

House Bill 2841

Sponsored by Representatives BENTZ, WHITSETT; Representatives ESQUIVEL, HICKS, KRIEGER, THOMPSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that at least 30 days before agencies give notice of intended action to adopt, amend or repeal rules pertaining to recreational or small scale mining, agencies shall perform certain consultation. Provides that rules are not valid if agency has not performed consultation.

Requires that at least 30 days before agencies issue order pertaining to recreational or small scale mining, agencies shall perform certain consultation. Provides that orders are not valid if agency has not performed consultation.

A BILL FOR AN ACT

1
2 Relating to mining; creating new provisions; and amending ORS 468B.050 and 517.125.

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

4 **SECTION 1.** ORS 517.125 is amended to read:

5 517.125. [*Any rule pertaining to recreational or small scale mining adopted after June 28, 1999,*
6 *shall be adopted in consultation with affected parties.*]

7 (1) **Agencies, as defined in ORS 183.310, that adopt rules or issue orders described in this**
8 **section shall appoint an advisory committee as described in ORS 183.333.**

9 (2)(a) **In order to resolve disputes and to address the rights of parties that engage in**
10 **recreational or small scale mining, an agency shall, at least 30 days before giving notice of**
11 **its intended action pursuant to ORS 183.335 to adopt, amend or repeal any rule pertaining**
12 **to recreational or small scale mining, consult with the following regarding the intended**
13 **action:**

14 (A) **Parties identified by the agency as likely to be affected by the rule.**

15 (B) **Persons on the advisory committee appointed pursuant to subsection (1) of this sec-**
16 **tion.**

17 (b) **A rule described in this subsection is not valid if the agency has not complied with**
18 **the requirement described in paragraph (a) of this subsection prior to giving notice of its**
19 **intended action under ORS 183.335.**

20 (3)(a) **In order to resolve disputes and to address the rights of parties that engage in**
21 **recreational or small scale mining, an agency shall, at least 30 days before issuing an order**
22 **pertaining to recreational or small scale mining described in ORS 468B.050 (2), consult with**
23 **the following regarding the proposed order:**

24 (A) **Parties identified by the agency as likely to be affected by the order.**

25 (B) **Persons on the advisory committee appointed pursuant to subsection (1) of this sec-**
26 **tion.**

27 (b) **An order described in this subsection is not valid if the agency has not complied with**
28 **the requirement described in paragraph (a) of this subsection.**

29 **SECTION 2.** ORS 468B.050 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from the
 2 Director of the Department of Environmental Quality or the State Department of Agriculture, which
 3 permit shall specify applicable effluent limitations, a person may not:

4 (a) Discharge any wastes into the waters of the state from any industrial or commercial estab-
 5 lishment or activity or any disposal system.

6 (b) Construct, install, modify or operate any disposal system or part thereof or any extension
 7 or addition thereto.

8 (c) Increase in volume or strength any wastes in excess of the permissive discharges specified
 9 under an existing permit.

10 (d) Construct, install, operate or conduct any industrial, commercial, confined animal feeding
 11 operation or other establishment or activity or any extension or modification thereof or addition
 12 thereto, the operation or conduct of which would cause an increase in the discharge of wastes into
 13 the waters of the state or which would otherwise alter the physical, chemical or biological proper-
 14 ties of any waters of the state in any manner not already lawfully authorized.

15 (e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

16 (2)(a) The Department of Environmental Quality or the State Department of Agriculture may
 17 issue a permit under this section as an individual, general or watershed permit. A permit may be
 18 issued to a class of persons using the procedures for issuance of an order or for the adoption of a
 19 rule. Notwithstanding the definition of “order” or “rule” provided in ORS 183.310, in issuing a gen-
 20 eral or watershed permit by order pursuant to this section, the State Department of Agriculture or
 21 Department of Environmental Quality:

22 [(a)] (A) Is not required to direct the order to a named person or named persons; and

23 [(b)] (B) May include in the order agency directives, standards, regulations and statements of
 24 general applicability that implement, interpret or prescribe law or policy.

25 (b)(A) Any rules adopted, amended or repealed under this subsection pertaining to rec-
 26 reational or small scale mining are subject to the requirements set forth in ORS 517.125 (2).

27 (B) Any orders issued under this subsection pertaining to recreational or small scale
 28 mining are subject to the requirements set forth in ORS 517.125 (3).

29 (3) The State Department of Agriculture or the Department of Environmental Quality may define
 30 “confined animal feeding operation” by rule for purposes of implementing this section.

31 **SECTION 3. (1) The amendments to ORS 517.125 by section 1 of this 2013 Act do not apply**
 32 **to:**

33 (a) Any rules for which notices of intended action were given under ORS 183.335 before
 34 the effective date of this 2013 Act.

35 (b) Any orders described in ORS 468B.050 (2) that were issued by the Department of En-
 36 vironmental Quality or the State Department of Agriculture before the effective date of this
 37 2013 Act.

38 (2) The amendments to ORS 468B.050 by section 2 of this 2013 Act do not apply to:

39 (a) Any rules for which notices of intended action were given under ORS 183.335 before
 40 the effective date of this 2013 Act.

41 (b) Any orders the Department of Environmental Quality or the State Department of
 42 Agriculture issued before the effective date of this 2013 Act.