

Oregon Department of State Lands

Historical Overview



Managing State Lands—Funding Education

The Department of State Lands (DSL) is the administrative arm of the State Land Board, which has been composed of the Governor, Secretary of State, and State Treasurer since statehood in 1859. Under constitutional and statutory guidelines, the board is responsible for the management of state-owned lands, assets in the Common School Fund, offshore lands and coastal tidelands, submerged and submersible lands of the navigable water ways within the state, unclaimed property, estates with no will and known heirs, and any additional functions assigned by the Legislative Assembly.

The board sets policy for the Common School Fund and its distributions, and for the constitutional programs that support the fund.

Resources dedicated to the Common School Fund include: about 630,000 acres of range land and agricultural lands, beds and banks of all navigable rivers and lakes, tidal and submerged offshore land, more than 100,000 acres of forest land and 7,000 acres of industrial, commercial and residential 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. 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 197 K-12 public school districts on the basis of county school-age population. Annual distributions fluctuate depending on board policies and financial market conditions. The board's goal is to provide predictable, sustainable distributions to schools over the long term. Recent annual distributions have been in the 50 to 60 million dollar range.



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History

The State Land Board is Oregon's oldest board. It was established by the 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 Admission 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 percent of all proceeds from the sale of federal land. Amendments passed in 1968 and 1980 have added other 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 go into the principal of the Common School Fund.

Oregon's Admission Act also stated that "72 sections of land shall be set apart and reserved for the use and support of a State university..." This formed the basis of the University of Oregon, founded in 1876.

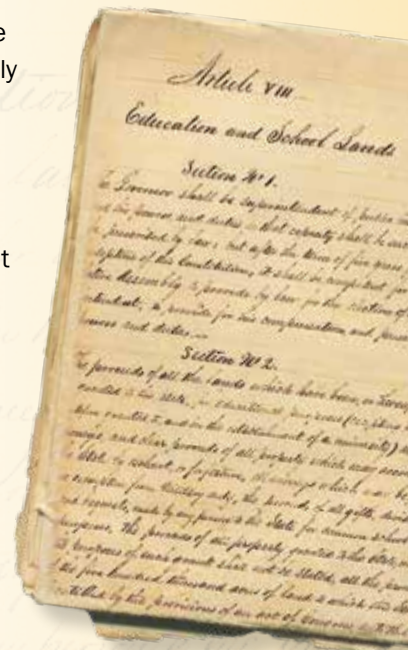
(The Morrill Act of 1862 established land-grant colleges to teach agriculture and the mechanic arts. This act formed the basis of the Agricultural College, now Oregon State University, founded in 1868.)

Early in Oregon's statehood, state policy was to sell the school lands as quickly as possible. State officials felt that development of those lands by private citizens would yield more for schools through property taxes and other economic benefits than if left in public ownership.

While many lands were sold to settlers and entrepreneurs, a large portion of the land was fraudulently attained. From the 1850s to the early 1900s, swindlers and land speculators discovered ways to defraud the state of its lands. For example, swamplands were sold at the bargain basement price of \$1 per acre-school trust lands sold around \$1.25 to \$2.50 per acre. Surveying, land records and security measures were incomplete, and corruption was extensive.

State investigations in 1872, 1878 and 1896 highlighted the corruption, but opposing political factions prevented major changes. The land fraud trials continued until 1913, resulting in 21 convictions of high-level state and federal officials.

DSL's Oregon Story, which was written for the state's Sesquicentennial in 2009, is featured in a book of 150 Oregon stories published by Ooligan Press at Portland State University.



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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 hope 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 10 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 forerunner to DSL.

The 1878 law set procedures and policies of the board for the next two decades. 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 rights-of-way, tide lands (O.L. 1891, pp. 102,135,179,189) and the selection of indemnity (in-lieu) lands (O.L.. 1895, p. 7).



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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).

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 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 of f 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 for offshore 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, which 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 fr om 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 fr om 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,

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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 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). In 1957, the Oregon Legislature passed the Uniform Unclaimed Property Act, and assigned the Land Board and Department of State Lands the responsibility of safeguarding lost financial assets until claimed by rightful owners.

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 Oregon Department of Forestry (O.L. 1963,



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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 1960s and 70s, legislation was passed on water ways 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 functions of the advisory council were transferred to the Oregon Parks and Recreation Department in the 2011 Legislative Session (Senate Bill 58).

The South Slough National Estuarine Research Reserve, a 5,000-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 South Slough was the first reserve in the nation created in response to the federal Coastal Zone Management Act of 1972.



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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 DSL'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. In 2015, the Oregon Legislature passed a law enabling DSL to store electronic copies of other state agencies' deeds.

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). 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.

Asset Management Plan Developed

DSL first produced an Asset Management Plan in December 1995, and has produced two revised plans: the updated 2006 - 2016 plan, approved in October 2006; and the Real Estate Asset Management Plan, approved in February 2012. The plan is a comprehensive tool for land and resource management, and includes a land classification program and strategies for management, conservation, revenue, enhancement, investment, and divestment.

The overriding principles of the plan include:

- Protect and retain a core base of lands for long-term revenue generation.
- Acquire lands with a high probability for appreciation in value.
- Divest of isolated, low-revenue-producing lands and reinvest sale proceeds in higher-value lands.
- Ensure that land leases and other authorizations reflect market values.

Property under the Land Board's jurisdiction is grouped into seven classes: Forestlands; Agricultural Lands; Rangelands; Industrial/Commercial/Residential (ICR) Lands; Waterways; and Mineral and Energy Resources.

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Current Organization

The 2003 Legislature changed the name of the Division of State Lands to the Department of State Lands to be consistent with other agency naming standards.

In addition to the Director's Office and the South Slough Reserve, DSL divides its operating responsibilities into two divisions:

Operations Division - includes the Aquatic Resource Management and Real Property programs. The ARM implements the state's removal-fill and wetlands conservation laws, and manages about 1.3 million acres of state-owned waterways to preserve the public trust rights of navigation, fishing, recreation and commerce. Real property staff oversee about 770,000 acres of school trust lands (range and agricultural lands, commercial properties and forestlands) and another 767,000 acres of mineral and energy resources.

Administration Division - includes all central administrative services for the agency, including information technology, fiscal operations and agency clerical support, as well as the Trust Property Program, which includes Unclaimed Property and Escheat Estates. The division also provides administrative services for the Land Use Board of Appeals.

The Director's Office oversees administrative responsibilities for the State Land Board and directs the operation of DSL.

Administrative duties include making recommendations to the Land Board and Legislature, approving policies, and overseeing the agency strategic and other major plans, budget preparation, federal grants and contracts. In addition, the Director chairs the South Slough National Estuarine Research Reserve Management Commission, a policy-making board for the South Slough Reserve.

The Director's Office also includes the agency's legislative coordination, human resources and communications functions.

The agency headquarters are in Salem. The agency's Eastern Region operations are located in Bend. The South Slough Reserve is located in Charleston on the southern Oregon coast.

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