

OFB Review of the 2013 Legislative Session

The best word to describe the 2013 State Legislative Session for Oregon agriculture is “lackluster.” There were many detrimental bills that did not get passed into law — but many beneficial bills also died. And the good bills that succeeded were often small and watered down.

While the results of the session were mixed, several legislators stood out as stalwart supporters of Oregon’s family farmers and ranchers.

In the Senate, OFB relied heavily on **Sen. Minority Leader Ted Ferrioli** (R-John Day), who held Republicans together on a number of bills important to agriculture. On the other side of the aisle, **Sen. Betsy Johnson** (D-Scappoose) stood out with an independent voting record and assisted OFB in thwarting legislation harmful to farmers and ranchers.

On the House side, **Rep. Mike McLane** (R-Powell Butte) worked tirelessly on behalf of ag producers and successfully finished his first term as caucus leader. And **Rep. Brian Clem** (D-Salem) repeatedly went above and beyond expectations to tackle difficult issues facing Oregon’s agricultural community.

Also of note was the work of ag policy committee chairs **Sen. Arnie Roblan** (D-Coos Bay) and **Rep. Brad Witt** (D-Clatskanie). They deserve credit for their efforts in a challenging session.

Two freshman legislators, **Sen. Bill Hansel** (R-Athena) and **Rep. John Davis** (R-Wilsonville), proved to be effective lawmakers with bright futures.

Finally, OFB gives a big thank you to the **many Farm Bureau members** who took the time to write or call their legislators and/or visit the Capitol to testify and discuss issues with lawmakers. These volunteers were essential to our successes. Oregon agriculture is stronger because of their passion, commitment, and involvement. Thank you!

Bills That Passed

HB 2027: Land Owner Preference Tags.

Extends the LOP program and makes the following adjustments: increased percentage of transferrable tags, the potential for more tags for landowners suffering elk damage, and ties mule deer tags to management objective. *OFB supported; bill passed.*

HB 2050: 50-50 Fire Protection.

Creates a fire protection funding model that is shared evenly between landowners and the state. The 50-50 split will be phased in over the next six years and will not be fully realized until 2017. *OFB supported; bill passed.*

HB 2202: Mining on Exclusive Farm Use (EFU).

To ensure all of the resources in a mine are used, mining operations must show the ability to mine at the depth in their permit. Mines must be fully developed before closing. *OFB supported; bill passed.*



HB 2259: Water Resource Dept. Fees.

Increases WRD's current fee schedule, with a sunset on the increase in 2017. *OFB neutral; bill passed.*

HB 2390: Hunting Cougars with Dogs.

The law that allows ODFW agents to hunt cougars and black bears with dogs was set to expire in 2014. HB 2390 lifts the sunset to allow this program to continue. *OFB supported; bill passed.*

HB 2427: Restricts Canola in the Willamette Valley.

Prohibits growing canola in the Willamette Valley for the next six years unless farm is participating in an OSU study. The study allows for 500 acres of canola a year. OFB believes this sets a troubling precedent and wanted the crop's regulation to remain under ODA. *OFB opposed; bill passed.*

HB 2696: Interference with Forest Practices Act.

Creates legal consequences for individuals who try to or successfully hinder, impair, or obstruct the right of a private contractor to perform his/her contractual obligations in managing state forests. *OFB supported; bill passed.*

HB 2710: Drone Bill.

Prohibits law enforcement from using drones to gather information unless specifically authorized to do so by statute. Clarifies that all public bodies must register drones with the

Oregon Aviation Board. Preempts local governments from regulating drones and does not regulate the private use of drones. *OFB neutral; bill passed.*

HB 2746: Replacement Dwelling.

Allows landowners to replace a home that has fallen into disrepair in EFU and makes deferred replacement of a home transferable to family members. Taxes must be paid for five years on the home before an application for replacement is filed. *OFB supported; bill passed.*

HB 3364: Integrated Pest Management (IPM).

Amends the state's IPM definition for pesticide use by state agencies and directs the OSU Dean of College of Agricultural Sciences to appoint a faculty member to act as state IPM coordinator. Establishes an IPM coordinating committee to report on state agencies and public university IPM programs. *OFB neutral; bill passed.*

HB 3367: Omnibus Tax Credit.

All of the tax credits approved during the 2013 Session are in this bill. The farm worker (now "agricultural worker") housing tax credit was included. This will greatly help farmers who have on-farm housing to meet new federal standards coming in 2016. *OFB supported; bill passed.*

HB 3452: Wolf Bill.

Provides a settlement agreement between the

plaintiffs and ODFW stemming from an injunction on ODFW from taking any further action to remove problem wolves. This includes wolves that are chasing and attacking livestock at times of chronic depredation, which is defined as four confirmed livestock killings in a six month time period. *OFB supported; bill passed.*

SB 7: The Oregon State Fair.

Provides a pathway for the Oregon State Fair to become a private entity. The State Fair Council is established as a public corporation charged with running the daily operations of the fairgrounds and exposition center. Safeguards are in place to ensure the fairgrounds cannot be sold without approval by the Oregon Dept. of Administrative Services. *OFB supported; bill passed.*

SB 199: Split Season In-stream Water Lease.

Extends the split use lease program to 2024 and establishes a five-year lease limit. This allows a water right holder to split a water use for both in-stream and out-of-stream purposes. *OFB neutral; bill passed.*

SB 487: Slow-Moving Vehicle (SMV) Emblem.

Further defines improper use of SMV signs to existing law. Any use not listed in statute and appearing on a highway is a violation of the slow-moving vehicle law and is a class C misdemeanor. *OFB supported; bill passed.*

SB 709: Fire Liability.

Establishes a fair methodology for all landowners for valuing property damages resultant from forest fires. Clarifies the limited circumstances under which those damages may be multiplied. Without this language, landowners could face massive legal claims that would jeopardize their businesses. *OFB supported; bill passed.*

SB 833: Driver Cards.

Allows an individual who cannot provide proof of legal presence in the United States to obtain a driver card. Applicants must prove their identity and date of birth to DMV, as well as prove they have resided in Oregon for more than one year prior to applying for the card. This simply gives individuals the ability to drive and will not allow the ability to obtain a CDL or board an airplane, for example. Applicants will be able to operate farm vehicles. A citizen referendum to overturn SB 833 has been filed. If successful, the bill's implementation will be delayed until after the 2014 election. *OFB supported; bill passed.*

SB 837: In-Conduit Hydropower.

Creates a Fish Passage Restoration Subaccount for ODFW to use for such projects. Prioritizes funding of projects with artificial obstructions and has ability to leverage matching funds. *OFB supported; bill passed.*

SB 839: Water Development Fund.

Establishes the Water Supply Development Account administered by Water Resources Dept., which will give loans and grants to qualifying projects. Defers work on seasonal flow levels needed to meet funding requirements to an interim workgroup. *OFB neutral; bill passed.*

Bad Bills Killed by OFB Involvement

HB 3170, HB 3171, SB 800: Pesticides.

These bills would have required reporting of commercial/governmental pesticide applications to DEQ, allowed cities/counties to regulate pesticides in potable water, and created a taskforce to decide if reporting should be mandated. *OFB opposed; bills died.*

HB 2504: Property Tax Exemption. Under current law, personal property of farmers and farm operations, like machinery, equipment, products, annual and perennial plants or crops, and irrigation tools, are exempt from annual property tax. This bill repealed those exemptions after 2015. *OFB opposed; bill died.*

HB 2321 & SB 476: Oregon Environmental Impact Statements (EIS).

Both of these bills would have mandated state agencies to prepare an EIS on every proposal for major state action on the environment, or before approving an application for permits that may impact the environment. Would have adopted a process similar to national NEPA's at the state level. SB 476 was replaced with a different concept and passed. *OFB opposed; bills died.*

SB 217: Annual Management Fee on Water Rights.

Would have established a new annual fee of \$100 per right on water right holders. *OFB opposed; bill failed.*

SB 425: Water Diversion Bill.

Would have required an application for a water point of diversion to determine if the activity would result in a loss of in-stream habitat for native fish or wildlife. If the result was determined a "loss," the diversion would be prohibited. *OFB opposed; bill died.*

SB 488: Repeals the Low Carbon Fuel Standard (LCFS)

Sunset. LCFS program, implemented by DEQ, was designed to reduce fuel carbon intensity by 10% over 10 years. The original 2009 legislation ended the program in 2015 and SB 488 extended it. *OFB opposed; bill died.*

Unresolved Issues

Wetland/Non-Farm

Uses: There were several bills that dealt with government money used to purchase farmland in order to convert it into wetlands. Many issues and impacts arise when nature preserve property is adjacent to productive farmland. OFB staff continues to engage with the governor's office and funding agencies on ways to minimize the impacts of land conversions.

USDOL Use of Hot Goods Order:

Although ultimately a federal issue, OFB introduced Senate Joint Memorial 7, which urged Congress to require USDOL to have standard rules and procedures before using its extreme "hot goods" powers. The goal was to ensure the Oregon Legislature understood the negative impacts USDOL's unfair crop embargoes had on blueberry growers last summer. SJM 7 did not pass, but OFB will continue to put this issue in front of policymakers at both the state and federal level. See oregonfb.org/usdol for a summary of the hot goods issue and OFB's continuing work on it.

Agri-tourism Liability:

SB 815 addressed the growing issue of farm liability. There's a nationwide effort to give farmers protection from

injuries occurring when people visit a farm or ranch for agri-tourism activities. The bill died in the Senate. OFB will continue to work on this and potentially will support another bill in February 2014.

Crop Donation Tax Credit:

OFB and the Oregon Food Bank came very close to see the food donation tax credit reauthorized; but in the end it was left out of the final tax credit package. At one point, the donation (SB 430) was included in the ominous tax credit bill. However, it was tied to the revenue package that failed. The importance of this issue was conveyed to legislators, and OFB anticipates another bill in the future.

GMO/Seed Regulation Preemption:

The inability to pass SB 633 was a big disappointment this session. The bill placed the regulation of seed with the State of Oregon and preempted local governments from regulating seed production. Ballot measures have been filed in several counties to ban certain agricultural practices. This could create a patchwork of regulations around the state and cause a divide within the agricultural community. The bill passed in the Senate but unfortunately died in the House.

Labor Bills That Passed

SB 678: Fixes Oregon Court of Appeals Decision in the Cortez case. The court's ruling undermines Oregon's workers' compensation law that an injured workers' exclusive remedy for a workplace injury is through the workers' compensation system. This is known as "exclusive remedy," and it's the critical foundation upon which the workers' compensation system is built in Oregon and most states. The Appeals Court ruled in the *Cortez* case that the exclusive remedy provision of the workers' compensation law does not protect the members (owners) of a Limited Liability Company (LLC) from a liability stemming from a workplace injury. SB 678 makes it clear that members and owners of LLCs are protected under Oregon's exclusive remedy law just like all other employers. *OFB supported; bill passed.*

SB 677: Payment of Seasonal Farm Worker. SB 677 extends the deadline to write the final paycheck to a migrant

farm worker by 12 hours — from midnight of the final workday to noon the next day — in certain instances. *OFB supported; bill passed.*

HB 2113: Farm Labor Contractor Fees. The current maximum fee ranges from \$100 to \$250, depending on the type of endorsement. This bill increases the maximum by either \$50 or \$100. *OFB neutral; bill passed.*

HB 2903: Domestic Violence Victims Workplace Posting. Requires employers with more than six employees to post in premises a summary of statutes and rules related to employment rights for victims of domestic violence, harassment, sexual assault, or stalking. *OFB neutral; bill passed.*

HB 2950: Bereavement Leave. Requires employers to give up to two weeks of unpaid leave to an employee to be taken within three months of a death (or a discovery of a death) of a family member. *OFB opposed; bill passed.*

Labor Bills That Didn't Pass

HB 2112: Creates Additional Civil Penalties for Unlawful Deductions. Oregon law requires employers to provide an itemized statement of deductions from wages at the time wages are paid. HB 2112 would allow BOLI to penalize employers for failing to do so. The law already says this is a Class D criminal violation, subject to fines. *OFB opposed; bill died.*

HB 3042: Pay Discrimination. Pay differential based on race, color, religion, sex, sexual orientation, national origin, marital status, or age is already illegal. HB 3042 would have created a duplicative right of action for wage differences and shifted the burden of proof to the employer. *OFB opposed; bill died.*

HB 3142: Changes the Definition of "Employer" & "Employee." Altered definitions would have allowed more private right of actions when an

"employee" filed a wage claim, making more "employers" eligible for a lawsuit in a wage claim. *OFB opposed; bill died.*

HB 3307: More Lawsuits for Failed Meal & Rest Periods. Failing to provide meal and rest periods is already illegal. Bill would have created additional path for lawsuits. Also called for an additional 90 minutes of wages to be paid per employee for each day an employer is in violation. *OFB opposed; bill died.*

HB 3390: Mandated Paid Sick Leave. Would have required employers with six or more employees to provide seven days of paid sick leave a year. Oregon already has the most expansive family leave laws in the country. *OFB opposed; bill died.*



GE & GMOs a hot issue this session

The 2013 Legislative Session saw 13 bills that targeted genetically engineered/genetically modified organisms and production methods, including outright banning, labeling, control areas, alfalfa, and fish. OFB worked hard to ensure these bills did not pass. The legislation would have put Oregon farmers at a disadvantage when compared to other states that allow GE production. The bills also attempted to regulate a legal means of farming approved by relevant federal agencies, as well as characterized GE crops as "bad." HB 2175, HB 2319, HB 2530, HB 2532, HB 2715, HB 2736, HB 3177, HB 3290, HB 3291, HB 3292, HB 3293, HB 3476. *OFB opposed; all bills died.*