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OTHER VIEWS

Legislative proposals aren't a state secret

The Oregonian

It seems self-evident that the entire process of making new laws should be open to the public. Legislating is inherently of public interest — actions by government to tax, mandate, restrict or otherwise exert control over its constituents should be something that those constituents can weigh in on from the very start. But for reasons that remain unclear, that's not the tack that Gov. Kate Brown's administration is taking.

Contrary to previous years, the state recently denied a Portland attorney's request for documents showing the 234 proposals for bills that the governor's office is sending on for legislative consideration. As the Capital Bureau's Paris Achen reported, attorney Gregory Chaimov has routinely received copies of the documents — in which state agencies outline the problem they want to solve and their proposed fix — since 2010. Chaimov uses the information to advise and assist clients who may be affected by such proposals.

This time, however, the Oregon Department of Administrative Services refused to release the forms, claiming they were protected by attorney-client privilege — an interpretation backed by Oregon Attorney General Ellen Rosenblum. The forms will be released only after the Office of Legislative Counsel, which drafts bills for consideration by the Legislature, submits the written proposals to the governor's office for approval — by the end of November, weeks after Brown's tight gubernatorial race with challenger Knute Buehler is decided.

Legally, there are a couple problems with the state's position, according to Chaimov's attorney John DiLorenzo, who is suing to force the state to release the documents. Bill drafting services by the Office of Legislative Counsel aren't legal services protected by attorney-client privilege, DiLorenzo maintains. The Legislative Counsel may only represent the Legislature. Allowing the Legislative Counsel to serve as the attorney for the state agencies that make up the executive branch would violate the Oregon Constitution's separation of powers clause, he told *The Oregonian*/OregonLive Editorial Board.

Now it's worth pointing out that Chaimov is not just any Portland attorney. He served as the legislative counsel from 1998 until 2004. So, he intimately knows the role of the legislative counsel and whom the office serves. It's also worth noting that the current legislative counsel, Dexter Johnson, declined to comment on whether he believes that drafting bills for executive branch proposals is a service protected by attorney-client privilege.

But there are other aspects that should trouble Oregonians. As Achen wrote, the forms now warn that "Although it is expected that agencies will have discussed legislative concept ideas with stakeholders, agencies are directed to treat this document as confidential and privileged and, accordingly, not to share the text of this form outside of state government before legislation is drafted and finalized."

EO file photo

Gov. Kate Brown signs House Bill 4023, which increases broadband for rural schools, on April 27, 2018 at the Pendleton Technology and Trade Center.

In other words, some select members of the public — those "stakeholders" deemed relevant by state agencies — have been privy to the legislative ideas that are outlined in the documents that the state refuses to disclose. That suggests those concepts are not in fact confidential, a critical component for attorney-client privilege. And more important, there's the inherent unfairness of allowing favored "stakeholders" to know what's on deck for the coming legislative session while keeping others in the dark as long as possible.

Department of Administrative Services spokeswoman Liz Craig claims there's no change in policy, despite the fact that the state never denied Chaimov access to the documents in the past. She said the state agencies wanted to bring their practices in line with the Legislature, which has the authority to exert privilege over its work with Legislative Counsel — though lawmakers often choose not to. But this is not a compelling reason to hide documents, especially when compared with the benefit of telling the public what state agencies and the governor are teeing up for 2019.

The motivation for the refusal to disclose these forms may or may not be the pending election. It may or may not be a housekeeping move. But one thing is clear: It's another disappointing stand by a governor who pledged transparency from Day One. Brown should direct the Department of Administrative Services to release the documents and accept the scrutiny.

OTHER VIEWS

When a foreign adversary meddled in an election

BYRON YORK
Comment

In the 1990s, a hostile foreign power meddled in our presidential election. There were serious questions about whether one party's candidate — the beneficiary — was complicit in the meddling, or at least looked the other way while it was going on. The candidate fiercely resisted the appointment of a special prosecutor, then known as an independent counsel, to investigate. Finally, amid only moderate media interest and public concern, it all faded away.

The country doing the meddling, of course, was China, and the presidential candidate was Bill Clinton, who was already in the White House and seeking re-election in 1996.

Looking back on press accounts from the era, it's striking how brazen a number of the players were as they went about the task of funneling illegal foreign donations to the Clinton campaign and the Democratic National Committee. The names have been mostly forgotten now — Charlie Trie, John Huang, Johnny Chung — but the record remains.

Chung, for example, who was born in Taiwan and became a U.S. citizen, was a prolific Democratic fundraiser. Between 1994 and 1996, he gave $366,000 to the DNC and visited the Clinton White House more than 50 times.

In 1995, Chung gave a $50,000 check to first lady Hillary Clinton's chief of staff at an event on the White House grounds. His memorable explanation: "I see the White House is like a subway — you have to put in coins to open the gates."

In May 1999, Chung testified before the House Government Oversight Committee. He said that in 1996, during the Clinton re-election campaign, he met with the head of Chinese military intelligence in the basement of a restaurant in Hong Kong. "We really like your president. We hope to see him re-elected," the Chinese spy, Gen. Ji Shengde, told Chung, according to Chung's testimony. Gen. Ji continued: "I will give you 300,000 U.S. dollars. You can give it to the president and the Democratic Party."

"Chung's testimony has provided investigators the first direct link between a senior Chinese government official and illicit foreign contributions that were funneled into Clinton's 1996 re-election effort," the *Los Angeles Times* reported. "It is the strongest evidence — in two years of federal investigation — that the highest levels of the Chinese government sought to influence the U.S. election process."

In the great tradition of shady operators, Chung ended up taking a lot of the money for himself. But some of the cash from the head of Chinese military intelligence — that is, the People's Liberation Army — made its way into the Clinton re-election campaign and other Democratic efforts.

Earlier, Chung had testified before a grand jury that he had also contributed money that came from another officer in the People's Liberation Army and from the son of China's top military commander. Chung pleaded guilty to bank fraud, tax evasion and conspiracy in connection with some of his illegal contributions. He was sentenced to probation.

Then there was Charlie Trie, who raised $1.2 million in foreign money for the Clinton legal defense fund and the DNC. In March 1996, Trie dropped off a donation of $460,000 at the Washington offices of the defense fund, with some of the money in sequentially numbered money orders made out in the same handwriting. He visited the White House 22 times. He pleaded guilty to violating federal election laws and was sentenced to probation.

There was also John Huang, the Democratic fundraiser who raised more than a $1.5 million from illegal foreign sources. He visited the White House 78 times. Huang was an agent for James Riady, an Indonesian businessman with extensive ties to China. The Senate Governmental Affairs Committee found that Riady had "a long-term relationship with a Chinese intelligence agency." He pleaded guilty to campaign finance violations and was sentenced to probation, plus a multimillion-dollar fine.

As the news came out in the year after the election — with Clinton safely back in the White House — there were calls for an independent counsel to investigate. (The old independent counsel law was still in effect then.) Then-attorney general Janet Reno steadfastly refused. The Justice Department dawdled for months, and the investigation never reached the level it would have reached had an independent counsel been appointed. Republicans complained and complained, but Reno would not budge.

The scandal was news at the time; indeed, some print outlets, like the *Los Angeles Times*, led the way in uncovering it. The story received far less coverage on television, where several news outlets appeared distinctly uninterested. Overall, it would probably be fair to call the coverage moderate-to-restrained.

The rhetoric was restrained, too. To use one measure, it did not lead to widespread use of the word "treason" in the public discussion of President Clinton.

There is simply no comparison between the political conversation about the Clinton foreign influence scandal in the 1990s and today's conversation about the Trump-Russia affair. Of course, the circumstances and facts are different, but it seems reasonable to say that for whatever reason, Washington is far more upset about Russia's attempt to influence the election in 2016 than it was about China's attempt to do the same 20 years earlier.

■

Byron York is chief political correspondent for The Washington Examiner.

YOUR VIEWS

Learning about the 45-point rule in football

I would like to apologize to the coaches and football team in Pilot Rock.

What I learned after my talk with the athletic director is that there is a rule that says nothing can happen until the score reaches 45. Only after that can the game be called. It is up to the non-scoring team to call the game. If they want to continue to play the clock does not stop until the end of the game.

It makes sense. It was just painful to watch. I will remember this in the future and not feel bad when I see this happen again.

Of course, I don't want to see Pilot Rock on the other side of the 45-point rule!

Risa Riggen
Pilot Rock

Phil Knight making move on the Capitol in Salem

Phil Knight has already bought himself a university — actually two of 'em of late, if you count his financial holdings of sort at OHSU. Now he's out to buy a governorship.

Each in the name, of course, of promoting the "Just Do It" slogan.

Les Ruark
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