

OUR VIEW

Public records law manipulated by government officials

The ostensible purpose of Oregon’s Public Records Law is simple and noble.

The 1973 law reads, in part: “Every person has a right to inspect any public record of a public body in this state. ...”

This is so sensible as to be obvious. Public agencies, including cities, counties and the state government, produce records using public dollars, and the public — which is to say, all of us — ought to be able to have a look at those records.

But the reality, as is so often the case when it competes against the conceptual, is neither simple nor noble.

Part of the problem is the rest of the above excerpt from the law, the words on the other side of the ellipsis: “... except as otherwise expressly provided by ORS 192.338, 192.345 and 192.355.”

Ah, yes. Exceptions.

There are some hundreds of exceptions to the Public Records Law, and this list has been larded considerably over the past five decades.

The law, as a result, has been tilting ever more in favor of public officials being able to keep records hidden from the public.

But even when public officials can’t use any of those exceptions as the legal bricks and mortar to put up a wall between the public and the records, there are other methods to withhold public records.

A situation happening in Malheur County is a troubling example of this.

The Malheur Enterprise newspaper in Vale, as part of its diligent coverage of Malheur County’s effort to build a multimillion-dollar industrial park, has requested public records related to the project.

The Enterprise has already paid \$300 for records the newspaper requested a month ago, according to publisher Les Zaitz.

But on Friday, Malheur County officials, rather than release those records to the newspaper, asked for another \$100. The county didn’t send an invoice with its request, Zaitz said.

The publisher said the Enterprise emailed the three Malheur County commissioners, along with other county officials, on Friday asking for an invoice.

On Monday the county’s attorney told the Enterprise the county would release the records and send an invoice later.

The Enterprise has received donations totaling more than \$3,000 from residents who support the newspaper’s efforts to publish thorough and accurate stories about Malheur County’s activities.

That’s heartening support.

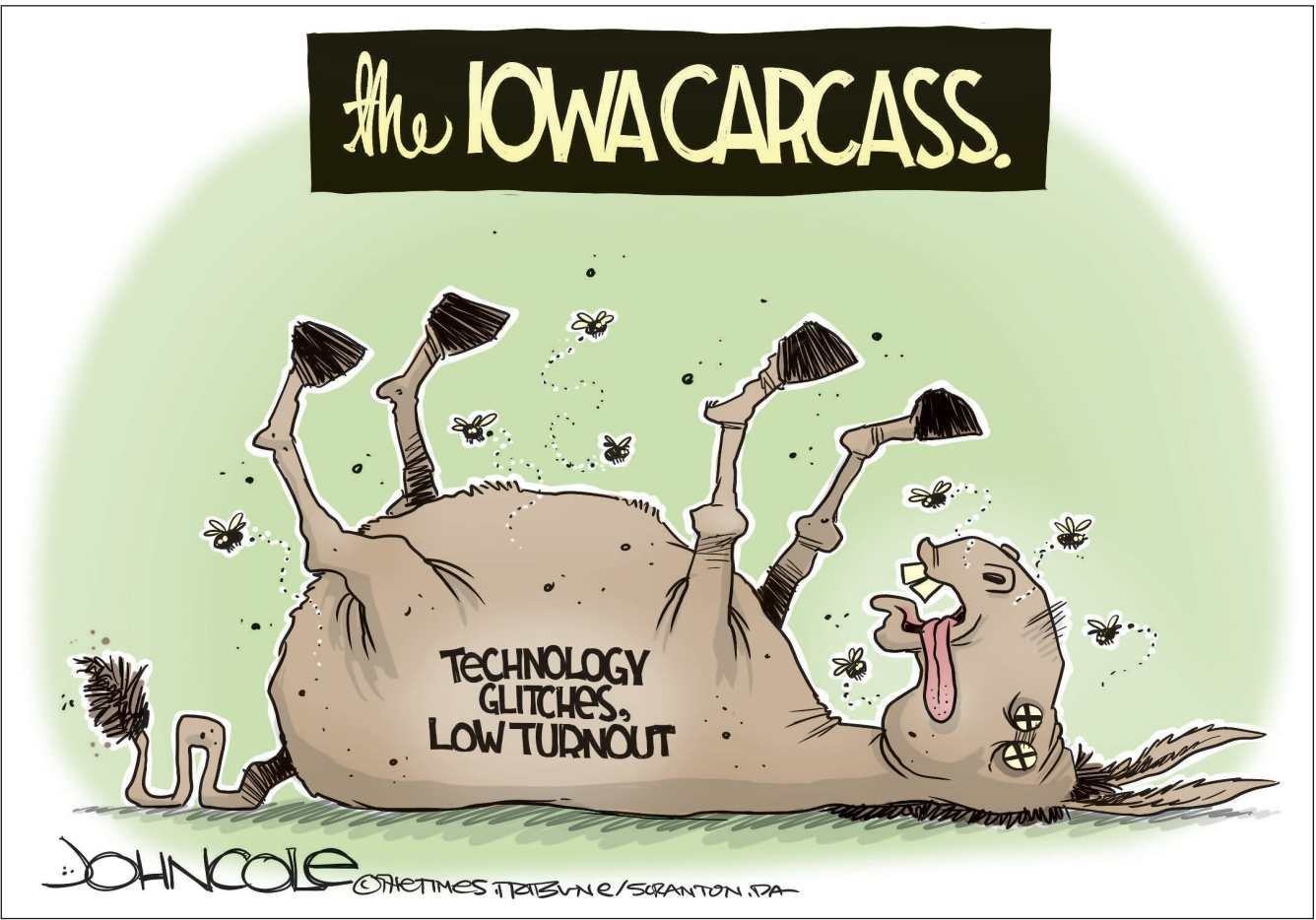
But it shouldn’t be necessary.

The Public Records Law provides for agencies to waive fees in cases when releasing the records serves the public interest. It’s difficult to imagine a topic more important to the public than how government officials are spending, or planning to spend, public dollars.

In part because the Public Records Law lacks significant penalties for public agencies and officials who use the law to obscure rather than to reveal facts, the sorts of stalling tactics Malheur County officials employed are unfortunately common.

Zaitz and his staff at the Enterprise will no doubt continue to aggressively pursue the vital records necessary to inform the public about what its government is up to.

Their success will serve as a testament to the importance of journalism, but also, sadly, as an example of how a well-conceived law has been gradually bastardized to the point it too often serves the interests of public officials rather than the public.



OTHER VIEWS ALBANY DEMOCRAT-HERALD

Paper trail necessary for election security

As the Iowa Democratic caucuses showed, maybe relying too much on technology isn’t a good thing. The results from Monday’s event were delayed due to problems with a just-released smartphone app designed to report results to the state Democratic Party.

That’s right, a new app had glitches. Who would’ve thought, except perhaps everyone with a cellphone and some common sense?

To state the obvious, this is a black eye for Democrats, who come off looking more than a bit incompetent at the local level in the Hawkeye State. Thankfully, there’s a paper trail involved, so the delay is nothing more than that. There shouldn’t be much grumbling about the accuracy of the full results, whatever they are and whenever they are released.

But this tech failure brings up concerns about the 2020 presidential election. According to an Associated Press report from August, eight states continue to use paperless voting machines: Indiana, Kansas, Kentucky, Louisiana, New Jersey, Mississippi, Texas and Tennessee.

(For those of you with political scorecards, most of these are considered Republican states, so that’s a black eye for the “red” team.)

Experts estimated 12% of voters nationwide could be marking a virtual “ballot” without any sort of physical record or paper trail in November. That’s actually a vast improvement, as 20% of voters used paperless voting in the presidential election of 2016.

Linn County Clerk Steve Druckenmiller said the lack of paper ballots is a concern due to issues such as recounts and tech problems.

“Something goes wrong with the power, there’s an outage, a surge, what effect does that have on the count that’s in those machines? There’s no paper to rely on. You can have your election wiped out. If you want a recount, there’s nothing you can do,” he added.

The machines also are vulnerable to hacking, according to the AP. Another report from last summer indicated many electronic voting machines across the nation, paper record or not, are using outdated Windows 7 technology, the sort of tech that would be found on cutting-edge computers in 2009. Microsoft ended mainstream support for the operating system more than five years ago.

Why is the potential for hacking important? According to federal authorities, Russia targeted the election system of every state in the union during the 2016 election.

That includes Oregon, but our state’s method of voting probably discourages many hacking attempts.

In the Beaver State, voters fill out paper ballots, which are then mailed or inserted into secure drop-off boxes. The results are calculated using computers that aren’t connected to the internet. To do his job in Albany or Corvallis or other county seats in Oregon, a Russian hacker would need to infiltrate elections offices in person on the night of an election.

We realize newcomers to Oregon might be a bit perplexed with vote-by-mail, which was approved by voters in 1998. Some people, believe it or not, are nostalgic for the days when they used to wait in line, potentially for hours, to cast their ballot.

But as we’ve said before, we think the father of Oregon’s vote-by-mail system got things right. And that would be former Linn County Clerk Del Riley, who passed away in August 2018.

Oregon’s system provides an easy way to cast a ballot, and, unsurprisingly, Oregon’s election turnout traditionally ranks among the nation’s highest, Druckenmiller said.

What’s more, as we become increasingly aware of the flaws and vulnerabilities of our nation’s election systems, more states are taking a hard look at Oregon, which has few instances of fraud because there’s a paper ballot the voter must sign.

Most of the instances of wrongdoing here are inadvertent and result from residents not understanding the law. Druckenmiller recalled a case where a husband signed his wife’s ballot because she had a broken hand.

While the computers used to count election results here in Oregon certainly can be cutting-edge — in Linn County, an image is captured of every ballot cast — the backbone of the system is trusty and old school.

Your views

Hansell should hold public meetings on cap-and-trade bill

Response to recent spate of editorials in The Observer attempting to show Oregon’s cap-and-trade bill in a bad light. You highlight consideration of major legislation in a short session, complexity of bill with implications of huge impacts (giving a sense that all are negative) to Oregonians, uncertainties of potential revenue distribution, possibility of a wrong decision, and you add that voters deserve better.

It has been my experience that major pieces of legislation are brought forward in response to serious issues

that demand effective and urgent action (we have used fossil fuels for many years; why the problem now and how bad could it be?). I could not agree more with your sentiment that voters deserve better: I feel the voters in Northeast Oregon deserve to have these issues explained and discussed in a public forum so that we may be fully informed and able to provide effective input to our elected officials.

This cap-and-trade bill has been in development for more than a decade with many talented legislators and stakeholders giving it their best efforts. No one expects a perfect bill, and sci-

ence tells us it is urgent and important to show a willingness to confront the issues associated with climate change and potential impacts. Unintended consequences and inequalities resulting from implementation of this bill can be corrected as needed.

In light of our common interest to have informed voters, I would ask that your paper join with me in requesting state Sen. Bill Hansell arrange a few public meetings around his district specifically to inform voters on this important piece of legislation.

Charles LeBold
Union

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