

SB 838
Relating to mining

Senate Bill 838 involves mining that uses any form of motorized equipment to extract gold, silver or any other precious mineral from placer deposits of the beds or banks of the waters of the state that results in removal or disturbance of streamside vegetation. The bill as amended would impose certain restrictions and conditions on placer mining between January 1, 2014 and January 2, 2016. These restrictions are repealed on January 2, 2016 when a moratorium is imposed until January 2, 2021 on placer mining in specified rivers containing essential indigenous anadromous salmonid habitat or naturally reproducing populations of bull trout. The bill also requires the Governor to examine developing a revised regulatory framework for suction dredge mining.

The measure includes a \$141,837 Other Funds expenditure limitation for the Department of Environmental Quality to collect data on suction dredge mining. This work would be funded by a surcharge of \$150 from October 1, 2013 to December 31, 2015 on DEQ's current suction dredge mining permit.

Your Natural Resources Subcommittee recommends Senate Bill 838 be amended and reported out do pass, as amended.

**77th OREGON LEGISLATIVE ASSEMBLY – 2013 Session
BUDGET REPORT AND MEASURE SUMMARY**

JOINT COMMITTEE ON WAYS AND MEANS

MEASURE: SB 838-B

Carrier – House: Rep. Unger

Carrier – Senate: Sen. Bates

Action: Do Pass the A-Engrossed Measure as Amended and be Printed B-Engrossed

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Lisa Pearson, Department of Administrative Services

Reviewed By: Paul Siebert, Legislative Fiscal Office

Meeting Date: June 28, 2013

Agency

Department of Environmental Quality

Biennium

2013-15

Budget Summary*

	2011-13 Legislatively Approved Budget ⁽¹⁾	2013-15 Current Service Level	2013-15 Committee Recommendation	Committee Change from 2011-13 Leg. Approved	
				\$\$ Change	% Change
Other Funds	\$ 0	\$ 0	\$ 141,837	\$ 141,837	100.0%
Total	\$ 0	\$ 0	\$ 141,837	\$ 141,837	100.0%

Position Summary

Authorized Positions	0	0	3	3
Full-time Equivalent (FTE) positions	0.00	0.00	0.75	0.75

⁽¹⁾ Includes adjustments through December 2012

* Excludes Capital Construction expenditures

Summary of Revenue Changes

For the period October 1, 2013 to December 31, 2015, Senate Bill 838 adds a \$150 surcharge to an existing placer mining permit fee; this is expected to generate \$217,500 in revenue. The bill also authorizes the establishment of suction dredge mining permit fees which will cover the cost of administration, monitoring, compliance and enforcement of the permit. The new fees will override fees established in ORS 468B.052 for suction dredge mining permits.

Summary of Natural Resources Subcommittee Action

Both the Department of Environmental Quality (DEQ) and the Department of State Lands (DSL) regulate recreational and small scale placer mining in Oregon. Senate Bill 838 imposes certain restrictions and conditions on placer mining between January 1, 2014 and January 2, 2016 and limits the number of permits DSL may issue for placer mining during this period to 850. These restrictions are repealed on January 2, 2016 when a moratorium is imposed until January 2, 2021 on placer mining in specified rivers containing essential indigenous anadromous salmonid habitat or naturally reproducing populations of bull trout. The bill restricts the number of permits DSL can issue for unspecified rivers during the moratorium to 850. Senate Bill 838 also directs the Governor's Office to work with state agencies and other interested parties to conduct a study and make recommendations for a revised regulatory framework for suction dredge mining. The Governor's Office will report the results of the study and recommendations to the legislature by November 2, 2014. The bill provides \$141,837 Other Funds expenditure limitation and three seasonal positions (0.75 FTE). The positions will collect data, report, and provide technical oversight. DEQ will develop the data collection methodology in consultation with DSL, Oregon State Police and the Oregon Department of Fish and Wildlife. The methodology is expected to include visual surveys of mining activity from both land and water, including the effects of mining on beds, banks and vegetation resulting from mining activity.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

SB 838-B

Department of Environmental Quality
 Lisa Pearson -- 503-373-7501

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2011-13 Legislatively Approved Budget at Dec 2012 * \$	0 \$	0 \$	0 \$	0 \$	0 \$	0 \$	0 \$	0	0.00
2013-15 ORBITS printed Current Service Level (CSL)*\$	0 \$	0 \$	0 \$	0 \$	0 \$	0 \$	0 \$	0	0.00
SUBCOMMITTEE ADJUSTMENTS (from CSL)									
002 - Water Quality									
Suction Dredge									
Personal Services	\$ 0	\$ 0	\$ 104,106	\$ 0	\$ 0	\$ 0	\$ 104,106	3	0.75
Services and Supplies	\$ 0	\$ 0	\$ 30,531	\$ 0	\$ 0	\$ 0	\$ 30,531		
Capital Outlay	\$ 0	\$ 0	\$ 7,200	\$ 0	\$ 0	\$ 0	\$ 7,200		
TOTAL ADJUSTMENTS	\$ 0	\$ 0	\$ 141,837	\$ 0	\$ 0	\$ 0	\$ 141,837	3	0.75
SUBCOMMITTEE RECOMMENDATION *	\$ 0	\$ 0	\$ 141,837	\$ 0	\$ 0	\$ 0	\$ 141,837	3	0.75
% Change from 2011-13 Leg Approved Budget	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	
% Change from 2013-15 Current Service Level	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 838**

1 On page 1 of the printed A-engrossed bill, line 2, after “517.123;” insert
2 “appropriating money; limiting expenditures;”.

3 Delete lines 4 through 20.

4 Delete lines 22 through 27 and delete pages 2 and 3 and insert:

5 **“SECTION 1. The Legislative Assembly finds that:**

6 **“(1) Prospecting, small scale mining and recreational mining are**
7 **part of the unique heritage of the State of Oregon.**

8 **“(2) Prospecting, small scale mining and recreational mining pro-**
9 **vide economic benefits to the State of Oregon and local communities**
10 **and support tourism, small businesses and recreational opportunities,**
11 **all of which are economic drivers in Oregon’s rural communities.**

12 **“(3) Exploration of potential mine sites is necessary to discover the**
13 **minerals that underlie the surface and inherently involves natural re-**
14 **source disturbance.**

15 **“(4) Mining that uses motorized equipment in the beds and banks**
16 **of the rivers of Oregon can pose significant risks to Oregon’s natural**
17 **resources, including fish and other wildlife, riparian areas, water**
18 **quality, the investments of this state in habitat enhancement and**
19 **areas of cultural significance to Indian tribes.**

20 **“(5) Between 2007 and 2013, mining that uses motorized equipment**
21 **in the beds and banks of the rivers of Oregon increased significantly,**
22 **raising concerns about the cumulative environmental impacts.**

1 **“(6) The regulatory system related to mining that uses motorized**
2 **equipment in the beds and banks of the rivers of Oregon should be**
3 **efficient and structured to best protect environmental values.**

4 **“SECTION 2. (1) A moratorium is imposed until January 2, 2021, on**
5 **mining that uses any form of motorized equipment for the purpose of**
6 **extracting gold, silver or any other precious metal from placer deposits**
7 **of the beds or banks of the waters of this state, as defined in ORS**
8 **196.800, or from other placer deposits, that results in the removal or**
9 **disturbance of streamside vegetation in a manner that may impact**
10 **water quality. The moratorium applies up to the line of ordinary high**
11 **water, as defined in ORS 274.005, and 100 yards upland perpendicular**
12 **to the line of ordinary high water that is located above the lowest ex-**
13 **tent of the spawning habitat in any river and tributary thereof in this**
14 **state containing essential indigenous anadromous salmonid habitat,**
15 **as defined in ORS 196.810, or naturally reproducing populations of bull**
16 **trout, except in areas that do not support populations of anadromous**
17 **salmonids or natural reproducing populations of bull trout due to a**
18 **naturally occurring or lawfully placed physical barrier to fish passage.**

19 **“(2) The moratorium does not apply to any mining for which the**
20 **State Department of Geology and Mineral Industries issues an oper-**
21 **ating permit under ORS 517.702 to 517.989.**

22 **“(3) In areas where the moratorium does not apply as described in**
23 **subsection (1) of this section, the Department of State Lands shall**
24 **limit the individual permits issued under ORS 196.810 and the general**
25 **authorizations issued under ORS 196.850 to not more than 850 permits**
26 **and authorizations for mining described in this section at any time**
27 **during the moratorium period. The Department of State Lands shall**
28 **give priority, to the greatest extent practicable, to persons who held**
29 **permits or authorizations for the longest period of time before January**
30 **1, 2014.**

1 “(4) Any maps developed by the State Department of Fish and
2 Wildlife, or any other state agency, that delineate the area of the
3 moratorium established by subsection (1) of this section are not sub-
4 ject to the rulemaking requirements of ORS chapter 183.

5 “(5) Violation of the moratorium established by subsection (1) of
6 this section is a Class A misdemeanor.

7 “SECTION 3. Section 2 of this 2013 Act becomes operative on Jan-
8 uary 2, 2016.

9 “SECTION 4. Sections 2 and 3 of this 2013 Act are repealed on Jan-
10 uary 2, 2021.

11 “SECTION 5. (1) On and after January 1, 2014, and before January
12 2, 2016, mining that uses any form of motorized equipment for the
13 purpose of extracting gold, silver or any other precious metal from
14 placer deposits of the beds or banks of the waters of this state, as de-
15 fined in ORS 196.800, or from other placer deposits, that results in the
16 removal or disturbance of streamside vegetation in a manner that may
17 impact water quality, is subject to the following:

18 “(a) The motorized dredge equipment must be operated at least 500
19 feet from other motorized dredge equipment, unless the Department
20 of Environmental Quality determines that another distance is appro-
21 priate to protect water quality.

22 “(b) The motorized equipment may not be left unattended within
23 the wetted perimeter of any waters of this state.

24 “(c) The motorized equipment may be operated only between the
25 hours of 9 a.m. and 5 p.m.

26 “(2) The provisions of subsection (1) of this section apply to mining
27 that occurs up to the line of ordinary high water, as defined in ORS
28 274.005, and 100 yards upland perpendicular to the line of ordinary high
29 water of the full length of any river and tributary thereof in this state,
30 of which any portion contains essential indigenous anadromous

1 salmonid habitat, as defined in ORS 196.810, or naturally reproducing
2 populations of bull trout.

3 “(3) The provisions of subsection (1) of this section do not apply to
4 any mining for which the State Department of Geology and Mineral
5 Industries issues an operating permit under ORS 517.702 to 517.989.

6 “(4) During the period described in this section, the Department of
7 State Lands shall limit the individual permits issued under ORS 196.810
8 and the general authorizations issued under ORS 196.850 to not more
9 than 850 permits and authorizations for mining described in this sec-
10 tion at any time during the period described in this section. The De-
11 partment of State Lands shall give priority, to the greatest extent
12 practicable, to persons who held permits or authorizations for the
13 longest period of time before January 1, 2014.

14 “(5) Violation of any provision of this section is a Class A violation.

15 “SECTION 6. (1) Section 5 of this 2013 Act becomes operative on
16 January 1, 2014.

17 “(2) Section 5 of this 2013 Act applies without regard to whether the
18 permits, licenses, authorizations or other forms of permission required
19 by law for mining were issued before, on or after January 1, 2014.

20 “SECTION 7. (1) Sections 5 and 6 of this 2013 Act are repealed on
21 January 2, 2016.

22 “(2) The repeal of sections 5 and 6 of this 2013 Act by subsection (1)
23 of this section does not affect any fine imposed under section 5 of this
24 2013 Act.

25 “SECTION 8. (1) The Governor’s office, in consultation with the
26 Department of Environmental Quality, the Department of State
27 Lands, the State Parks and Recreation Department, the State De-
28 partment of Fish and Wildlife, the State Department of Geology and
29 Mineral Industries, the Oregon State Police and other relevant state
30 agencies, the federal government, the federally recognized Indian

1 **tribes in Oregon and affected stakeholders shall study matters related**
2 **to mining that uses any form of motorized equipment for the purpose**
3 **of extracting gold, silver or any other precious metal from placer de-**
4 **posits of the beds or banks of the waters of this state, as defined in**
5 **ORS 196.800, or from other placer deposits, and matters related to the**
6 **removal or disturbance of streamside vegetation resulting from the**
7 **mining activities, and shall propose a revised state regulatory frame-**
8 **work that includes, but is not limited to:**

9 **“(a) A consolidated regulatory process for mining described in this**
10 **section, including a system that:**

11 **“(A) Involves permits, licenses, authorizations or other forms of**
12 **permission that must be displayed in plain view and be clearly visible**
13 **on the motorized equipment in order to aid in the identification of**
14 **persons carrying out mining activities; and**

15 **“(B) Considers a single permit or a single point of contact approach**
16 **to authorization.**

17 **“(b) Effective compliance, monitoring and enforcement mechanisms**
18 **related to mining described in this section.**

19 **“(c) Adequate fee structures to cover administration, compliance,**
20 **monitoring, enforcement, outreach and education related to any per-**
21 **mit, license, authorization or other form of permission required by law**
22 **from a state agency for mining described in this section or for dis-**
23 **charges from mining described in this section, including ways to**
24 **maximize the efficiency in the use of existing state resources.**

25 **“(d) Conditions for, and restrictions on, mining described in this**
26 **section, to the extent allowed by law and based on the best available**
27 **science and precautionary principles, designed to:**

28 **“(A) Protect and recover in-stream and riparian habitat that is**
29 **important to achieve water quality standards and the conservation and**
30 **recovery of indigenous anadromous salmonids, as defined in ORS**

1 **196.810, and naturally reproducing populations of bull trout; and**

2 **“(B) Address social considerations, including concerns related to**
3 **safety, noise, navigation, cultural resources and other uses of**
4 **waterways.**

5 **“(e) The establishment of a system of management zones, to the**
6 **extent allowed by law, that:**

7 **“(A) Limits, either by lottery or by other mechanism, the amount**
8 **of mining activity that uses motorized equipment in the management**
9 **zones at specific times and cumulatively over time periods;**

10 **“(B) Requires the payment of a fee, as part of the fee structures**
11 **described in paragraph (c) of this subsection, for mining described in**
12 **this section in the management zones; and**

13 **“(C) Establishes specific conditions and restrictions, as described in**
14 **paragraph (d) of this subsection, for the respective management zones.**

15 **“(f) Prohibitions on mining described in this section in specific**
16 **areas of this state, to the extent allowed by law, including:**

17 **“(A) Bodies of water currently listed as water quality impaired un-**
18 **der the Federal Water Pollution Control Act for sediment, turbidity,**
19 **toxics or heavy metals;**

20 **“(B) Bodies of water within federally designated wilderness areas,**
21 **national monuments and national botanical areas;**

22 **“(C) Scenic waterways in this state designated under ORS 390.826**
23 **and bodies of water flowing through state parks; and**

24 **“(D) Habitat that is essential to the recovery and conservation of**
25 **salmon, steelhead, lamprey, freshwater mollusks or other unique**
26 **habitat values, unless protection for this habitat may be otherwise**
27 **achieved pursuant to paragraphs (d) and (e) of this subsection.**

28 **“(2) The Governor’s office shall submit a report with the results of**
29 **the proposed regulatory framework, and shall include recommen-**
30 **dations for any necessary legislation and funding, to the interim**

1 **committees of the Legislative Assembly related to environment and**
2 **natural resources or other appropriate legislative committee on or**
3 **before November 1, 2014. The Governor’s office may also include any**
4 **recommendations for proposed rules related to the revised regulatory**
5 **framework in the report.**

6 **“SECTION 9. Section 8 of this 2013 Act is repealed on January 2,**
7 **2016.**

8 **“SECTION 10.** ORS 517.123 is amended to read:

9 “517.123. The Legislative Assembly finds that prospecting, small scale
10 mining and recreational mining:

11 “(1) Are important parts of the heritage of the State of Oregon; **and**

12 “(2) Provide economic benefits to the state and local communities.[; *and*]

13 “[3] *Can be conducted in a manner that is not harmful and may be bene-*
14 *ficial to fish habitat and fish propagation.*]

15 **“SECTION 11.** ORS 468B.052 is amended to read:

16 “468B.052. (1) [*Notwithstanding the authority of*] **Unless** the Environ-
17 mental Quality Commission, **as** provided in ORS 468.065 [*to establish a*
18 *schedule of*], **establishes different** fees for permits issued under ORS
19 468B.050 [*and in lieu of any fee established under the schedule of fees*], a
20 person who operates a suction dredge having a suction hose with an inside
21 diameter of eight inches or less shall, upon application for or renewal of a
22 permit issued under 468B.050, pay to the Department of Environmental
23 Quality:

24 “[1] (a) For an individual permit:

25 “[a] (A) A one-time application fee of \$300; and

26 “[b] (B) An annual renewal fee of \$25.

27 “[2] (b) For a general permit, either:

28 “[a] (A) A \$25 annual fee for each year the person registers under the
29 general permit; or

30 “[b] (B) A \$100 fee for a five-year registration under the general permit.

1 “(2)(a) In addition to the fees described in subsection (1) of this
2 section, by rule the commission may establish an additional fee for a
3 permit issued under ORS 468B.050 for a person to operate a suction
4 dredge described in this section. The fee must be adequate to cover the
5 costs of administration, compliance, monitoring and enforcement re-
6 lated to the permit.

7 “(b) After a fee is established by the commission pursuant to this
8 subsection, the fee is subject to the limitations on increases imposed
9 by ORS 468B.051.

10 “SECTION 12. In addition to the fees described in ORS 468B.052,
11 from October 1, 2013, to December 31, 2015, a surcharge of \$150 is im-
12 posed on any permits issued under ORS 468B.050 for a person who op-
13 erates a suction dredge as described in ORS 468B.052. The surcharge
14 must be used to fund data collection and reporting on suction dredge
15 mining in Oregon by the Department of Environmental Quality. The
16 data referred to in this section includes, but is not limited to, data on
17 the locations and number of suction dredge operations, the types and
18 sizes of suction dredges and the physical impacts from suction dredge
19 mining. Amounts collected as surcharges under this section shall be
20 deposited in the Suction Dredge Study Fund established under section
21 13 of this 2013 Act.

22 “SECTION 13. The Suction Dredge Study Fund is established in the
23 State Treasury, separate and distinct from the General Fund. Interest
24 earned by the Suction Dredge Study Fund shall be credited to the
25 fund. Moneys in the fund are continuously appropriated to the De-
26 partment of Environmental Quality to carry out the duties of the de-
27 partment described in section 12 of this 2013 Act.

28 “SECTION 14. Notwithstanding any other law limiting expenditures,
29 the amount of \$141,837 is established for the biennium beginning July
30 1, 2013, as the maximum limit for payment of expenses, from moneys

1 deposited in the Suction Dredge Study Fund, incurred by the Depart-
2 ment of Environmental Quality in carrying out the duties of the de-
3 partment described in section 12 of this 2013 Act.

4 **“SECTION 15. This 2013 Act being necessary for the immediate**
5 **preservation of the public peace, health and safety, an emergency is**
6 **declared to exist, and this 2013 Act takes effect on its passage.”.**

7
