

House Bill 2202
Relating to Mining on Land Zoned for Exclusive Farm Use

House Bill 2202 establishes conditions for mining on high value farmland. The measure prohibits approval of aggregate mining permits on high-value farmland composed predominantly of Class I and Class II soils in the Willamette Valley; unless there is a significant volume of high-quality aggregate and other minerals available.

The legislation will result in rulemaking by the Land Conservation and Development Commission to establish 'significant aggregate resource' standards for the removal of aggregate and other minerals present in a mining site estimated to cost \$35,000.

The measure also specifies additional requirements that the Department of Geology and Minerals Industries will impose for an operating permit or transfer of a mining permit in the Willamette Valley on Class I or Class II soils. The agency estimates a minimal fiscal impact that can be accommodated within existing resources.

The Capital Construction Subcommittee recommends HB 2202 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: HB 2202-B

Carrier – House: Rep. Clem

Carrier – Senate: Sen. Girod

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: Susie Jordan, Department of Administrative Services

Reviewed By: Art Ayre, Legislative Fiscal Office

Meeting Date: July 3, 2013

Agency

Department of Land Conservation and Development

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
General Fund	\$ 0	\$ 0	\$ 35,000	\$ 35,000	100.0%

Position Summary

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

⁽¹⁾ Includes adjustments through December 2012

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Capital Construction Subcommittee appropriated General Fund to support the provisions of the bill.

Summary of Capital Construction Subcommittee Action

House Bill 2202 establishes conditions for mining on high value farmland. The measure becomes effective January 1, 2014. The legislation will result in rulemaking for the Department of Land Conservation and Development (DLCD). Total expense is estimated at \$35,000 General Fund in the 2013-15 biennium for attorney general time billed to this department and services and supplies costs such as public hearings, printing, and public notices. The Department of Geology and Mineral Industries anticipates a minimal fiscal impact that can be absorbed by existing resources of the agency for rule amendments and administering provisions of the measure.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

HB 2202-B

Department of Land Conservation and Development
 Analyst - Art Ayre, 503-378-3108

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
SCR 001: Planning Program									
Services and Supplies	\$ 35,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 35,000		
SUBCOMMITTEE RECOMMENDATION	\$ 35,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 35,000	0	0.00

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2202**

1 On page 1 of the printed A-engrossed bill, line 2, delete “amending ORS
2 215.298” and insert “appropriating money; and declaring an emergency”.

3 Delete lines 4 through 28 and delete page 2 and insert:

4 **“SECTION 1. (1) The Legislative Assembly finds that:**

5 **“(a) The extraction of aggregate, other minerals and other subsur-**
6 **face resources is an essential contribution to Oregon’s economic well-**
7 **being.**

8 **“(b) Oregon has an economic and social interest in locating and**
9 **providing affordable aggregate, other minerals and other subsurface**
10 **resources in close proximity to the end user of the materials.**

11 **“(c) Oregon has an interest in balancing competing land use de-**
12 **mands for lands identified as farmlands or forestlands in a manner**
13 **that protects the economic viability of mining and other resource uses.**

14 **“(d) To balance competing resource uses, Oregon has an interest in**
15 **providing significant volumes of high-quality aggregate, other min-**
16 **erals and other subsurface resources that are critical to building**
17 **Oregon’s communities and infrastructure while preserving farmland**
18 **for agricultural production.**

19 **“(2) The Legislative Assembly declares that:**

20 **“(a) High-value farmland composed predominantly of Class I and**
21 **Class II soils in the Willamette Valley should not be available for**
22 **mining unless there is a significant volume of high-quality aggregate**

1 and other minerals and other subsurface resources available for ex-
2 traction.

3 “(b) State agencies and local governments should balance compet-
4 ing resource uses and not restrict the removal of the full depth of
5 aggregate unless public health and safety concerns necessitate the re-
6 striction of mining activity.

7 “SECTION 2. Section 3 of this 2013 Act is added to and made a part
8 of ORS 517.750 to 517.901.

9 “SECTION 3. (1) As used in this section, ‘significant aggregate re-
10 source’ means the average minimum depth of aggregate, determined
11 by rule of the Land Conservation and Development Commission, that
12 is required for a local government to find that the aggregate resource
13 is significant pursuant to a statewide land use planning goal that
14 protects natural resources and conserves scenic, historic and open
15 space resources.

16 “(2) When the State Department of Geology and Mineral Industries
17 issues an operating permit under ORS 517.790 for mining aggregate on
18 high-value farm land composed predominantly of Class I and Class II
19 soils in the Willamette Valley, the department shall require:

20 “(a) An operator or owner to excavate substantially all of the sig-
21 nificant aggregate resource within the operating permit boundary, not
22 including any buffer, setback and sloping areas:

23 “(A) To the extent that the removal of the significant aggregate
24 resource can be done in a manner that is consistent with operating
25 permit conditions imposed by the department; and

26 “(B) Subject to limitations imposed by other federal, state or local
27 regulatory requirements.

28 “(b) An applicant to demonstrate to the satisfaction of the depart-
29 ment that the operator or owner has the mechanical ability to comply
30 with paragraph (a) of this subsection.

1 “(c) Performance of the requirements of paragraph (a) of this sub-
2 section before approving final reclamation and closure of the mining
3 operation, unless:

4 “(A) The operator or owner defaults as described in ORS 517.860; or

5 “(B) Performance is not required due to changed conditions or new
6 information that justify a permit modification under ORS 517.831.

7 “(3) The acceptance by the department of a plan to mine in com-
8 pliance with subsection (2)(a) of this section does not establish a depth
9 standard for purposes of land use permits or authorizations.

10 “(4) The time limitations imposed on the department under ORS
11 517.830 do not apply to an application for an operating permit, or the
12 transfer of a permit under ORS 517.833, that is subject to this section.

13 “(5) This section does not require the operator or owner to provide
14 bond or security to excavate to the permitted depth.

15 “SECTION 4. In addition to and not in lieu of any other appropri-
16 ation, there is appropriated to the Department of Land Conservation
17 and Development, for the biennium beginning July 1, 2013, out of the
18 General Fund, the amount of \$35,000 for the purpose of carrying out
19 the provisions of sections 1 and 3 of this 2013 Act.

20 “SECTION 5. Section 3 of this 2013 Act applies to an application
21 that is submitted on or after the operative date specified in section 6
22 of this 2013 Act for an exploration permit under ORS 517.705, an oper-
23 ating permit under ORS 517.790 or a necessary land use permit or au-
24 thorization.

25 “SECTION 6. Sections 1, 3 and 5 of this 2013 Act become operative
26 January 1, 2014.

27 “SECTION 7. This 2013 Act being necessary for the immediate
28 preservation of the public peace, health and safety, an emergency is
29 declared to exist, and this 2013 Act takes effect July 1, 2013.”.