

CHAPTER 148.

[H. B. 64.]

STATE LAND LAW AMENDMENTS.

AN ACT relating to the survey, management, sale, reclamation, lease and disposition of state, granted, school, tide, shore and other lands and oyster reserves, waterways and harbor areas, and the leasing of the mineral rights of the state on lands leased or sold, and amending sections 6782, 6783, 6787, 6788, 6844, 6845, 8095, 8114 and 8115 of Remington & Ballinger's Annotated Codes and Statutes of Washington, and section 1 of Chapter 144 Laws of 1915.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 6782 of Rem. & Bal. Code be amended to read as follows:

Section 6782. The commissioner of public lands of the State of Washington is hereby authorized to execute leases and contracts for the mining of gold, silver, copper, lead, cinnabar or other valuable minerals, except coal, from any land now belonging to the state or from any lands to which the state may hereafter acquire title, subject to the conditions hereinafter provided.

Lease of mineral lands authorized.

SEC. 2. That section 6783 of Rem. & Bal. Code be amended to read as follows:

Section 6783. Any citizen of the United States finding precious minerals upon any lands now or hereafter belonging to the State of Washington, may apply to the commissioner of public lands for a lease of any amount not exceeding eighty acres, for prospecting purposes, such application to be made by legal subdivisions according to the public land surveys.

Prospecting leases.

SEC. 3. That section 6787 of Rem. & Bal. Code be amended to read as follows:

Section 6787. At any time prior to the expiration of any prospecting lease the lease holder or assignee thereof may apply to the commissioner of public lands for a contract to mine the lands covered by said lease and extract and dispose of the minerals therefrom. The commissioner of public lands shall upon the receipt of such an applica-

Application for contract to mine.

tion make a full investigation of the properties and if the land included in said lease shall be found to contain any of the valuable mineral deposits included in section 6782 of Remington and Ballinger's Annotated Codes and Statutes of Washington the said commissioner shall thereupon accept said application and the applicant for said contract shall thereupon within thirty (30) days after notice from the commissioner of public lands that said application has been accepted and approved, enter into a contract for the working and mining of said property which contract shall be substantially in the following form:

Form and terms of contract.

"This indenture, made this.....day of....., A. D., one thousand nine hundred and....., by and between the State of Washington, party of the first part, and.....whose post office address is....., state of....., party of the second part.

Witnesseth, that the party of the first part in consideration of the sum of.....dollars to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, the same being the first annual payment to be made hereunder, and in further consideration of the covenants and conditions herein contained, to be kept and performed by the party of the second part, does hereby contract, lease and demise to the party of the second part, for the term of.....years (here shall be inserted the number of years asked for by the applicant—not exceeding 30 years in all) from and after the.....day of....., one thousand nine hundred and....., the following described land situate in the county of....., State of Washington, viz.:, which premises are leased to the party of the second part for the purpose of exploring for and mining and taking out and removing therefrom the ore therein contained, containing copper, silver, lead, gold and other valuable minerals (except coal), which is or which hereafter may be found in, on or under said land, together with the right to construct all buildings, make all excavations, openings, ditches, drains, railroads, wagon roads,

concentrators, power plants, smelters and other improvements upon said premises which are or may become necessary or suitable for the mining or removal of ore containing copper, lead, silver, gold or other valuable minerals from said premises with the right, during the existence of this contract and lease to cut and use the timber found upon said premises for fuel and so far also as may be necessary, for the construction of buildings required in the operation of any mines [mine] or mines on the premises hereby leased and also the timber necessary for drains, tramways and supports for such mine or mines: *Provided*, That the party of the second part shall have the right at any time to terminate this agreement insofar as it requires the party of the second part to mine ore on said land or to pay a royalty, therefor, by giving written notice to the party of the first part which shall be served by leaving the same with the commissioner of public lands, who shall officially, in writing, acknowledge the receipt of said notice and the foregoing contract shall terminate sixty (60) days thereafter and all arrears and sums which may be due under the same up to the time of its termination as set forth in said notice shall be paid upon settlement and adjustment thereof. The party of the first part further agrees that the party of the second part shall have the right under this agreement to contract with others to work such mine or mines or any part thereof or to sub-contract the same and the use of the said land or any part thereof for the purpose of mining for ore with the same rights and privileges as are herein granted to the said party of the second part. The party of the second part agrees that he will in each year during the life of this lease perform work or make improvements upon the premises hereinbefore described to an amount of not less than one hundred dollars (\$100.00) for each twenty (20) acres included therein and will file with the commissioner of public lands an affidavit of the performance of said work, which affidavit shall give the nature and extent thereof. And it is further expressly agreed that if the party of the second part shall

fail to perform said labor as hereinbefore provided that said lease shall then, at the option of the commissioner of public lands, be forfeitable and the commissioner of public lands shall thereupon, if he shall elect to forfeit this lease and contract, serve upon the party of the second part, or his assignee, if notice of such assignment has been given to the commissioner of public lands, a notice that unless he performs such work within ninety (90) days after the giving of said notice, that this contract and lease shall thereupon become forfeited, terminated and at an end, such ninety (90) day period to commence from the date said notice is mailed by the commissioner of public lands, all such notices to be given by registered mail and if the address of the holder of this contract is unknown then such notice shall be given by posting a copy thereof on said land at the point of any mining operations thereon, which notice shall thereupon be deemed sufficient."

SEC. 4. That section 6788 of Remington & Ballinger's Annotated Codes and Statutes of the State of Washington be amended to read as follows:

Section 6788. The terms and conditions on which the land covered by said contract and lease may be mined and the royalties ascertained and paid shall be agreed upon by the commissioner of public lands and the contract-holder: *Provided*, That such contract and lease shall provide for the payment to the state of a royalty of not less than one per cent (1%) nor more than four per cent (4%) of all moneys received from the sale of minerals from said lands covered by said contract and lease after deducting therefrom the cost of transportation and treatment: *And provided further*, That in addition to the royalty herein provided for, the contract holder and lessee shall pay an annual rental of ten dollars (\$10.00) for each forty (40) acres, or fraction thereof included in said contract and lease.

SEC. 5. The commissioner of public lands of the State of Washington is hereby authorized to execute leases and contracts for the mining of gold, silver, copper, lead, cin-

Royalties
and rentals.

Mining con-
tracts on
lands leased
or sold
by state.

nabar or other valuable minerals from any lands sold or leased by the state, the minerals of which have been reserved by the state. Any citizen of the United States finding minerals upon any lands which the State of Washington may have sold or leased and reserved the mineral rights thereon, may apply to the commissioner of public lands for a lease of any amount not exceeding eighty (80) acres, for prospecting purposes, such application to be made by legal subdivision, according to the public land surveys. Upon the filing of any such application, the commissioner of public lands shall set the same down for hearing at a date not less than thirty (30) nor more than sixty (60) days from the date of filing the application, and shall notify the applicant and the owner or lessee of the lands, the mineral rights in which have been reserved by the state, of the time and place of said hearing. Before the date of the hearing, the commissioner of public lands shall make a full investigation of the lands and the feasibility of extracting minerals found upon said lands, and of the probable amount of damages which will accrue to said lands by reason of extracting mineral therefrom. If at said hearing it shall appear that said lands do not contain valuable mineral in sufficient quantities to warrant the extraction thereof, the commissioner shall reject such application. From any decision of the commissioner rejecting an application, the applicant may appeal to the superior court of Thurston county by filing a notice of appeal with the clerk of the court and serving a copy thereof upon the commissioner and upon the owner or lessee of the lands, the mineral rights in which have been reserved by the state; and all such appeals shall be heard *de novo* and speedily determined. If, at such hearing before the commissioner, it shall appear that the lands contain valuable mineral in such quantities as to warrant the extraction thereof, the commissioner shall determine the amount of damages which will accrue to the owner or lessee of the lands by reason of entry thereon and the extraction of minerals therefrom and shall determine the terms and

Hearing of application.

Appeals from decision to superior court.

Determination of damages to owner or lessee.

Terms of
contract.

conditions upon which said right to enter upon said lands and extracting minerals shall be leased, the time and duration of such lease, the royalties to be paid to the state under such lease and shall impose such other regulations as may be deemed proper to safeguard the interest of the state and of the owner or lessee of the land and shall execute and deliver to the applicant a contract of lease embodying the conditions and regulations so determined and imposed.

SEC. 6. That section 6844 of Remington & Balingler's Annotated Codes and Statutes of Washington be amended to read as follows:

Right-of-way
for irriga-
tion ditches.

Section 6844. A right-of-way through, over and across the public lands of the State of Washington is hereby granted to any irrigation district, or irrigation company duly organized under the laws of this state, and to any association or individual, constructing or proposing to construct an irrigation ditch or pipe line for irrigation, or to any diking and drainage district or any diking and drainage improvement district constructing or proposing to construct a dike or drainage ditch.

SEC. 7. That section 6845 of Remington and Balingler's Annotated Codes and Statutes of Washington be amended to read as follows:

Procedure
to obtain
benefits of
grant.

Section 6845. In order to obtain the benefits of this grant, the irrigation district, irrigation company, association or individual constructing or proposing to construct such irrigation ditch or pipe line for irrigation, or the diking and drainage district or diking and drainage improvement district constructing or proposing to construct any dike or drainage ditch, shall file with the board of state land commissioners a map accompanied by the field notes of the survey and location of the proposed irrigation ditch or dike or drainage ditch and shall pay to the state as hereinafter provided, the amount of the appraised value of the said lands used for or included within said right-of-way. The land within said right-of-way shall be limited to an amount necessary for the construc-

tion of a ditch or dike sufficient for the purposes required, together with sufficient land on either side thereof for egress and ingress to maintain and repair the same.

SEC. 8. That section 8095 of Remington and Balingler's Annotated Codes and Statutes of Washington be amended to read as follows:

Section 8095. A correct plat of all public ways so established shall be made, one copy of which shall be filed with the commissioner of public lands of the state and one copy shall be kept in the office of the chairman of the board of harbor line commissioners, and each county shall be furnished with a correct plat of all such public ways established within its borders, and such plats shall be filed as city or town plats are filed and become a part of the county records.

Waterway
plats filed
with land
commissioner.

SEC. 9. That section 8114 of Remington & Balingler's Annotated Codes and Statutes of Washington be amended to read as follows:

Section 8114. The board of county commissioners of each county in this state is hereby authorized to build and maintain, when in their judgment the convenience of the public so requires, and subject to the approval of the board of state land commissioners, wharves and landings on and across the tide or shore lands owned by the State of Washington of any navigable waters or watercourses within or bordering upon their respective counties and not in front of or included within the limits of any incorporated city or town; said wharves or landings to begin at the point of termination of a county road at or near the shore of such navigable waters or watercourses, and to extend so far into said waters or watercourses as the convenience of shipping may require.

Wharf
construction
by counties
on tide and
shore lands.

SEC. 10. That section 8115 of Remington and Balingler's Annotated Codes and Statutes of Washington be amended to read as follows:

Section 8115. In cases where the board of county commissioners shall determine to build, construct and maintain wharves or landings as aforesaid over and across tide

Grant of
easement.

Procedure
to obtain.

or shore lands owned by the State of Washington, the board of state land commissioners are hereby authorized to grant an easement to the county for so much of said tide or shore land as may be necessary for right-of-way purposes: *Provided*, That a duly attested and sworn copy of the plat made by the county surveyor shall first be filed with the board of state land commissioners, together with a petition of the board of county commissioners setting forth the reasons for the same; and the aforesaid plat, when approved by the board of state land commissioners, shall be and form the official plat of said right-of-way and shall be filed in the office of the commissioner of public lands and the said plat shall show the amount of land embraced in the proposed right-of-way and the location of the same relative to at least two of the corners of the public land survey.

SEC. 11. That section 1, chapter 144, Laws of 1915, be amended to read as follows:

Re-leasing
harbor areas
to lessees.

Section 1. Upon the expiration of any lease of harbor area heretofore or hereafter executed, if the lessee desires to re-lease the harbor area covered by such lease, he may make application therefor to the board of state land commissioners for a re-lease of such harbor area. Such application shall be made within thirty days after the expiration of such lease and shall be in writing and under oath, setting forth the character and value of all improvements existing on the harbor area, the name and post office address of the owner thereof, the purpose for which he desires to re-lease the harbor area, the amount considered by such lessee as the reasonable annual rental value thereof, and such other and further information as the board of state land commissioners may require. Said application shall be accompanied by a deposit of ten dollars (\$10.00), which deposit, if the said harbor area be not leased through the failure or refusal of the applicant to accept a lease at the rate fixed by the board of state land commissioners, shall be forfeited to the state and paid to the state treasurer and credited to the general fund of the state. The board

Application
of lessee.

Deposit fee.

of state land commissioners may, upon the filing of such an application, cause the harbor area applied for to be inspected and a careful investigation of such application made; and if said board shall deem it for the best interests of the state, it may issue to said applicant a re-lease of said harbor area upon such terms and conditions conforming to the provisions of the constitution of the State of Washington as shall be determined upon by said board: *Provided*, That every such lessee shall be required to furnish a surety bond as is now provided for in cases of leases of harbor area authorized and executed by said board: *And provided further*, That this act shall not be construed as affecting or relating to the power and authority of port commissions to lease harbor areas belonging to the State of Washington within the territorial limits of port districts.

Surety bond.

Port districts not affected.

SEC. 12. That the board of state land commissioners be and hereby is authorized to lease any harbor area, tide lands or other lands of the State of Washington, whether the same be now reserved from lease or sale by any existing act or not, except tide lands or harbor area in front of any incorporated city or town or within two miles thereof on either side, and excepting any oyster reserve containing oysters in merchantable quantities, to any person, firm or corporation, for booming purposes. Such leases shall not be granted for a longer term than ten years from the date thereof; and the board of state land commissioners shall prior to the issuance of any such lease fix an annual rental for the lands leased, and prescribe the terms and conditions of the lease. The board may declare a forfeiture of any lease for a violation of any of the terms or conditions thereof. Any person, firm or corporation leasing any lands under the provisions of this act shall receive, hold and assort the logs and other timber products of all persons requesting such service, and upon the same terms and without discrimination, and may charge and collect tolls on all logs or other timber products so handled, said tolls not to exceed seventy-five cents per

Leases for boom purposes.

Exception.

Terms.

Forfeiture
of lease.

Preference
right to
re-lease.

Sale of
material on
state lands
for highway
construction.

thousand on all logs, spars or other large timber, and reasonable rates on all other timber products, and shall be subject to the same duties and liabilities, so far as the same are applicable, as are imposed upon boom companies organized under the laws of this state. Failure to use any lands leased under the provisions of this act for boom purposes for a period of more than one year shall work a forfeiture of the lease, and such lands shall revert to the state without any notice or declaration of forfeiture. At the expiration of any lease issued under the provisions of this act, the original lessee shall have the preference right to re-lease the lands covered by his original lease for a further term, not to exceed ten years, at such rental and upon such terms and conditions as may be prescribed by the board of state land commissioners.

SEC. 13. Any county, city or town desiring to purchase any stone, rock, gravel or sand upon any of the public lands of the state, including tide and shore lands, to be used in the construction, maintenance or repair of any public street, road or highway within such county, city or town, may file with the board of state land commissioners an application for the purchase thereof, as hereinafter provided. Such application shall set forth the quantity and kind of material which the said county, city or town desires to purchase, the location thereof and the street, road or highway upon which the same is to be used. The board of state land commissioners upon the receipt of such an application is authorized to sell said material in such manner and upon such terms as they deem advisable and for the best interests of the state: *Provided, however,* That such material shall in no case be sold for less than the fair market value thereof.

Passed the House February 14, 1917.

Passed the Senate February 28, 1917.

Approved by the Governor March 15, 1917.