

Requested by Senator OLSEN

**PROPOSED MINORITY REPORT AMENDMENTS TO
SENATE BILL 1530**

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

5 Delete lines 6 through 18 and delete pages 2 through 9 and insert:
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7 **“REPEAL OF SENATE BILL 838 (2013) PROVISIONS**
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9 **“SECTION 1. ORS 517.140 and sections 2, 3 and 4, chapter 783,**
10 **Oregon Laws 2013, are repealed.**

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

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

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

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

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

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

19 “468B.052. [(1)] Unless the Environmental Quality Commission, as pro-
20 vided in ORS 468.065, establishes different fees for permits issued under ORS
21 468B.050, a person who operates a suction dredge having a suction hose with

1 an inside diameter of eight inches or less shall, upon application for or re-
2 newal of a permit issued under ORS 468B.050, pay to the Department of En-
3 vironmental Quality:

4 “[a] (1) For an individual permit:

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

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

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

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

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

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

16 “[b) *After a fee is established by the commission pursuant to this sub-*
17 *section, the fee is subject to the limitations on increases imposed by ORS*
18 *468B.051.]*

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20 “CONSULTATION WITH FEDERAL AGENCIES

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22 “**SECTION 4. The Department of Environmental Quality, the State**
23 **Department of Geology and Mineral Industries and the Department**
24 **of State Lands shall consult with the United States Forest Service and**
25 **Bureau of Land Management to determine whether state and federal**
26 **mining programs can be better coordinated.**

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28 “RIGHT TO MINE

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30 “**SECTION 5. As used in sections 5 to 12 of this 2016 Act:**

1 “(1) ‘Mining’ means any type of mining regulated by this state un-
2 der ORS chapter 517.

3 “(2) ‘Nuisance’ or ‘trespass’ includes but is not limited to actions
4 or claims based on noise, vibration, odors, smoke or dust.

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

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

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

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

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

21 “(3) Subsection (1) of this section applies only where a mining op-
22 eration existed before the conflicting use of real property that gave
23 rise to the right of action or claim for relief.

24 “(4) Subsection (1) of this section applies only where a mining op-
25 eration has not significantly increased in size or intensity from the
26 effective date of this 2016 Act, or the date on which the applicable ur-
27 ban growth boundary is changed to include the subject mining opera-
28 tion within its limits, whichever is later.

29 “SECTION 9. In any action or claim for relief alleging nuisance or
30 trespass and arising from a mining operation, the prevailing party

1 shall be entitled to judgment for reasonable attorney fees and costs
2 incurred at trial and on appeal.

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

7 **“SECTION 11.** The State Department of Geology and Mineral In-
8 dustries may adopt rules to implement the provisions of sections 5 to
9 12 of this 2016 Act.

10 **“SECTION 12.** The State Department of Geology and Mineral In-
11 dustries, Department of Environmental Quality, Department of State
12 Lands, State Department of Agriculture or State Forestry Department
13 is not required to investigate complaints if the department has reason
14 to believe that the complaint is based on practices protected by
15 sections 5 to 12 of this 2016 Act.

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“CAPTIONS

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

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“EMERGENCY CLAUSE

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

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