

Issues: Land use, hemp and taxes are among items to be addressed

Continued from Page 1

Oregon: Carbon cap, pesticide restrictions

SALEM — While Oregon lawmakers are expected this year to wrestle with some perennial controversies impacting agriculture, those issues will be debated in a new light now that Democrats have won super-majorities in both chambers of the Legislature.

The tighter Democratic control over the House and Senate will primarily be relevant for tax-raising measures, which require three-fifths “super-majority” approval to pass in Oregon.

However, the change also has implications for restrictions on pesticides, biotechnology and antibiotics, since proponents of such regulations see left-leaning lawmakers as more sympathetic to their aims, said Jonathan Sandau, government affairs specialist for the Oregon Farm Bureau.

“These groups are going to be looking for victories because they, quote-unquote, got those legislators there,” he said.

Democrats now hold 38 seats in the House while Republicans hold 22. In the Senate, Democrats hold 18 seats while Republicans hold 12.

A cap on carbon emissions is expected to be a major point of discussion in 2019, though current proposals would exempt agriculture from direct regulation, he said. Even so, farmers would likely face higher costs for fuel, fertilizer and electricity as suppliers pass on the added expense of new regulation.

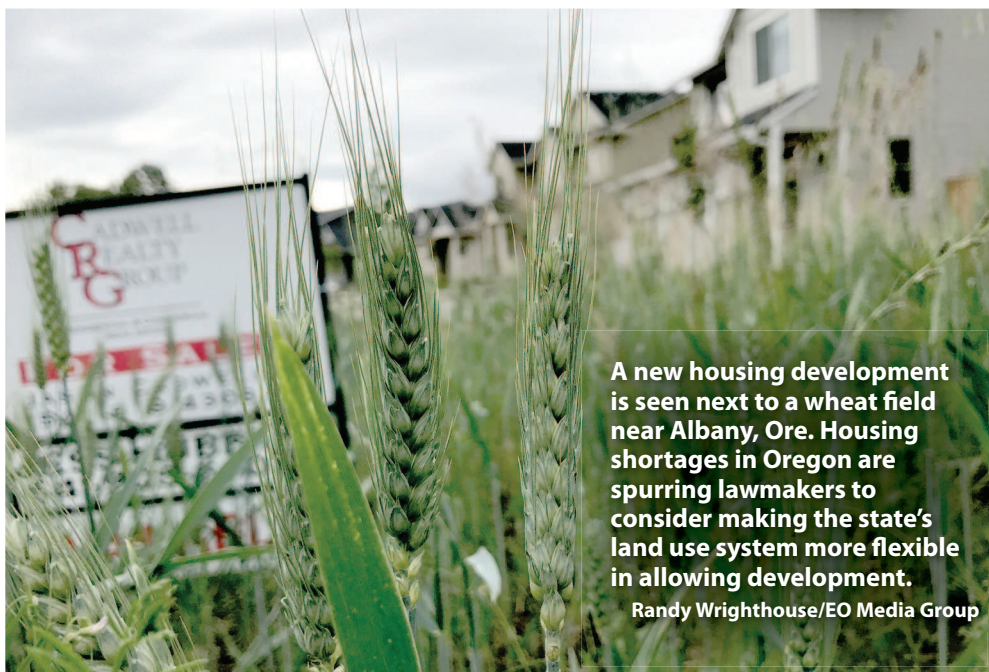
“That’s where the impact is going to be felt in agriculture,” Sandau said.

As farm lobbyists prepare for the 2019 legislative session, which begins Jan. 22 and likely ends in early July, they expect bills on the following subjects to be introduced:

- Pesticides: Proposed restrictions on the use of controversial chemicals, such as chlorpyrifos, glyphosate and several neonicotinoids, will probably crop up again this year, as will proposals requiring advance notice of aerial pesticide applications and pesticide use reporting.

- Coexistence: Tensions between producers of various crops are a persistent concern in Oregon agriculture, which may result in legislative proposals intended to mitigate conflicts between canola and seed crops, marijuana and hemp, as well as genetically engineered crops and those grown organically or conventionally.

- Dairy: Wastewater problems at a large dairy in Boardman, Ore., have prompted the introduction of legislation that would classify large operations as industrial facilities, excluding them from “right to farm” protections against lawsuits and local regulatory ordinances. These proposals also



A new housing development is seen next to a wheat field near Albany, Ore. Housing shortages in Oregon are spurring lawmakers to consider making the state’s land use system more flexible in allowing development.

Randy Wriighthouse/EO Media Group

include a moratorium on new construction of large dairies and studies of their environmental and economic impacts.

- Land use: Housing shortages in Oregon are spurring lawmakers on both sides of the aisle to consider making the state’s land use system — which is intended to preserve farm and forest land — more flexible in allowing development. For example, there’s a proposal to permit “accessory dwelling units” outside city limits. Restrictions on solar facilities and outdoor mass gatherings on farmland are also likely to be debated.

- Wetlands: The rules governing farmers’ ability to clean out drainage ditches in wetlands are currently seen as too cumbersome, which has resulted in a proposal that would allow landowners to dig out more dirt from these channels without a state fill-removal permit. Proposals may also target other aspects of wetland regulation, such as how wetland areas are mapped.

Washington: Climate, higher taxes

OLYMPIA — The Washington Legislature convenes Jan. 14 with Democrats controlling the House and Senate and Democratic Gov. Jay Inslee proposing nearly \$4 billion in higher taxes and policies that could affect how much farmers pay for electricity, fuel and labor.

The session could also affect cattle ranchers, wheat farmers, aspiring hemp growers and producers who apply pesticides, spread manure or sell a cow.

Democrats strengthened their position in November. The party has a 28-21 majority in the Senate and a 57-41 advantage in the House. Inslee, who’s considering a run for president, said at a press conference in December that he expects newly seated Democrats to support his two-year, \$272 million climate-change package.

“Washington voters sent a signal in their legislative races,” he said. “They elected nine or 10 climate warriors that are going to help get this

passed.”

Inslee has proposed banning coal-generated electricity by 2025. Coal provides 13 percent of the state’s electricity. He also proposed requiring more biofuels blended into transportation fuels. Other elements of his package include subsidies for electric vehicles, renewable energy and energy-efficient buildings.

A carbon tax initiative failed in November and is not part of the governor’s package.

The Governor’s Office has not projected how transitioning from fossil fuels to wind, solar and electric vehicles will affect transportation or energy costs. Inslee said he expects motorists in electric vehicles would enjoy not paying for gas.

The governor’s goal is to eliminate fossil fuels as a source of electricity in Washington by 2045. “We have serious ongoing analyses to understand the impact on grid resilience and costs to consumers,” said Rep. Gael Tarleton, D-Ballard, joining Inslee in outlining the plan.

- Orcas, dams: Inslee also has made saving orcas a centerpiece of his 2019 agenda. His budget proposal links \$1.1 billion in spending to orca recovery. Some \$750,000 would go for a task force to study removing four federal dams on the Lower Snake River in south-east Washington. Inslee said he wants the state task force to weigh in as federal agencies comply with a court order to review the dams.

Environmental groups complain the dams diminish salmon runs that malnourished orcas need. The Washington Farm Bureau and other farm groups say the dams are vital for moving grain to export terminals on the Columbia River.

Other elements of Inslee’s orca-rescue plan include encouraging landowners to work with conservation districts to protect fish habitat, increasing hatchery production, suspending whale watching and stepping up enforcement of water-quality laws.

- Ecology budget boost: Democrats say environmental protection will be high on their agenda. Inslee has proposed increasing Ecology’s

two-year budget by 18.7 percent to \$599.7 million. Ecology’s workforce would increase to 1,765 full-time positions from 1,503.

- The governor’s budget would increase funding for the Puget Sound Partnership by 45 percent to \$28 million. The stage agency coordinates environmental projects.

- Tax hike on sale of securities: To balance his \$54 billion operating budget proposal, Inslee has proposed a 9 percent tax on income above \$25,000 from the sale of stocks and bonds. He’s also proposed raising taxes on property sales over \$1 million and on occupations that provide a service, such as lawyers and veterinarians.

- Foreign guestworker agency: The Governor’s Office supports a proposal by the Employment Security Department to create an Office of H-2A Compliance and Farm Labor. The office, staffed by 14 people, would be funded by fees from farms that hire foreign workers. The employment department estimates the fees would raise about \$4 million during the first two years.

- Hemp issues: The governor’s budget proposal does not include more money to sustain the Washington State Department of Agriculture’s hemp program. The program was to be supported by license fees, but few farmers are growing or processing hemp.

Lawmakers could encourage hemp cultivation by eliminating or shrinking a mandatory 4-mile buffer between hemp and marijuana. Hemp farmers must yield to marijuana growers who move in later.

- Pesticide training: Inslee’s budget requests \$500,000 for more pesticide-safety training. The agriculture department says its classes have a two-year waiting list.

- Manure study: Lawmakers also are being asked to allocate \$200,000 for the agriculture department and Washington State University to study whether manure hauled from dairies and spread on other farms threatens water quality. The assessment could lead to more rules.

- Cattle transactions: The

agriculture department is also seeking \$698,000 to expand electronic reporting of cattle transactions beyond the dairy industry.

Another budget request is \$240,000 to wind down the brand inspection program. The department says fees fall short of the cost of sending inspectors to check brands. The department says it will be up to lawmakers to raise fees, or else the program ends. Brand inspections protect property and help animal health officials track cattle.

The session is scheduled to adjourn April 28, after 105 days. Lawmakers often go longer to set the budget, but overtime sessions are less likely in years one party controls both chambers and the Governor’s Office.

Idaho: Tight revenue, initiative cloud picture

BOISE — Agriculture-related issues ranging from harvest equipment property taxation to short-line railroad repairs will likely cross Idaho lawmakers’ desks during the legislative session that began Jan. 7.

But casting a shadow over any discussions impacting the budget are a voter-passed 2018 initiative requiring the legislature to fully fund Medicaid expansion for low-income Idaho residents and a change in state income tax law that has pinched revenue flow.

The Medicaid expansion could present “challenges for funding some other opportunities,” said Food Producers of Idaho Executive Director Rick Waitley. “Because of the fact that people voted for Proposition 2 (Medicaid expansion), that is sending a mandate. How that is going to play out in everything is going to be an interesting discussion.”

The current fiscal year’s general fund appropriation is \$3.65 billion and includes 62.8 percent for education, 21.5 percent for health and human services, and 9.9 percent for public safety. That does not include dedicated funds, such as those from state agencies that generate fees, or federal money.

Tax reforms the legislature passed last year to match federal reforms have reduced revenue the state receives through withholding because many individual taxpayers did not update allowances on Form W-4. From the beginning of the fiscal year that began July 1 through November, general fund receipts were 4.3 percent below projections and 1.9 percent below the year-earlier total, the state reported. Below-forecast personal income tax collections should catch up by the April 15 tax-filing deadline.

Idaho also has a new governor. Brad Little, a Republican rancher from Emmett, was inaugurated on Jan. 4. He previously served as lieutenant governor.

The 70-member House is controlled by 56 Republicans with a minority of 14 Democrats. The 35-member Senate is controlled by 28 Republicans with a minority of seven Democrats.

Among the agriculture-related issues facing the legislature:

- Harvest equipment: The 2018 legislature exempted hops harvesting equipment from property taxation for two years so it could further explore the issue during this session.

The state already exempts agricultural production equipment such as combines, but some farmers received county tax assessments on their stationary hops harvesting equipment while those in other counties didn’t.

“We are seeking clarification to get uniform treatment across all counties,” said Idaho Dairymen’s Association CEO Rick Naerebout. For dairy, the issue includes milking facilities and related equipment.

- Rail improvements: How to fund improvements to short-line rail systems could be considered again. Last year’s proposal offered a partial income-tax credit on money spent on improvements.

Short-line railroads, many in significant disrepair, are important because they connect with larger railroads and ports, and because transportation is one of agriculture’s biggest costs, said Idaho Grain Producers Association Executive Director Stacey Satterlee.

- Trespass law: The 2018 Idaho Legislature amended and strengthened the law covering trespassing on private property. Idaho Farm Bureau Federation Governmental Affairs Director Russ Hendricks said he will monitor discussions about the law, recently the subject of media reports about challenges, including road access.

- Boise water settlement: Water users in the Boise area in June entered into a settlement the Legislature likely will consider putting into statute. It relates to flood-control releases and water rights. Parties include irrigators, regulatory agencies, conservation interests, municipalities and other domestic water providers.

Treasure Valley Water Users Association Executive Director Roger Batt said the settlement prioritizes existing rights over any new storage built in excess of 1,000 acre-feet. Some \$1.5 million has been spent on litigation, and the settlement and companion legislation would keep the matter out of the Idaho Supreme Court, he said.

- Potato Commission changes: The Idaho Potato Commission aims to change how commissioners are nominated and elected, an issue the legislature would have to approve.

Staff writers Mateusz Perkowski reported from Salem, Don Jenkins reported from Olympia and Brad Carlson reported from Boise.

Klamath: Waterfowl management is the primary purpose of the refuge land

Continued from Page 1

operational difficulties.

Their complaint alleges these requirements overreach the authority of the U.S. Fish and Wildlife Service — an Interior Department agency overseeing the refuges — by interfering in farming operations contrary to the intent of the Kuchel Act, a 55-year-old federal law governing how the refuges are managed.

The statute explicitly says that agricultural leases within the refuges “shall continue,” which limits the government’s power over farming in the area, Simmons said.

“That is not the language of discretion,” he said.

The Tule Lake and Lower Klamath national wildlife refuges were established with the purpose of leasing land for agriculture, which is worth about \$30 million in the two areas and supports about 600 jobs in the region, the complaint said.

The farm plaintiffs argue the government’s restrictions will result in less food being grown on refuge land for water fowl, but the environmental effects of that reduc-

tion weren’t properly evaluated by the agency.

Sarah Izfar, an attorney for the government, called the agricultural plaintiffs’ interpretation of the refuge laws “invalid on its face and unreasonable.”

Waterfowl management is the primary purpose of the refuge land, and agriculture is only a purpose insofar as it’s consistent with that goal, she said.

“There is no question this includes the lease lands,” Izfar said.

Environmental groups suing over the management of the refuges take aim at other aspects of the government’s plan: the amount of water allotted for waterfowl habitat, the continued use of pesticides and the impacts of grazing on federally protected species.

In the case, filed by the Audubon Society of Portland, Oregon Wild and Waterwatch of Oregon, the plaintiffs claim the government hasn’t ensured enough water flows into wetland habitats and instead directs it toward agriculture, which is inconsistent with proper waterfowl management.

They argue these errors violate the Refuge Act — another law governing the national wildlife refuges — as well as the Clean Water Act and the National Environmental Policy Act, which justifies overturning the 2017 comprehensive conservation plan and ordering the Fish and Wildlife Service to reconsider it.

The agency should have examined buying or transferring water rights to increase water deliveries to the refuges, said Maura Fahey, attorney for the Audubon Society and associated plaintiffs.

The Fish and Wildlife Service has over-emphasized using water to irrigate alfalfa and crops that aren’t edible by waterfowl, she said.

“Natural food should be given priority over agricultural crops, Fahey said.

The government has already determined that acquiring more water rights isn’t feasible, while curtailing or eliminating agriculture on the refuges wouldn’t improve the water situation, said Jessica Held, attorney for the government.

Restricting agriculture would just mean the water

would be used by higher-priority irrigators elsewhere, she said.

“It’s governed by a complex system of water priority rights the Service has no control over,” Held said. “The Service doesn’t have control over water that is available.”

Another complaint filed by the Center for Biological Diversity claims the Fish and Wildlife Service didn’t sufficiently evaluate alternatives to the ongoing spraying of agricultural pesticides on refuge lands, which violates the agency’s obligation to take a “hard look” at environmental consequences under NEPA.

The lawsuit alleges that the government has largely ignored the toxic effects of pesticides on wildlife and the ecosystem to benefit commercial farmers by mischaracterizing studies on the impacts of such chemicals.

“Pesticides that are used on these refuges are poisons, your honor,” said Stephanie Parent, attorney for the Center for Biological Diversity. “These pesticides can drift, they can run off and they can persist in soil and water.”

Decisions over pesti-

cide use on the refuges are made by a committee that’s shielded from public scrutiny, she said.

“There is nothing in the record to support the conclusion the effects of pesticides are minor.”

Izfar, an attorney for the government, said that pesticides are only one component of an “integrated pest management” strategy that includes grazing and tillage, with chemicals deployed only as a tool of last resort.

Alternatives such as curtailing agriculture have been discussed and found not to be feasible, since fallow land would not benefit water fowl, she said.

“Respectfully, I believe that debate did happen,” Izfar said.

In the third environmental complaint, the Western Watersheds Project claims that livestock grazing in the Clear Lake National Wildlife Refuge harms the habitat of the Greater sage grouse, a sensitive rangeland species, as well as two species of sucker fish protected under the Endangered Species Act.

Unlike federal property

administered by the Forest Service or the Bureau of Land Management, the government cannot allow grazing within national wildlife refuges unless the practice actually helps their environmental condition, the organization claims.

The Fish and Wildlife Service should have considered reducing or eliminating grazing from the national wildlife refuge but instead the agency claimed the practice wouldn’t harm species without a sound factual basis, the plaintiff claimed.

The agency should also have studied the cumulative impacts of grazing on public lands that surround the refuge, said Paul Ruprecht, attorney for Western Watersheds.

Jessica Held, attorney for the government, said the spring grazing challenged in the lawsuit is an experimental program aimed at restoring land damaged in a wildfire.

Grazing was determined not to have adverse impacts on the sage grouse or sucker fish, so an analysis of cumulative effects wasn’t required, she said.