

SB 644 B STAFF MEASURE SUMMARY**Carrier:** Sen. Girod**Joint Committee On Ways and Means****Action Date:** 07/03/17**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Senate Vote****Yeas:** 12 - DeBoer, Devlin, Frederick, Girod, Hansell, Johnson, Manning Jr, Monroe, Roblan, Steiner Hayward, Thomsen, Winters**House Vote****Yeas:** 8 - Gomberg, Holvey, Huffman, McLane, Nathanson, Rayfield, Smith Warner, Williamson**Exc:** 3 - Smith G, Stark, Whisnant**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Matt Stayner, Budget Analyst**WHAT THE MEASURE DOES:**

Defines significant mineral resource site as a proposed mining site, other than for aggregate, located at least one mile outside nearest incorporated city creating at least 100 mining-related jobs, or creating at least 75 mining-related jobs along with harvesting an estimated 500,000 ounces of gold, silver or other precious minerals. Stipulates that mining or preparatory excavation to mine a significant mineral resources site on land zoned for exclusive farm use (EFU) located in Baker, Grant, Harney, Lake, Malheur, Union or Wallowa counties is not subject to conformity with any statewide land use planning goal or administrative rule, nor the requirement that local government find such activity will not force a significant change in, or significantly increase cost of, accepted farm or forest practices on surrounding lands. Requires county to deny application if activity conflicts with rule adopted for purpose of implementing Oregon Sage-Grouse Action Plan and Executive Order 15-18. Provides county with discretion to deny applications in significant conflict with local road capacity, existing public airport safety, or other health and safety conflicts with residential uses, if conflicts cannot be reasonably mitigated.

Authorizes State Department of Geology and Mineral Industries (DOGAMI) to issue provisional operating permit to applicant without all required permits and approvals conditioned on receipt of permit and approvals and completion of any necessary subsequent amendment and prohibiting applicant from operating prior to effective date. Requires DOGAMI to provide notice and opportunity to comment to each federal and state permitting and cooperating agency (Agencies) for applications not subject to consolidated process. Requires Agencies to respond in writing within 30-days identifying reasonably expected adverse effects. Authorizes permit to include conditions addressing adverse effect identified by Agencies provided: DOGAMI determines condition is necessary to comply with applicable review standards and criteria imposed by DOGAMI; land use decision issued by local government does not include provisions to mitigate adverse effect; and conditions are reasonable, practicable and designed to minimize impact of condition on proposed mining operation.

Requires project coordinating committee (Committee) to be activated by DOGAMI upon receipt of permit application and requires Committee to carry out certain responsibilities including addressing conflicts between mining operations and agricultural activities identified by an owner of land within the impact area of a significant mineral resource site. Establishes Committee process. Stipulates surface mining operator is not negligent nor engaged in ultrahazardous activity if in compliance with DOGAMI operating permit and all other required permits. Stipulates prevailing party may recover reasonable attorney fees and costs in nuisance or trespass action against surface mining operator. Requires DOGAMI to make all data and research on mineral resource potential in eastern and southern Oregon counties accessible online.

ISSUES DISCUSSED:

This Summary has not been adopted or officially endorsed by action of the committee.

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- Fiscal impact of the measure
- Effect of the amendment

EFFECT OF AMENDMENT:

Requires counties to deny applications in significant conflict with local road capacity, existing public airport safety, or other health and safety conflicts with residential uses, if conflicts cannot be reasonably mitigated. Adds additional conditions to the issuance of a provisional permit requiring an owner or operator to obtain amendments to permit conform with subsequently issued federal, state, or local permits and prohibiting operations on land prior to the effective date of the provisional permit. Requires permit to include conditions addressing adverse effect identified by each federal and state permitting and cooperating agency for applications not subject to consolidated process provided the land use decision issued by local government or the permit issued by federal, state, or local permitting agency does not include provisions to mitigate adverse effect. Requires the department to avoid or minimize conflicts identified by the coordinating committee by applying conditions to an operating permit that require the fulfillment of compensation agreements related to loss of crops or reduced agricultural production and to minimize or avoid adverse conditions as identified by cooperating agencies. Removes declarations regarding the mining of significant mineral resources and private rights of action regarding permitting mining on lands zoned for exclusive farm use being inconsistent with the state interest in economic development. Removes limitations on reasoning for, and liability for, a cause of action for nuisance or trespass against an operator of a surface mining operation. Removes provisions requiring DOGAMI to make all data and research on mineral resource potential in eastern and southern Oregon counties accessible online.

BACKGROUND:

Mineral exploration and production in Oregon is regulated by the State Department of Geology and Mineral Industries in cooperation with other state, federal, and local agencies to ensure the protection of adjacent natural resources and future beneficial use of mined lands. Under current law, mining activities are permitted on exclusive farm use land with the express approval of the local governing body, if the local governing body determines that the activity will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands.

SB 644 would create an alternative process for mining projects that qualify as "significant mineral resource sites" in Baker, Grant, Harney, Lake, Malheur, Union or Wallowa counties, without the local governing bodies' determination that the activity would not force a significant change in the accepted farm or forest practices on surrounding lands or significantly increase the cost of such practices on surrounding lands. In addition, a surface mining operator is deemed not negligent nor engaged in ultrahazardous activity if compliant with all required permits, and prevailing parties in nuisance or trespass actions may recover reasonable attorney's fees.