

Analysis

Item 35: Department of Agriculture

Hemp Program

Analyst: John Terpening

Request: Increase the Other Funds expenditure limitation by \$1,230,000 and establish two permanent full-time Natural Resource Specialist 3 positions (1.26 FTE) to address increasing workload around the Department's Hemp Program.

Analysis: The Department of Agriculture (ODA) is requesting an increase to the Other Funds expenditure limitation in the amount of \$1,230,000 and establishment of two full-time Natural Resource Specialist 3 positions to address increasing workload around the Department's Hemp Program.

ODA's Hemp Program, first established as a pilot in 2015, has expanded rapidly in the past four years with more than 63,000 acres of hemp currently registered statewide. The number of registered growers has increased from 13 at inception to almost 2,000 as of November 2019 after passage of the 2018 Federal Farm Bill, which reclassified industrial hemp as a legal commercial product.

With the rapid growth of the program and increased workload as a result, ODA has utilized temporary employees and staff from other parts of its Natural Resource Area to assist with work on hemp-related issues. The Department, however, does not have the internal capacity to continue dedicating resources to hemp without reducing its ability to conduct other core work within the Natural Resources Area. As a result, the Department is requesting two permanent full-time Natural Resource Specialist 3 positions (1.26 FTE) to be used primarily for inspection and enforcement work around registration compliance, sampling and testing requirements, and technical assistance to growers and handlers. Total costs of these two positions for 2019-21, including dedicated vehicles, is \$330,000 Other Funds.

Additionally, the Department is requesting \$700,000 Other Funds expenditure limitation for the Hemp Program to cover the costs incurred from staff of other programs working on hemp-related issues and for increases it is anticipating around Department of Justice costs for hemp enforcement activities as the program continues to expand. While the 2019-21 legislatively adopted budget did provide an additional position for the Hemp Program, the program's total budget is currently only \$510,728 and other Natural Resource Area programs are being required to use their limitation to cover costs.

Also, the Department has entered into an agreement with the Water Resources Department to fund a limited duration assistant water master through the rest of the 2019-21 biennium that will be focused on water right complaints and inquiries that are occurring around industrial hemp, mostly in Southwestern Oregon. This contract is for a maximum of \$200,000 Other Funds.

The Department has adequate revenue to cover the increased limitation request as a result of a fee increase to hemp registration that was approved during the 2019 session.

Finally, it should be noted that there is likely to be additional legislation as soon as February 2020 around the state requirements for implementing the 2018 Federal Farm Bill that may necessitate more resources for the Hemp program, but any changes would be reflected in a fiscal impact statement accompanying that legislation.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$1,230,000 in the Other Funds expenditure limitation and authorizing the establishment of two permanent full-time positions (1.26 FTE) for the Department of Agriculture in a budget reconciliation bill during the 2020 legislative session to address increasing workload around the Hemp Program.

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Request: Increase Other Funds expenditure limitation by \$1,230,000 and establish two permanent part-time positions (1.26 FTE) to provide additional regulatory oversight for the Hemp Program.

Recommendation: Approve the request during the 2020 Legislative Session.

Discussion:

Hemp Program Overview

Under the United States Department of Agriculture (USDA) 2014 Farm Bill, the Oregon Department of Agriculture (ODA) established a pilot statewide Hemp Program in 2015. This program requires hemp growers and handlers to register with ODA each year. During the course of the last several years, the industry has grown quickly in Oregon. As seen in the table below, overall acreage has gone from just over 100 acres in 2015, to well over 60,000 acres in 2019. As the number of acres has grown, so has the workload associated with overseeing the Hemp Program.

Year	Number of Growers	Number of Handlers	Total Acres Registered
2015	13	13	105
2016	83	66	1,200
2017	246	189	3,000
2018	584	212	11,754
2019*	1,957	573	63,684

*As of November 22, 2019

Additionally, in 2018, a new Farm Bill passed directing the USDA to establish a national regulatory framework for hemp production across all states. As part of this implementation, states continued operating under the 2014 Farm Bill until October 31, 2020. After that date, ODA must have an approved plan meeting several criteria established by the USDA. This request focuses on maintaining the program established under the 2014 Farm Bill and ODA plans to submit an additional request related to the implementation of the 2018 Farm Bill later.

Other Funds Limitation Increase

Due to the significant growth of the program, ODA is requesting to increase Other Funds expenditure limitation by \$1,230,000. Of this amount, \$330,000 will be used to fund two Natural Resource Specialist 3 positions (1.26 FTE), as well as vehicles for each position. The focus of these positions will be on inspection and enforcement under the 2014 Farm Bill rules. The Department will utilize \$700,000 Other Funds expenditure limitation to cover an expected increase in fees from the Department of Justice, associated with the increased inspection and enforcement focus of the new positions; cover current staff time being pulled in from other areas of the agency to assist with Hemp Program workload; and bring on temporary employees to further assist in covering workload associated with the program.

The remaining \$200,000 Other Funds expenditure limitation will be used to pay for an Interagency Agreement with the Oregon Water Resources Department (OWRD). Allowing OWRD to increase available capacity to address water complaint issues related to hemp production by putting an additional Assistant Water Master to work in the field. This position includes an educational component helping to educate hemp growers about water rights.

The Hemp Program plans to continue receiving revenue from registration fees providing cash for the requested additional expenditure limitation. Without the positions and additional resources listed above, ODA would be unable to provide an adequate level of support to provide guidance and oversight to the growers and handlers registered with the Hemp Program.

Future of the Hemp Program – 2018 Farm Bill Implementation

This request focuses on getting the Department resources needed to continue operating the pilot Hemp Program, but ODA is in the process of reviewing interim rules released by the USDA related to hemp production in the 2018 Farm Bill. The Department plans to submit a state plan to administer hemp production in Oregon. Due to the additional regulatory oversight required for an approved state plan, ODA expects a bill tied to the implementation of the 2018 Farm Bill will be introduced during the 2020 Legislative Session. ODA plans to request additional resources of up to four additional positions (2.52 FTE) and \$520,000 additional Other Funds expenditure limitation related to the bill. This would allow the Department to develop a plan and processes to implement the necessary changes to meet the 2018 Farm Bill requirements before the 2015 pilot ends.

Legal Reference:

Increase the Other Funds expenditure limitation established by chapter 452, section 2(3), Oregon Laws 2019, for the Oregon Department of Agriculture, Natural Resources Division, by \$1,230,000 for the 2019-2021 biennium.



December 12, 2019

REPLACEMENT LETTER

The Honorable Senator Betsy Johnson, Co-Chair
The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

Nature of the Request

The Oregon Department of Agriculture (ODA) respectfully requests an increase in Other Funds limitation and establishment of positions in the agency's Hemp Program.

Agency Action/Background

The Agriculture Improvement Act of 2018 (2018 Farm Bill, Section 10113) directed the US Department of Agriculture (USDA) to develop a regulatory oversight program for hemp. On October 31, 2019, the USDA released interim rules for hemp production and guidelines for sampling and testing procedures. ODA is analyzing the rules to determine what changes if any, need to be made to its current hemp program, and submit a plan as required by the USDA.

For states to be the primary regulator of hemp, production plans must be submitted to the USDA for approval of commercial production of hemp. Plans must include specific elements, including:

- Collection of hemp producer contact information and legal land descriptions,
- Plans for accurate and effective sampling and testing,
- Plans for disposal of non-compliant plants,
- Inspection plan procedures,
- Procedures for sharing data with USDA,
- Enforcement plan procedures,
- Certification that the state has resources and personnel to carry out required Farm Bill practices and procedures.

ODA established a statewide hemp program in 2015, which is considered a hemp pilot program under the 2014 Farm Bill. The Department's 2019-21 Legislatively Adopted Budget included two positions in the hemp program. ODA requires hemp growers and handlers to register, and has seen exponential growth in the number of registrations, with more than 63,000 acres of hemp registered statewide this year.

Registration Year	No. of Growers	No. of Handlers	No. of Acres
2015	13	13	105
2016	83	66	1,200
2017	246	189	3,000
2018	584	212	11,754
2019 (as of Nov. 7th)	1,957	573	63,684

The rapid growth of the program, along with the newly released USDA regulatory oversight program, will require ODA to add additional staffing and resources. This request will be split into two parts: (1) additional resources needed for growth in the current hemp program, and (2) additional resources needed for implementation of the Farm Bill. A key component of having USDA approve the Oregon State plan is an assurance that the state has the resources to carry out the provisions of the plan and all the requirements of the USDA rules.

Part 1 – Current program

The current program needs two additional Natural Resource Specialist 3 positions (1.26 FTE) and \$1.23 million Other Funds limitation to manage the workload of the growing program and emerging issues. One emerging issue relates to water rights for hemp growers. ODA and the Oregon Water Resources Department (OWRD) entered into an Interagency Agreement to increase coordination and field capacity to address water complaints and inquiries relating to the hemp industry. ODA is providing resources to OWRD to put an additional Assistant Water Master in the field.

Part 2 – Farm Bill implementation

As the Department is still analyzing the newly released USDA interim rules and enforcement guidelines, it is anticipating needing up to four additional positions (2.52 FTE) and \$520,000 additional Other Funds limitation. ODA anticipates introduction of a bill in the February 2020 Legislative session that would give the Department explicit authority to implement provisions of the 2018 Farm Bill as it pertains to hemp and therefor USDA approval of the Oregon State Plan to regulate hemp production in Oregon.

As such, this request will focus solely on additional resources needed for the current program as described in Part 1. Subsequent passage of authorizing statutes to implement the requirements of the 2018 Farm Bill would require the ODA to request the resources as described in Part 2.

*The Honorable Senator Betsy Johnson, Co-Chair
The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
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Action Requested

The Department respectfully requests an increase of \$1.23 million Other Funds limitation and establishment of two Natural Resource Specialist 3 positions in the Natural Resource Policy Area (2 Positions, 1.26 FTE).

Legislation Affected

Oregon Law 2019, Chapter 452, Section 2, Subsection (3)

Sincerely,

A handwritten signature in black ink that reads "Alexis M. Taylor". The signature is fluid and cursive, with the first name "Alexis" being the most prominent.

Alexis M. Taylor, Director
Oregon Department of Agriculture

Attachments:

USDA Requirements for State and Tribal Hemp Plans and Licensing Numbering Scheme