



OREGON DEPARTMENT OF AGRICULTURE

HB 2444 - Mediation Statute Clean-up

**Presented to the
Senate Environment and Natural Resources Committee
May 6, 2015**

Description

HB 2444 deletes outdated language regarding foreclosure mediations, which are no longer handled through the Farm Mediation Program. It will allow, but not require, the Oregon Department of Agriculture (ODA) to charge fees to cover the cost of providing mediation services. It will also remove procedural language that is more appropriately included in administrative rule.

Background

In the mediation process, a mediator works with the parties in a dispute to:

- Identify issues that are part of the conflict.
- Discuss the conflict and clarify/understand each party's perspective.
- Determine if a mutually agreeable solution can be reached.

Many communities around Oregon and the United States have established mediation programs to address neighbor disputes, code enforcement, divorce, and child custody cases.

The goal of the program is to provide lower-cost and faster alternatives to the court system to resolve agricultural disputes. The program is consistent with Oregon law as defined in ORS 36.100, which states that mediation is a preferred alternative to leaving a dispute unresolved or addressing the dispute through the court system.

The program was established initially during the farm credit crisis of the 1980s to help resolve foreclosure disputes between farmers and banks. The program was an USDA-certified foreclosure mediation service. Eventually, ODA discontinued using the program to mediate in foreclosure cases because USDA began requiring sharing of information about cases that our customers wanted kept confidential. Six Rivers Mediation of Hood River is now the Oregon USDA Certified Agricultural Mediation Program.

In the 1990s, the mediation program began to focus its work on other types of agricultural disputes. In 1997 the Oregon Legislature passed legislation (HB 3737) broadening the types of work the program could do from foreclosure to "other disputes directly related to department activities and agricultural issues under the jurisdiction of the department." The Legislature also provided for court filing fees to assist in funding mediation for labor disputes and other farm-related mediation.

Since the passage of HB 3737, the program has predominantly handled disputes between farmworkers and agricultural employers. Legal aid organizations and agricultural attorneys are the

main source of referrals to the program. While other types of disputes are eligible for the program, other programs in Oregon, including the Oregon USDA Certified Agricultural Mediation Program, and the 16 community mediation programs administered by the Oregon Office of Community Dispute Resolution Programs, are available to help resolve many types of non-labor rural disputes.

The program currently has three mediators and one translator on contract to process mediation cases. The mediators arrange the mediation sessions with the parties and their legal representatives. There is no pressure to achieve a settlement – the decision to agree on a settlement is entirely up to the parties to the dispute. The mediators notify ODA after each mediation session whether a settlement has been reached, for program statistics tracking purposes.

Some program statistics:

- The program takes about 11 to 12 mediation cases per year.
- Labor disputes are by far the most common type of case in the program (about 90% of all cases)
- About 80% of all cases successfully reach a settlement.
- 98% of participants say on anonymous follow-up surveys that they would recommend the program to someone else.
- Mediation sessions last an average of six hours.

Summary

Even though the program has not mediated foreclosure cases for over 10 years, and the vast majority of its cases are now labor-related, most of the existing statutory language still relates to foreclosure mediation. ODA is proposing to delete outdated language so that the purpose and current focus of the program is clearly defined in statute.

The current statute states that ODA must charge fees to cover the cost of providing the service. The bill would change the statutory language so that fees may be charged to cover the cost of the service. The change is being proposed for two main reasons.

- The program currently receives funding to cover the cost of labor dispute-related mediation cases.
- Most of the farmworkers who participate in the program because of labor disputes would be unable to pay for the cost to provide the service if they were required to pay.

ODA consulted with stakeholders and there is no known opposition to the proposed statutory clean-up.

Fiscal Impact

There is no fiscal impact associated with this measure.

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