

SENATE MINORITY REPORT AMENDMENTS TO SENATE BILL 1530

By Nonconcurring Members of COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES

February 16

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest of the line and lines 3
2 and 4 and insert “amending ORS 468B.052 and 517.123; repealing ORS 517.140 and sections 2, 3 and
3 4, chapter 783, Oregon Laws 2013; and declaring an emergency.”.

4 Delete lines 6 through 18 and delete pages 2 through 9 and insert:

“REPEAL OF SENATE BILL 838 (2013) PROVISIONS

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8 “**SECTION 1. ORS 517.140 and sections 2, 3 and 4, chapter 783, Oregon Laws 2013, are**
9 **repealed.**

10 “**SECTION 2.** ORS 517.123 is amended to read:

11 “517.123. The Legislative Assembly finds that prospecting, small scale mining and recreational
12 mining:

13 “(1) Are important parts of the heritage of the State of Oregon; *[and]*

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

15 “**(3) Can be conducted in a manner that is not harmful and may be beneficial to fish**
16 **habitat and fish propagation.**

17 “**SECTION 3.** ORS 468B.052 is amended to read:

18 “468B.052. *[(1)]* Unless the Environmental Quality Commission, as provided in ORS 468.065, es-
19 tablishes different fees for permits issued under ORS 468B.050, a person who operates a suction
20 dredge having a suction hose with an inside diameter of eight inches or less shall, upon application
21 for or renewal of a permit issued under ORS 468B.050, pay to the Department of Environmental
22 Quality:

23 “[*(a)*] **(1)** For an individual permit:

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

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

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

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

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

29 “*[(2)(a)]* *In addition to the fees described in subsection (1) of this section, by rule the commission*
30 *may establish an additional fee for a permit issued under ORS 468B.050 for a person to operate a*
31 *suction dredge described in this section. The fee must be adequate to cover the costs of administration,*
32 *compliance, monitoring and enforcement related to the permit.]*

33 “[*(b)*] *After a fee is established by the commission pursuant to this subsection, the fee is subject to*
34 *the limitations on increases imposed by ORS 468B.051.]*

1 "CONSULTATION WITH FEDERAL AGENCIES

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3 "SECTION 4. The Department of Environmental Quality, the State Department of
4 Geology and Mineral Industries and the Department of State Lands shall consult with the
5 United States Forest Service and Bureau of Land Management to determine whether state
6 and federal mining programs can be better coordinated.

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8 "RIGHT TO MINE

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10 "SECTION 5. As used in sections 5 to 12 of this 2016 Act:

11 "(1) 'Mining' means any type of mining regulated by this state under ORS chapter 517.

12 "(2) 'Nuisance' or 'trespass' includes but is not limited to actions or claims based on
13 noise, vibration, odors, smoke or dust.

14 "SECTION 6. Any local government or special district ordinance or regulation now in
15 effect or subsequently adopted that makes mining a nuisance or trespass or provides for its
16 abatement as a nuisance or trespass is invalid with respect to mining for which no claim or
17 action is allowed under sections 5 to 12 of this 2016 Act.

18 "SECTION 7. (1) No mining shall give rise to any private right of action or claim for relief
19 based on nuisance or trespass.

20 "(2) Subsection (1) of this section shall not apply to a right of action or claim for relief
21 for death or serious physical injury as defined in ORS 161.015.

22 "SECTION 8. (1) No mining allowed as a preexisting nonconforming use shall give rise
23 to any private right of action or claim for relief based on nuisance or trespass.

24 "(2) Subsection (1) of this section shall not apply to a right of action or claim for relief
25 for death or serious physical injury as defined in ORS 161.015.

26 "(3) Subsection (1) of this section applies only where a mining operation existed before
27 the conflicting use of real property that gave rise to the right of action or claim for relief.

28 "(4) Subsection (1) of this section applies only where a mining operation has not signif-
29 icantly increased in size or intensity from the effective date of this 2016 Act, or the date on
30 which the applicable urban growth boundary is changed to include the subject mining oper-
31 ation within its limits, whichever is later.

32 "SECTION 9. In any action or claim for relief alleging nuisance or trespass and arising
33 from a mining operation, the prevailing party shall be entitled to judgment for reasonable
34 attorney fees and costs incurred at trial and on appeal.

35 "SECTION 10. The provisions of sections 5 to 12 of this 2016 Act shall not impair the
36 right of any person or governmental body to pursue any remedy authorized by law that
37 concerns matters other than a nuisance or trespass.

38 "SECTION 11. The State Department of Geology and Mineral Industries may adopt rules
39 to implement the provisions of sections 5 to 12 of this 2016 Act.

40 "SECTION 12. The State Department of Geology and Mineral Industries, Department of
41 Environmental Quality, Department of State Lands, State Department of Agriculture or
42 State Forestry Department is not required to investigate complaints if the department has
43 reason to believe that the complaint is based on practices protected by sections 5 to 12 of this
44 2016 Act.

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“CAPTIONS

“SECTION 13. The unit captions used in this 2016 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2016 Act.

“EMERGENCY CLAUSE

“SECTION 14. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.”.

/s/ Alan Olsen
Senator

/s/ Doug Whitsett
Senator
