

Enrolled
House Bill 2929

Sponsored by Representatives ROBLAN, KRIEGER; Representative BOONE

CHAPTER

AN ACT

Relating to Department of State Lands; creating new provisions; and amending ORS 196.815 and 273.115.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Department of State Lands may apply for and receive any private or federal grants, loans or other funds available for the purposes of conducting studies related to the work of the department and coordinating state and federal permitting issues related to removal and fill.

SECTION 2. ORS 196.815 is amended to read:

196.815. (1) A person who is required to have a permit to remove material from the bed or banks or fill any waters of this state shall file a written application with the Director of the Department of State Lands for each individual project before performing any removal or fill.

(2)(a) Each application under subsection (1) of this section must be accompanied by a base fee in accordance with the following schedule:

(A) For a removal by a private operator, or a person contracting to perform services for a private operator, \$85.

(B) For a removal by a public body, \$250.

(C) For a removal by a commercial operator, \$250.

(D) For a fill by a private operator, or a person contracting to perform services for a private operator, \$250.

(E) For a fill by a public body, \$620.

(F) For a fill by a commercial operator, \$620.

(G) For erosion-flood repair, including riprap, no fee.

(b) In addition to the base fee for removal established under paragraph (a) of this subsection, each applicant shall also pay as part of the application fee the following fee based on the volume of removal material:

(A) Less than 500 cubic yards, no volume fee.

(B) 500 to less than 5,000 cubic yards, \$125.

(C) 5,000 to less than or equal to 50,000 cubic yards, \$250.

(D) Over 50,000 cubic yards, \$375.

(c) In addition to the base fee for fill established under paragraph (a) of this subsection, each applicant shall also pay as part of the application fee the following fee based on the volume of fill material:

(A) Less than 500 cubic yards, no volume fee.

(B) 500 to less than 3,000 cubic yards, \$125.

(C) 3,000 to less than or equal to 10,000 cubic yards, \$250.

(D) Over 10,000 cubic yards, \$375.

(d) The department may establish by rule a volume-based fee for the commercial removal of sand and gravel from the waters of this state for use in administering the provisions of the fill and removal law in this state.

[(d)] (e) For the purposes of this subsection:

(A) "Private operator" means any person undertaking a project for exclusively a nonincome-producing and nonprofit purpose;

(B) "Public body" means federal, state, and local governmental bodies, unless specifically exempted by law, engaged in projects for the purpose of providing free public services;

(C) "Commercial operator" means any person undertaking a project having financial profit as a goal;

(D) "Riprap" means the facing of a streambank with rock or similar substance to control erosion in accordance with [regulations promulgated] **rules adopted** by the Department of State Lands; and

(E) "Erosion-flood repair" means riprap or any other work necessary to preserve existing facilities and land from flood and high streamflows, in accordance with regulations promulgated by the department.

(3) For each application that involves both removal and filling, the application fee assessed shall be either for removal or filling, whichever is higher according to the fee schedule in subsection (2) of this section.

(4) The department may waive the fees specified in subsection (2) of this section for a permit that will be used to perform a voluntary habitat restoration project.

(5) A person who receives an emergency authorization under ORS 196.810 to remove material from the beds or banks of any waters of this state or to fill any waters of this state shall, within 45 days after receiving the authorization, submit a fee to the department calculated in the manner provided under this section for permit applications.

(6) Prior to or on the anniversary date of the permit, each holder of a material removal or fill permit shall pay a fee during the term of the permit in accordance with the schedule set forth in subsection (2) of this section, except that the applicant shall pay only the base fee. The permit shall be suspended during any period of delinquency of payment as though no permit was applied for. Notwithstanding this subsection the director may, before granting a renewal of the permit, require the permittee to show that the continued exercise of the permit is consistent with the protection, conservation and best use of the water resources of this state.

(7) Fees received under this section shall be credited to the Common School Fund for use by the department in administration of ORS 196.600 to 196.905.

(8) The director shall issue an order revising the fees specified in this section on January 1 of each year, beginning in 2009, based on changes in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. The director shall round the amount of each fee to the nearest dollar. The revised fees shall take effect January 1 and apply for that calendar year.

SECTION 3. ORS 273.115 is amended to read:

273.115. The Department of State Lands may use so much of the Common School Fund as is necessary for:

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

(2) Improvement, operation, and maintenance of property, crops, timber, fixtures and appurtenances whether granted or otherwise acquired at any time.

(3) Studies necessary for the fill and removal program that include, but are not limited to, the effects of sand and gravel mining on water quality and aquatic resources, sand and gravel recruitment and sediment transport, monitoring of sand and gravel removal operations, coordinating state and federal permitting efforts and the annual review process for permitting sand and gravel removal operations from the waters of this state.

SECTION 4. (1) The Department of State Lands, after consultation with the Department of Environmental Quality and the State Department of Geology and Mineral Industries, shall study the feasibility of creating a single permit for the removal of sand and gravel from the waters of this state, as that term is defined in ORS 196.800.

(2)(a) The Department of State Lands shall submit an interim report regarding the status of the study conducted under subsection (1) of this section to the interim legislative committees on environment and natural resources on or before March 1, 2010.

(b) The department shall submit a final report regarding the study conducted under subsection (1) of this section, and shall include recommendations for legislation, to the interim legislative committees on environment and natural resources on or before November 1, 2010.

Passed by House June 26, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 29, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State