 1930s and 1940s

During the 1930s and early 1940s, the Legislative Assembly continued to revise procedures concerning the lending and investing procedures for the various funds. The next major change in the board's duties came by way of a constitutional revision in 1942. That year Oregon voters repealed Article XIa, and all of the remaining assets of the Rural Credits Loan Fund were transferred into the Common School Fund.

The next year the Legislative Assembly voted to abolish the World War Veteran's State Aid Commission and transferred its records to the Clerk's office. The action created the Veteran's Welfare Department of the board to administer outstanding loans and mortgages proffered by the defunct agency (O.L. 1943, c. 175). The end of World War II prompted the Legislative Assembly to have the board appraise and certify the amount of money that could be loaned on security to veterans of the war. It also charged the board with the administration and sale of all real property taken over by the Director of Veterans' Affairs. Sale proceeds went to the State Treasurer for the Oregon War Veterans' Fund (O.L. 1947, c. 403). A 1947 law terminated the board's involvement with veterans' loans made subsequent to 1945 (O.L. 1947, c. 532). In 1952, Oregonians repealed Article XIc of the constitution and the World War Veterans' State Aid Sinking Fund. Its assets went into the Common School Fund.

Several changes occurred in the board's responsibilities during the 1950s. The board received the assets of the Oregon Rural Rehabilitation Corporation from the U.S. Department of Agriculture in 1953. The money was used for rural rehabilitation projects. Six years later the Legislative Assembly established the Property Foreclosure Revolving Fund to enable state

departments with liens against real property to bid on the property at foreclosure sales in order to protect their interests (O.L. 1959, c. 499).

1960s Bring Major Changes

The 1960s was a decade of major changes for the Board in its administration and policy. All state forest lands were placed under the administration of the Forestry Department (O.L. 1963, c. 475). Legislation abolished the Veterans' Welfare Department and changed the Clerk of the Board's title to Director of the State Land Board (O.L. 1967, c. 421). Most importantly, the Legislative Assembly elevated the Office of the Clerk to executive agency status and renamed it the Division of State Lands in 1967 (O.L. 1967, c. 616). The new law transferred all of the responsibilities and duties of the board to DSL, except those of a general policy making and review nature. DSL became the operating staff of the board. Some procedures and duties were revised or created, and all of the board's records were given to DSL.

Voters in 1968 finally deleted the board's old name from the constitution and replaced it with the State Land Board (Article III, Section 5 (2)). Its mission was modified to stress environmental management of lands as an investment, rather than to sell and reinvest the funds derived. The amendment to the constitution made long term resource conservation a major emphasis of the State Land Board and DSL's work.

The Legislative Assembly defined DSL's role in 1969 in passing a group of new laws. These included abolishing the Property Revolving Fund (c. 594), passing a new escheats law (c. 591), and creating the Advisory Committee to the State Land Board (HJR 40). The latter's work continued under the Natural Area Preserves Advisory Committee established in 1973 (SJR 4).

Waterway and Land Use Legislation

Throughout the 1970s, legislation was passed on waterways and land use (O.L. 1975, cs. 547, 765; O.L. 1977, c. 334). Included was legislation regarding oil and gas, hard mineral, geothermal, treasure trove, and archaeological permits. Criticism of the way sand and gravel removal/fill operations were administered may have helped in passing permit legislation and creating the Permit section of DSL in 1977. A new student loan program for medical, dental, and veterinary students, created by the Legislative Assembly that same year was placed under control of DSL.

In 1979, the Natural Heritage Advisory Council (successor to the Natural Area Preserves) was placed under DSL's administration (O.L. 1979, c. 711). The advisory council comprised of scientists and citizens appointed by the Governor and ex-officio state employees from various agencies, selects ecological, geological, and biological sites in the state worthy of recognition, protection, and preservation. The South Slough National Estuarine Research Reserve, a 4,770 acre reserve along the Coos Bay Estuary at Charleston was established in 1974 and later placed under DSL's responsibility (O.L. 1983, c. 485) as part of a cooperative agreement with the National Oceanic and Atmospheric Administration (U.S. Department of Commerce). The estuary was the first reserve in the nation created in response to the federal Coastal Zone Management Act of 1972.

In the late 1980s, the Constitution was amended (Article VIII, Section 5) to provide greater flexibility to the Land Board in managing the Common School Fund, and ultimately to increase the Fund's contribution to education in Oregon. During 1989, comprehensive legislation was enacted that enlarged the Division's role in protecting and managing wetlands (O.L. 1989, c. 837). It required the development of a statewide wetland inventory, coordinated land use notices with local governments, and established a wetland conservation planning program.

In 1992, the Secretary of State transferred the responsibility for recording state-owned deed transactions and maintaining the deed records to DSL.

New regulatory responsibilities were added under the Removal Fill law in 1993, when the legislature required DSL to provide additional protection to certain salmon habitat, and set requirements for review and approval for alterations within Oregon's designated scenic waterways (ORS 273). The same year, administrative responsibility for the Medical/Dental/Veterinary student loan fund was transferred to Oregon Health Sciences University. During 1995, the responsibility for the J.T. Apperson Student Loan Fund was dispersed to Oregon State University, and the responsibility for Oregon Rural and Rehabilitation Loan Fund was given to Oregon Department of Housing and Community Services. DSL retains oversight responsibility for the Medical/Dental/Veterinary fund, as well as for three trust funds: the University of Oregon, Oregon State University, and the Burbank Trust Fund.

Asset Management Plan Developed

DSL produced a Proposed Asset Management Plan in August 1995 after several years of development and planning. The plan, a comprehensive tool for land and resource management, includes a land classification program and strategies for management, conservation, revenue, enhancement, investment, and disposal. The Plan categorizes state lands and resources as:

- Forest Lands - approximately 133,000 acres of Trust lands (managed to provide the greatest revenue for the Common School Fund over the long term). Most are managed under contract by the Oregon Department of Forestry.
- Range Lands - about 630,000 acres, approximately 25,000 acres are considered Non-Trust lands (managed to provide the greatest public benefit, not necessarily financial return).
- Agricultural Lands - approximately 5,200 acres, nearly all Trust lands.
- Industrial, Residential and Commercial Lands - about 500 acres, both Trust and Non-Trust lands.
- Special Interest Lands - approximately 160 acres, both Trust and Non-Trust lands.
- Waterways - about 800,000 acres of both submerged and submersible Non-Trust lands.
- Minerals - approximately 1.2 million acres, primarily Trust lands. In addition, DSL manages 2 million acres owned by other state agencies on which exploration and production of oil, gas, minerals, and geothermal energy is possible.

Current Organization

The Division of State Lands divides its operating responsibilities into three sections: Field Operations, Policy and Planning, and Finance and Administration, in addition to the Director's Office and South Slough Reserve.

The Director oversees administrative responsibilities for the State Land Board and directs the operation of DSL, under the jurisdiction of the Land Board in accordance with its guidance. Administrative duties include making recommendations to the Land Board and legislature, approving policies and area management plans, and overseeing budget preparation, federal grants and contracts. In addition, the Director provides administrative support for the Natural Heritage Advisory Council and chairs the South Slough National Estuarine Research Reserve Commission, a policy-making board for the South Slough Reserve.

The Policy and Planning Section develops agency plans (including wetland, conservation, and land management plans), policies, and rules. It represents and promotes DSL's constitutional and statutory interests via public information and interagency coordination. The section maintains all state land ownership records as well as historical navigable waterways information. Staff also maintains and promotes the protection and enhancement of Oregon's wetland resources as manager of the state's Wetlands Program (ORS 196). In-lieu land selection, land exchanges, and sales are planned by this section and carried out by Field Operations. The public relations and communications function is also part of this section.

Another service within Policy and Planning is the Information Systems Unit which is responsible for the maintenance, support, and protection of DSL's computer information system including electronic mail. The unit supports a variety of database systems that provide subsidiary records for agency programs including unclaimed property, accounting, permits, violations, leases, capital inventory, and mailing lists. The Land Administration System is the Division's unified corporate database. The Geographic Information System (GIS) program maintains a computerized database of the agency's property including surface and subsurface ownership and inventories of waterway improvements on the state-owned waterways. GIS also maps essential salmon habitat, removal-fill permitting activities and wetland inventories to assist the state's removal-fill permitting program.

The Field Operations section performs a variety of services related to functions of land ownership, property management, and environmental regulation. Responsibilities include land sales and exchanges and issuance of authorizations including leases for: minerals, waterways, communications sites, sand and gravel, agricultural and rangeland forage, easements, rights-of-way, and licenses for use of state-owned upland and waterways. Staff members also issue permits and carry out enforcement actions for removal-fill activities on public and private waterways, wetlands, the Pacific Ocean, and other waters of the state. This section is headquartered in Salem with an eastern regional office in Bend.

The Finance and Administration section is comprised of four units: Fiscal Services, Auditing Services, Trust Property, and Personnel. The assistant director of this section also serves as the agency's legislative coordinator responsible for the development of legislative concepts,

tracking legislation during sessions, providing information to legislative committees and maintaining relationships with legislators.

The Fiscal Services Unit provides services supporting DSL operations, including non-program related administrative support, budget development and tracking, and fiscal and data processing services. Fiscal support services include accounts receivable, accounts payable, financial statements and reports, receipts, payroll, and purchasing. Fiscal and budget support is also provided to the South Slough National Estuarine Research Reserve and Natural Heritage Advisory Council. It also provides general support for agency contracting activities, procures operating services and supplies, and provides general oversight of the Division of State Lands building. The unit is responsible for the accounting and reporting of all funds related to the Common School Fund.

The Auditing Services Unit audits businesses and organizations for compliance with state unclaimed property laws. Staff members also perform audits for revenue-producing sand and gravel leases and permits, provide internal audit services, and examine forest revenue contracts.

The Trust Property Unit manages programs relating to unclaimed property and to estates for which no wills or heirs exist.

The goal of the Unclaimed Property Program is to re-unite as many as people as possible with their money or possessions. In accordance with individual state laws, property becomes unclaimed if the owner cannot be contacted by the holder of the asset within a specified period of time--generally three to five years. Examples of unclaimed property include savings or checking accounts, uncashed payroll or dividend checks or safe deposit box contents. When Division staff cannot find the rightful owner, unclaimed money is held in trust forever. Interest earnings benefit Oregon's K-12 school children, along with other income earned by the Division, through the Common School Fund.

The Unclaimed Estate Property Program administers estates of persons who have died without a will and for whom heirs cannot be found during the estate process. In those cases, a court appoints the division as estate trustee. If no heirs are found within ten years of the close of probate, the funds are deposited into the Common School Fund.

The Personnel Unit provides human resource services to the agency. The unit is responsible for eight specific program areas including affirmative action, records administration, pay and classification, recruitment and retention, labor relations, policy development, training and organizational development.

DSL is responsible for the administration, conservation, and protection of the South Slough National Estuarine Research Reserve (SSNERR) guided by ORS 273.553. The reserve, 4,800 acres in and along the Coos Bay Estuary at Charleston, was established in 1974 as part of a cooperative agreement with the National Oceanic and Atmospheric Administration (U.S. Department of Commerce), in response to the Coastal Zone Management Act of 1972. The programs of the reserve are administered by the SSNERR Commission, chaired by the DSL Director, which establishes the operating policy of the reserve under the general guidance of

the State Land Board. Programs promote and support research projects directed toward estuary management, operate a public Interpretive Center and volunteer program, offer low impact recreational activities, and develop and present public and school educational programs.

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Relevant Statutes

- Chapter 196 Wetlands and Rivers; Removal and Fill; Ocean Resource Planning
Chapter 270 State Real Property
Chapter 271 Use and Disposition of Public Lands Generally; Easements
Chapter 273 State Lands Generally
Chapter 274 Submersible and Submerged Lands
Chapter 358 Museums; Historical Societies; Preservation of Historical and Archaeological Properties and Objects; Oregon Historic Families Data Base
Chapter 517 Mining and Mining Claims
Chapter 552 Geothermal Resources
Chapter 530 Acquisition and Development of State Forests