

**PRELIMINARY STAFF MEASURE SUMMARY****CARRIER:**

Senate Committee on Environment and Natural Resources

**REVENUE: No revenue impact (-A8)****FISCAL: Fiscal statement issued (-A8)****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:**

Ayes, 57; Nays, 1--Holvey

**Prepared By:** Beth Reiley, Administrator**Meeting Dates:** 5/20

**WHAT THE MEASURE DOES:** Requires Oregon Department of Agriculture (ODA) to provide mediation services to attempt to reach agreement on issues on issues regarding coexistent use of agricultural lands if person engaged in farming practices has reasonable belief that planting, growing or harvesting commodity on nearby land might interfere with farming practice. Authorizes arbitrator or court to award prevailing party costs and reasonable attorney fees if party involved in dispute refuses to allow ODA to attempt mediation and subsequently is losing party in arbitration or court action. Requires participation in mediation if court action arises out of alleged interference with use of land for farming practice if parties to action have not previously allowed ODA to attempt mediation of dispute beginning no later than 270 days after action is filed. Requires, upon request by farmer or holder of patent granted for seed crop or trait, Director of ODA to appoint representative from ODA to accompany farmer, patent holder or crop testing service at time sample is taken and authorizes ODA to charge requester a fee for service. Requires ODA and Oregon State University (OSU) to make publically available any department or university educational materials and information regarding coexistent use of agricultural lands and any United States Department of Agriculture educational materials and information that identify tools and techniques for promoting or enhancing coexistence between types of crop cultivation. Authorizes OSU to provide technical assistance to grower groups and private agricultural entities to enable groups or entities to enhance coexistent use of agricultural lands by establishing and operating voluntary systems for cooperative monitoring of crop isolation requirements for seed certification.

**ISSUES DISCUSSED:**

**EFFECT OF COMMITTEE AMENDMENT:** (Proposed –A8 Amendment) Replaces measure. Requires Oregon Department of Agriculture (ODA), if requested by either party of dispute where person engaged in farming practice has reasonable belief that planting, growing or harvesting of agricultural or horticultural commodity on nearby land might or is interfering with farming practice, to provide mediation program services or refer parties to United States Department of Agriculture (USDA) for participation in certified state agricultural mediation program. Stipulates person requested to participate may elect to have proceeding conducted through either program. Requires person electing to have mediation services through ODA, rather than USDA referral must pay any additional costs and fees. Stipulates if ODA provides mediation services costs required of parties may not exceed \$2,500. Stipulates party requesting mediation services is responsible for paying unless both parties agree to divide costs. Authorizes court to consider if party is offered and is unwilling to participate in mediation when determining preliminary injunction. Requires parties to participate in mediation proceeding if court action arises, beginning no later than 270 days after action is filed. Authorizes court to impose sanctions against party that is unwilling to participate in at least four hours of mediation, or shorter time agreed upon by both parties. Establishes cause of action against party that discloses confidential communications or terms of mediation agreement if both parties agreed in writing to confidentiality. Clarifies Act does not require party to mediation to disclose confidential information that may be adverse to their legal interests. Stipulates Act does not apply to any dispute in county that has ordinance in effect regulating planting, growing, or harvesting of genetically engineered commodities. Requires, upon request by farmer or holder of patent granted for seed crop or trait, Director of ODA to appoint representative from ODA to accompany farmer, patent holder or crop testing service at time sample is taken and authorizes ODA to charge requester a fee for service.

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

**BACKGROUND:** Genetically engineered (GE) foods are created by artificially inserting genetic material from one or more organisms into the genetic code of another organism using modern genetic engineering techniques. Genetically modified organisms and the regulation of GE seeds and food products have received increased attention in several states, including Oregon and neighboring Washington and California. The recent passage of Senate Bill 863 (2013) by Oregon's legislature reserved the regulation of seed to the state; a ballot measure to ban genetically modified crops in Jackson County was exempted from this measure.

Coexistence refers to all agricultural sectors (GE, conventional, and organic) and processing functioning together. Gene flow is one of the main challenges of coexistence. Gene flow occurs when pollen, seed, or vegetative propagules from one variety of plant reaches another related type of plant and the resulting seed contains genetic material from both plants. Transfer can happen by a number of different mechanisms, including wind, insects, and accidental escape.

House Bill 2509 A would authorize the Oregon Department of Agriculture (ODA) to use mediators to help resolve coexistence conflicts among growers of biotech, conventional and organic crops. The measure would also require ODA and Oregon State University to make publically available any educational materials and information regarding the coexistent use of agricultural lands and any United States Department of Agriculture educational materials and information that identify tools and techniques for promoting or enhancing coexistence between types of crop cultivation.