

Washington lawmakers exempt from releasing emails

By WALKER ORENSTEIN
Associated Press

OLYMPIA, Wash. — Top lawmakers in Washington largely exempt themselves from the state's public records law, and their offices did not release emails sent and received by their government accounts when requested.

As part of a nationwide project by The Associated Press, a week of emails and daily schedules of Gov. Jay Inslee and four leading lawmakers in Olympia were requested to examine to what extent they're free from releasing their communications.

Emails and schedules from the week of Feb. 1-Feb. 7 were not provided by the offices of Speaker of the House Frank Chopp, D-Seattle, House Minority Leader Dan Kristiansen, R-Snohomish, Senate Majority Leader Mark Schoesler, R-Ritzville, and Senate Minority Leader Sharon Nelson, D-Maury Island.

In denying the request, their offices cited a definition of "legislative records" in the Public Records Act which exempts "reports or correspondence made or received" by individual members of the Legislature. The definition, put into place when the act became law in the early 1970s, does not include daily schedules as a legislative record.

Still, lawmakers in the past have released emails when asked, according to Rowland Thompson, executive director of the Allied Daily Newspapers of Washington. Thompson has been following the issue for more than 20 years, he said.

"This is a bit of a sea change for them to

all say 'no we're not going to comply with your request,'" he said, but added a more narrow or specific records request might have been answered by some lawmakers.

Schoesler, when asked if his emails should remain private, said "it's complicated." He defended keeping emails exempt from records laws, and said it allows whistleblowers to contact lawmakers without fear of being exposed and retaliated against.

"We handle domestic violence, we have whistleblowers," Schoesler said. "That's one item that clearly comes to mind immediately."

The identity of people who are reporting "improper governmental action" is exempt from public inspection under the state Public Records Act. There are also exemptions in place for domestic violence programs.

Chopp said his office has worked with reporters to release records if a request is specific enough, and said he prefers a more open government where possible. He said he plans to take the temperature of House Democrats soon to see if there is support for broadening the definition of legislative records. But he added he didn't think there was wide backing in the Legislature for such a change.

"I'm going to take a look at it as soon as session is over to actually ask people and delve into it more," he said.

Inslee's office released 39 emails and his daily schedules. Inslee has said he will not exercise an 'executive privilege' to shield some documents from the public, as the state's high court permitted in 2013.

HOW OTHER NORTHWEST STATES FARED

The Associated Press

Lawmakers in every state have adopted laws requiring most government meetings and records to be open to the public. But in some states, lawmakers have exempted themselves from complying.

The Associated Press sent open-records request to the top lawmakers in all 50 states and most governors, seeking copies of their daily schedules and emails from the government accounts for the week of Feb. 1-7. The AP received more denials than approvals from lawmakers. It did not generally request emails from private accounts because rules and practices on those vary widely from state to state.

Summaries showing how they responded in each state:

ALASKA

Under a policy set by the Legislative Council, records of a legislator while in that lawmaker's possession are not public records based on the deliberative process privilege and a state constitutional provision dealing with legislative immunity. But all lawmakers can decide whether to release information from their records. Republican Senate President Kevin Meyer provided a copy of his calendar and allowed a reporter to look over an aide's shoulder to see how his email inbox is sorted. The other three top legislative leaders ultimately denied the request, responding with either a legal opinion on what the law requires or a copy of the legislative records' policy. Gov. Bill Walker's office released a copy of his calendar. It was still working on a request for his emails.

CALIFORNIA

The Assembly and Senate Rules committees declined requests for emails and calendars for the top legislative leaders, citing a number of exemptions including privacy and legislative privilege. California's legislative branch is bound by a less transparent public records law than the executive. It exempts from public disclosure all "correspondence of and to individual members of the Legislature and their staff" as well as any communications between private citizens and the Legislature.

The committees also cited a 1991 California Supreme Court decision allowing government agencies to maintain the secrecy of public officials' appointment calendars. Gov. Jerry Brown's office said it releases the governor's calendar monthly and declined to provide earlier access to a week of appointments. Brown's office said he did not use his official email account during the first week of February, the week requested by the AP.

IDAHO

Idaho's top four legislative leaders agreed to release their emails and personal calendars after requesting an extension for more time to review them for possible exemptions. Together, the speaker of the House, Senate president pro tem and minority leaders in both chambers had more than 3,700 emails. Lawmakers' emails are public records under Idaho's open records laws, a statute the Legislature adopted in 1990. However, fulfilling that request would not have been free because state law allows officials to charge after providing one free hour's of work. Gov. C.L. "Butch" Otter's typically provides emails and personal calendars with little to no redaction.

MONTANA

The state's top lawmakers generally cooperated with requests for emails and schedules, but in some cases were reluctant to do so. The Senate president, Debby Barrett, responded only when pressed. When she did respond, she simply stated that she conducted no official business via email during the week in question. A legislative subcommittee last month took up the issue of public requests for email and directed staff to clarify existing guidelines, including the use of personal email addresses in the conduct of public business. Some legislators, even when using government-issued accounts, balked at providing all correspondence that flowed through their government-issued accounts, citing privacy. Staff members for Gov. Steve Bullock said they would work on fulfilling the request, but about a month later had yet to produce the documents.

OREGON

Oregon's governor and top lawmakers have agreed to comply with the requests for calendars and emails, which are public record under state law. Half of the eight top lawmakers who received records requests released their calendars, including the Senate president and House speaker. Some information was redacted, including phone numbers, addresses and details about specific events. Release of the calendars from the other four lawmakers and the governor are pending, as are the requests for emails. Legislative staff said the number of emails is 1,000 or more for the governor and some lawmakers. It's common for responses to records requests to take months in Oregon, particularly with the governor and lawmakers while they are in session. Although Oregon's public records laws are applied broadly, there are some exceptions for the Legislature. For example, lawmakers and legislative staff can ignore records requests filed between the 15 days leading up to the start of the legislative session and when it adjourns. When the session is over, however, the same records requests can be re-submitted and the Legislature would have to comply. Only one lawmaker initially chose to ignore the AP's request, but later decided to comply.

WYOMING

State law exempts the Wyoming Legislature from the open-records law. Under Wyoming law, lawmakers do not have to disclose any communication with constituents or correspondence with legislative staff. The request for emails and calendars to both the Republican and Democratic leaders in the state Senate and House resulted in the same basic reply, noting the exemption. Republican Gov. Matt Mead, who is not exempt from any provisions, released his calendar, minus certain sensitive security details, and emails. However, the state Supreme Court has ruled recently that public officials can refuse public inspection of documents they relied on in reaching final policy decisions. The ruling came in a case against the governor's office. Information compiled by AP reporters in all 50 states.



Ted S. Warren/AP Photo

Fog shrouds the Legislative Building at left, March 10, near midnight at the Capitol in Olympia, Wash.

U.S. Senate bill would make it easier to access government records

By MARY CLARE JALONICK
Associated Press

WASHINGTON — The Senate on Tuesday backed legislation to make it easier for Americans to obtain government records.

The bipartisan bill, passed by voice vote, would require federal agencies to consider the release of government information under "a presump-

tion of openness" as opposed to a presumption that the information is secret.

The legislation aims to reduce the amount of exemptions the government uses to withhold information and would create a single portal through which individuals can submit a Freedom of Information Act, or FOIA, request. Currently, FOIA requests are handled by each separate agency, each with its own rules

about how to submit a request. The legislation was sponsored by Republican Sen. John Cornyn of Texas and Democratic Sen. Patrick Leahy of Vermont. The bill was timed to pass during what is known as Sunshine Week, an annual celebration of access to public information.

"Today's vote sends a clear message that the American people have a fundamental right to know what their government is doing," Cornyn said. Leahy said the idea is to establish a transparency standard that future administrations will have to follow. "We cannot leave it to the next president to decide how open the government should be," Leahy said. "We have to hold all presidents and their administrations accountable to the highest standard." Republicans in Congress

have complained that the Obama administration hasn't been fully transparent in sharing records with lawmakers and the public, while the White House has criticized Congress for exempting itself from the requirements. FOIA does not apply to Congress.

The House passed a similar bill in January. Because the two bills are not identical, the House will have to act again to send the legislation to President Barack Obama. Maryland Rep. Rep. Elijah Cummings, the top Democrat on the House Committee on Oversight and Government Reform, urged Speaker Paul Ryan, R-Wis., to promptly pass the Senate bill, saying FOIA reform is long overdue. "There would be no better way to celebrate Sunshine Week than to send FOIA reform legislation to the president's desk," Cummings said.

THE DAILY ASTORIAN

Evening listings
THURSDAY

THURSDAY EVENING				MARCH 17									
A	L	6 PM	6:30	7 PM	7:30	8 PM	8:30	9 PM	9:30	10 PM	10:30	11 PM	11:30
2	KATU	(2) KATU News at 6		Jeopardy!	Wheel of Fortune	Grey's Anatomy "Odd Man Out" (N)	Scandal "I See You" (N)	With Murder "Anna Mae" (SF) (N)	KATU News at 11	(35) Jimmy Kimmel			
3	KOMO	(4) KOMO 4 News		Wheel of Fortune	Jeopardy!	Grey's Anatomy "Odd Man Out" (N)	Scandal "I See You" (N)	With Murder "Anna Mae" (SF) (N)	KOMO 4 News	(35) Jimmy Kimmel			
4	KING	(5) NBC Nightly News	KING 5 News	KING 5 News	Evening	Apocalypse "Saviour Day" (N)		Shades of Blue "The Breach" (N)	KING 5 News	(35) Tonight Show			
6	KOIN	(4:00) NCAA Basket.	NCAA Basketball Division I Tournament (L)					Extra	Ent. Tonight	KOIN 6 News @ 11	(35) S.Colbert		
7	KIRO	(4:00) NCAA Basket.	NCAA Basketball Division I Tournament (L)					KIRO 7 Profiles	Judge Judy	KIRO 7 Profiles	(35) S.Colbert		
8	KGW	(5:30) NBA Basketball	Portland Trail Blazers at San Antonio Spurs (L)			Apocalypse "Saviour Day" (N)	The Blacklist	Shades of Blue "The Breach" (N)	KGW News at 10	(35) Access H.	Met Your Mother	Met Your Mother	
9	KRCW	(3) Seinfeld	Seinfeld	Modern Family	Modern Family	DC's Legends of Tomorrow "Fail Safe"	The 100 "Wanheda" Pt. 1 of 2	Shades of Blue "The Breach" (N)	KGW News at 10	(35) Access H.	Met Your Mother	Met Your Mother	
10	KOPB	(10) Burt Wolf: Travels	Business (N)	PBS NewsHour		Oregon Revealed 2: Coastal Wonder	Painting the Town	Portland, Oregon	To Be Announced				
12	KPTV	(12) 6 O'Clock News		Family Feud	Family Feud	American Idol "Top 5 Perform" (N)		10 O'Clock News			11 O'Clock News	Loves Ray 2/2	
13	KPDx	(3) Mike & Molly	Mike & Molly	Big Bang Theory	Big Bang Theory	FOX 12's 8 O'Clock News on PDX-TV	FOX 12's 9 O'Clock News on PDX-TV	The Mentalist "Paint It Red"			The Mentalist "Crimson Casanova"		
13	KCPQ	(13) Name Game	Modern Family	Big Bang Theory	Big Bang Theory	American Idol "Top 5 Perform" (N)		Q13 News at 10			Q13 News	Modern Family	
20	TBS	(20) (4:15) NCAA Basket.	(45) NCAA Basketball Division I Tournament (L)				American Dad	American Dad	American Dad	Cleveland Show	Conan		
22	KZJQ	(22) Two and Half Men	Two and Half Men	The Simpsons	The Simpsons	Modern Family	Modern Family	Q13 News at 9		Big Bang Theory	Big Bang Theory	Friends	Friends
29	ESPN	(29) (4:00) MLB Baseball	Spring Training (L)	Baseball Tonight (L)		SportsCenter		SportsCenter		SportsCenter	SportsCenter		
30	ESPN2	(30) (5:00) Tennis BNP	Paribas Open Site: Indian Wells Tennis Garden -- Indian Wells, Calif. (L)				NBA Tonight	Jalen & Jacoby (N)	SportsC Featured	College Gameday	Scoreboard (L)	NBA Tonight	
31	NICK	(31) The Thundermans	The Thundermans	Paradise Run	School of Rock	*** Cloudy With a Chance of Meatballs '09	Anna Faris, Bill Hader.	Full House	Full House	Friends	Friends	Friends	
32	DISN	(32) Austin & Ally	Austin & Ally	Girl Meets World	K.C. Undercover	*** Wizards of Waverly Place: The Movie	Selena Gomez.	(45) Best Friends	(10) Austin & Ally	(35) Bunk'd	Liv and Maddie	Girl Meets World	
34	FAM	(34) Movie	(45) *** Bedtime Stories (2008, Fantasy)	Keri Russell, Guy Pearce, Adam Sandler.			*** Despicable Me '10	Ani	Voices of Jason Segel, Russell Brand, Steve Carell.		The 700 Club		
35	FMC	(35) (5:00) The Twilight Saga: Eclipse	(20) *** Final Destination 5 '11	Emma Bell, Arlen Escarpeta, Nicholas D'Agosto.			(10) FXM Presents	*** Flight (2012, Drama)	Nadine Velazquez, Carter Cabassa, Denzel Washington.				
36	LIFE	(36) Project Runway: All Stars	Project Runway "Fashion 911"		PR All Stars Social "Birthday Suits" (N)	Runway "Going for Baroque" (N)	Mother Daughter "Headlines Don't Lie"	Mother Daughter Exp. "Grave Regrets"					
38	ROOT	(38) West Coast Customs	Red Bull Air "Putrajaya" Daring pilots do stunts in Malaysia.	In Depth	Halls of Fame	The Game 365	DFL Soccer						
39	FS1	(39) (5:00) UFC Fight Night		Fox Sports Live	Fox Sports Live	Best I Heard (N)	Best I Heard (N)	Lip Sync Battle	Lip Sync Battle	Lip Sync Battle	Lip Sync Battle	Law Abiding Citizen '09	Jamie Foxx.
43	SPIKE	(43) Movie	*** The Expendables 2 (2012, Action)	Liam Hemsworth, Jason Statham, Sylvester Stallone.			Lip Sync Battle	Lip Sync Battle	Lip Sync Battle	Lip Sync Battle	Idiot'sitter (SF) (N)	The Daily Show (N)	Nightly Show (N)
44	COM	(44) (2:20) Futurama 4/4	(50) South Park	(25) South Park "Reverse Cowgirl"	(55) Tosh.0	(25) Tosh.0	Tosh.0	Tosh.0					
45	HIST	(45) Pawn Stars	Pawn Stars	Pawn Stars "Rick's Roulette"	Pawn Stars	Pawn Stars	Vikings "Yol"	Vikings "Promised" (N)			Join or Die (N)	(35) Class (N)	
46	A&E	(46) The First 48	The First 48 "Murder in Treme"	The First 48 "Blood Lust" (N)	The First 48 "Broken Home"	60 Days In "Cell Shock" (N)	Fat Chance "Ta Tiana"	Naked and Afraid "Edge of Madness"					
47	TLC	(47) BeautyMaster "The Battle Begins!" (N)	My 600-lb Life "Zsallyn's Story"	600 Life: Supersized "Milla's Story" (N)	Extreme Weight Loss "Jason and Rachel"								
48	DISC	(48) Naked and Afraid "The Darkest Hour"	Naked and Afraid "Himalayan Hell"	Naked "Easier Said Than Done"	Naked and Afraid "All or Nothing"	Naked "The Serpent Garden"	Naked and Afraid "Help Wanted"	Big Fish, Texas "Hurricane Buddy"					
49	NGEO	(49) Life Below Zero "The Unknown"	Life Below Zero "Ice Highway"	Life Below Zero "Darkness Falls"	Separation "Clancy and Adam" (N)	Super. "The Man Who Would Be King"	Supernatural "Let It Bleed"	Supernatural					
50	TNT	(50) (1:15) NCAA Basketball											
51	AMC	(51) (5:30) *** Rocky II (1979, Drama)	Talia Shire, Burt Young, Sylvester Stallone.	*** Rocky III (1982, Drama)	Talia Shire, Carl Weathers, Sylvester Stallone.	*** Rocky IV (1985, Drama)	Talia Shire, Sylvester Stallone.	Law & Order: S.V.U. "Funny Valentine"	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	
52	USA	(52) Law & Order: S.V.U. "Mercy"	Law & Order: S.V.U. "Pandora"	WWE Smackdown! WWE superstars do battle in long-running rivalries.	Colony "Gateway" (SF) (N)	Colony "Gateway" (SF) (N)	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	Beat Bobby Flay	
53	FOOD	(53) Chopped "Peri Peri Determined"	Chopped "Bizarre Battle"	Chopped (N)	Cooks vs. Cons "Burger Battle" (N)	House Hunters	House Hunters (N)	Masters of Flip "House of Blues" (N)					
54	HGTV	(54) Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	Flip or Flop	
56	FX	(56) (5:30) *** Gravity '13	George Clooney, Sandra Bullock.	*** The Heat (2013, Comedy)	Melissa McCarthy, Michael McDonald, Sandra Bullock.								
57	CNN	(57) Anderson Cooper 360	CNN Tonight With Don Lemon	Anderson Cooper 360	CNN Newsroom	CNN Newsroom	CNN Newsroom	CNN Newsroom	CNN Newsroom	CNN Newsroom	CNN Newsroom	CNN Newsroom	
58	FNC	(58) The Kelly File with Megyn Kelly	Hannity	The O'Reilly Factor	The Kelly File with Megyn Kelly	Hannity	On the Record	On the Record	On the Record	On the Record	On the Record	On the Record	
61	CNBC	(61) Shark Tank	Shark Tank	American Greed "The Dirtiest Con"	American Greed "The Jersey Shore"	American Greed: Scam	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	
63	BRAV	(63) Top Chef "Wok This Way"	Top Chef "Back Where It All Started"	Top Chef "Magic Hour"	Top Chef "Finale" (SF) (N)	Deception "We Can Pickle That" (N)	WatchWhat (N)	Top Chef					
64	TCM	(64) (5:00) Viridiana (1961)	*** Kiss Me, Stupid! (1964, Comedy)	Kim Novak, Ray Walston, Dean Martin.	*** Blow Up (1966, Police)	Vanessa Redgrave, Sarah Miles, David Hemmings.	Never on Sunday '60	Melina Mercouri.					
65	SYFY	(65) (5:00) Apocalypse L.A. '14	Justin Ray. *** Legion (2010, Action)	Lucas Black, Tyrese Gibson, Paul Bettany.	*** Resident Evil (2002, Action)	Michelle Rodriguez, Oscar Pearce, Milla Jovovich.	Leprechaun's Revenge '12	Billy Zane.					
162	RFD	(162) SF Machinery	Small Town	Rural America "Live" "AARP Live"	Steve Lantvit	Rural Eve. News	Market Journal	GA Farm Monitor	SF Machinery	Small Town	Time Life Library		

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