

GMO mediation bill finally encounters foes

Legislation faces objections after initial lack of controversy

By MATEUSZ PERKOWSKI
Capital Bureau

SALEM — After an uncontroversial start, legislation that would require mediation for disputes over biotech crops in Oregon is now facing opposition from critics of genetic engineering.

House Bill 2509, which would direct the Oregon Department of Agriculture to mediate conflicts over genetically modified organisms, didn't initially meet with objections and passed the House by an overwhelming margin.

The bill arose from a work group convened by Rep. Brian Clem, D-Salem, that evaluated a range of GMO proposals.

During a May 20 legislative hearing, Clem said he's surprised by the recent surge of antagonism toward HB 2509, which emerged from the concerns of GMO critics who worried that biotech farmers wouldn't agree to mediation.

"This came from the anti-GMO community," he said. "This was designed to be helpful for people worried about being interfered with by GMOs."

Friends of Family Farmers, a group that favors stronger GMO regulation, participated in the work group negotiations and credited the



A genetically engineered potato pokes through the soil of a planting pot inside J.R. Simplot's lab in southwestern Idaho.

AP Photo/John Miller, File

bill with providing an incentive for mediation during a work session last month.

Now that HB 2509 is before the Senate, however, the nonprofit group and other GMO critics are asking lawmakers to reject the proposal because they say farmers who are harmed by biotech cross-pollination should not be forced into mediation.

"I strikes us that mediation should be a choice farmers make, not a mandated situation," said

Ivan Maluski, policy director of Friends of Family Farmers, during the recent hearing before the Senate Committee on Environment and Natural Resources.

If a dispute over genetically engineered crops occurs between farmers, the bill calls for ODA to provide mediation to seek a coexistence solution. If a grower refuses mediation and later loses a lawsuit in the dispute, he'd be required to pay the opposing party's legal costs.

While Friends of Family Farmers believes mediation may be useful in some circumstances, the group has decided to oppose the bill because mandatory mediation could impose a financial burden on small growers.

The mediation requirement may delay a timely court decision when a farmer faces market rejection of his crop due to cross-pollination, the group claims.

Our Family Farms Coalition, which successfully campaigned for a GMO ban in Jackson County, ar-

gues that HB 2509 would hinder the ability of organic and conventional growers to enforce that prohibition.

The group argues that small farmers would effectively be blocked from seeking a "quick legal action to prevent contamination of their crop" due to fears of paying astronomical attorney fees.

"This bill would prevent that as a practical matter," said Kellie Barnes, a representative for the group.

The Center for Food Safety, a nonprofit involved in prominent legal battles over GMOs, alleges that ODA can't be trusted to oversee the mediation program because the agency has served as the "mouthpiece of the agricultural biotechnology industry."

Since the mediation requirement lacks any limit on duration or expense, ODA could use it as an obstacle for farmers who need a fast legal remedy to their dispute, the group says.

Scott Dahlman, policy director of the Oregonians for Food and Shelter agribusiness group, said he's disappointed by the hostility toward HB 2509 after the work group tried to establish a middle ground.

The bill was intended to shed light on how many biotech conflicts actually exist in Oregon and encourage compromises that would be difficult to reach in court, he said.

"It might be as simple as communicating your planting schedule with your neighbor and planting at different times," Dahlman said.

The Capital Bureau is a collaboration between EO Media Group and Pamplin Media Group.

Judge rules some of Cylvia Hayes' emails are public, some private

Capital Bureau

SALEM — In a split decision, a Marion County circuit judge ruled Thursday that forcing former first lady Cylvia Hayes to release emails from her private account would be a violation of her Fifth Amendment rights — unless they relate to any of the more than 94,000 emails already made public by the state.

In February Hayes filed suit to block the release of emails from her private account to The Oregonian in response to a public records request seeking records concerning her tenure as first lady.

Hayes and former Gov. John Kitzhaber are under investigation by the U.S. Attorney's Office for potential influence peddling. In her lawsuit, Hayes argued that emails in her private account were private and exempt from release under Oregon's public records law, and that a release would violate her

Constitutional right against self incrimination.

In a ruling on the paper's motion for partial summary judgment, Judge Tracy Prall said the newspaper's request for records was narrowly constructed to exclude material of an exclusively personal nature, and had proven a legitimate public interest in the release of records related to official business.

However, Prall ruled that ordering Hayes to produce the emails would require her to admit that the emails exist, are in her control, and authenticate their content. That would violate her Fifth Amendment rights against self incrimination.

However, Gov. Kate Brown has already released 94,000 emails from Kitzhaber's tenure held by the state. Therefore, Prall ruled, emails held by Hayes that correspond to those already released should be made public because "any testimonial aspect is a foregone conclusion."

Hayes filed a lawsuit in

February to stop the disclosure of emails on her private account that dealt with state business, after the Oregon Attorney General's Office ordered Hayes to release the emails in response to a public records request by The Oregonian newspaper.

The Oregonian had asked Prall to dismiss Hayes' entire lawsuit and order Hayes to release the emails. Hayes' response to that motion is currently due by the end of the month, Oregon Judicial Department Legislative Communication Manager Phil Lemman wrote in an email.



Pool photo/Statenman Journal

Judge Tracy Prall ruled Thursday that former first lady Cylvia Hayes must release emails in her private account that relate to more than 94,000 emails from the Kitzhaber administration already released by the state. The release of unrelated emails, however, would violate Hayes' Fifth Amendment rights.

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