

Senate Bill 864

Sponsored by Senator BEYER (at the request of Oregon Grass Seed Bargaining Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that regulatory program negotiations for grass seed contracts need not be limited to establishment of seed price.

A BILL FOR AN ACT

1
2 Relating to seed contract negotiations; amending ORS 646.738.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 646.738 is amended to read:

5 646.738. (1) As used in this section:

6 (a) "Parties" or "party" means seed producers, seed associations, seed cooperatives or seed
7 dealers that participate in a state regulatory program described in subsection (2) of this section.

8 (b) "Regulatory program" means a state regulatory program described in subsection (2) of this
9 section that is actively supervised by the Director of Agriculture and that authorizes parties to en-
10 gage in certain collective bargaining and negotiations [*to establish*] **that include, but need not be**
11 **limited to, establishment of** the price of perennial ryegrass seed to be produced and sold to per-
12 ennial ryegrass seed dealers in the future, annual ryegrass seed to be produced and sold to annual
13 ryegrass seed dealers in the future or tall fescue seed to be produced and sold to tall fescue seed
14 dealers in the future.

15 (2)(a) It is the intent of this section and ORS 646.535 (2) and 646.740 (10) to displace competition
16 with regulatory programs in the perennial ryegrass seed, annual ryegrass seed and tall fescue seed
17 industries to a limited degree. The regulatory programs are intended to grant immunity from federal
18 and state antitrust laws to perennial ryegrass seed, annual ryegrass seed and tall fescue seed pro-
19 ducers and perennial ryegrass seed, annual ryegrass seed and tall fescue seed dealers for the limited
20 purpose of allowing the producers and the dealers to bargain collectively and to arrive at a nego-
21 tiated price for the sale of seed by the producers to the dealers **and, with the mutual agreement**
22 **of the parties and consent of the Director of Agriculture, to resolve nonprice contract terms**
23 **or issues**. The activities of any party that comply with the provisions of this section may not be
24 considered to be in restraint of trade, a conspiracy or combination or any other unlawful activity
25 in violation of any provision of ORS 646.705 to 646.826 or federal antitrust laws.

26 (b) A seed cooperative or seed association for perennial ryegrass seed, annual ryegrass seed or
27 tall fescue seed may negotiate with one or more dealers, as defined in ORS 646.515, of perennial
28 ryegrass seed, annual ryegrass seed or tall fescue seed to establish the price at which members of
29 the cooperative or association will sell perennial ryegrass seed, annual ryegrass seed or tall fescue
30 seed to be produced by its members or under the control of its members. **The negotiations may,**
31 **with the consent of the director, also address any nonprice contract terms or issues that the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **cooperative or association and the dealers agree to submit for negotiation as part of the**
2 **regulatory program.** The seed dealers may negotiate the price of the seed through a committee
3 that sets forth the views of the dealers and votes on any issues being negotiated as authorized by
4 this section, including the price of the seed.

5 (c) The director [*of Agriculture*] is authorized to actively supervise the conduct of perennial
6 ryegrass seed, annual ryegrass seed and tall fescue seed agricultural cooperatives organized under
7 ORS chapter 62, representative committees of perennial ryegrass seed, annual ryegrass seed or tall
8 fescue seed dealers and any perennial ryegrass seed, annual ryegrass seed or tall fescue seed asso-
9 ciations in establishing the price of perennial ryegrass seed, annual ryegrass seed or tall fescue seed
10 to be produced and sold to seed dealers at a future date. The director is authorized to supervise the
11 negotiations between the parties, review the prices **and any other terms or issues** established by
12 the negotiations and approve the prices, **terms and issue resolutions** proposed by the parties be-
13 fore the prices, **terms or resolutions** take effect. The director must approve the proposed prices
14 and any adjustments to previously approved prices before the prices may be implemented.

15 (d) The director may compel the parties to take whatever action the director considers neces-
16 sary to:

17 (A) Ensure that the parties are engaging in conduct that is authorized under this section;

18 (B) Ensure that the policies of this state are being fulfilled under the regulatory programs; and

19 (C) Enjoin conduct by any of the parties that is not authorized by the director or conduct that
20 the director finds does not advance the interests of this state in carrying out the regulatory pro-
21 grams.

22 (e) The Director of Agriculture may adopt rules to carry out the director's authority under this
23 section.

24 (f) The director may designate persons as the director deems necessary to carry out the re-
25 sponsibility of actively supervising the conduct of the parties, including serving as intermediaries
26 between prospective parties. Persons designated by the director must be employees of the State
27 Department of Agriculture.

28 (g) The director by rule shall set and collect fees from the parties who are participants in reg-
29 ulatory programs. The fees shall be deposited in the Department of Agriculture Account established
30 under ORS 561.150.

31 (h) The director shall supervise the labeling of perennial ryegrass seeds, annual ryegrass seeds
32 and tall fescue seeds to ensure compliance with ORS 633.520, 633.531 and 633.541.

33 **(3) A request by parties that regulatory program negotiations under this section include**
34 **nonprice contract terms or issues, or participation in the negotiation of nonprice contract**
35 **terms or issues as part of the regulatory program, is not an unlawful restraint of trade or**
36 **a conspiracy or combination to accomplish an improper or illegal purpose.**

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