

O EAST OREGONIAN PINION

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OUR VIEW

Judge's decision should be reconsidered

A Clackamas County judge has opened a gaping loophole in Oregon's Public Records Law, and the state Court of Appeals needs to slam it shut, posthaste.

That seems the likely result, fortunately, because Judge Henry C. Breithaupt's recent oral ruling — he hasn't submitted a written version — contradicts not only the spirit of that 1973 law but also decades of all-but-universal interpretations of it, including by public officials who are required to comply with the law.

The gist of Breithaupt's ruling is that records created by local government officials — city councilors, county commissioners and school board members, for instance — are not subject to public disclosure under the law unless the records are "owned, used or retained" by a public body such as a city, county or school district.

If Breithaupt's interpretation were allowed to become legal precedent, it could potentially allow public officials from cities, counties, school districts and other entities across the state to deprive citizens of access to all manner of documents that the law clearly intends for them to be able to see.



The Oregonian Photo/Therese Bottomly

Oregon's public records law, first adopted in 1973, is supposed to allow Oregonians to find out what their government officials at all levels are doing. But if a ruling by Judge Henry Breithaupt of Clackamas County goes unchallenged, that might change.

For example, if a city councilor writes something related to city business but doesn't make a copy available to the city itself, under Breithaupt's concept that document would not be a public record.

This is such an obvious perversion of the Public Records Law's purpose — the law defines a public record as "any

writing that contains information relating to the conduct of the public's business" — that it seems unlikely a higher court would agree with Breithaupt.

The problem, as it were, seems to lie with a clause in the law that defines public bodies, which are subject to the law, as "every state officer" but then lists "every county and city governing

body (and) school district" but does not, as in the case of state government, specifically list every public officer at the city, county and school district level.

This is the sort of minor oversight that can be easily remedied by the Legislature tweaking the language.

But it hardly justifies reversing decades of precedent that makes it abundantly clear that records created by elected or appointed public officials, whether they work for the state or a city, county or school district, are indeed public records wherever the records happen to be kept.

Duane Bosworth, an attorney who has represented media organizations across the state on public records and meetings issue and has advised other EO Media Group papers in the past, told *The Oregonian* that Breithaupt's ruling should be appealed "because it is a bad precedent."

Oregon's public records advocate, Ginger McCall, agrees. She told *The Oregonian* that Breithaupt's opinion differs from how she interprets the law, an interpretation she said she shares with the state archivist, attorney general's office and others. "Everybody," in fact, is how McCall put it.

Except, it seems, one judge.

OTHER VIEWS

Administration sets sights on food stamps

Corvallis Gazette-Times

The Trump administration has been consistent in its desire to make cuts in the nation's food stamp program, and so its most recent proposal along these lines doesn't come as a surprise.

Most recently, the administration has proposed a rule that potentially could eliminate food stamp benefits for about 3.1 million Americans. It's not clear yet how many people that would affect in Oregon, but nationwide, the proposal would affect 9% of households. If that percentage holds true in Oregon, some 60,000 people here could lose access to food stamps.

The U.S. Agriculture Department said last week that the rule would close a loophole that allows people receiving only minimal benefits from the Temporary Assistance for Needy Families program to be eligible automatically for food stamps without undergoing additional checks on their income or assets.

"For too long, this loophole has been used to effectively bypass important eligibility guidelines. Too often, states have misused this flexibility without restraint," Agriculture Secretary Sonny Perdue said in a statement. The proposed savings would amount to about \$9.4 billion over five years, the administration said.

The loophole in question allows states to automatically make people eligible for food stamps (the official name of the program now is SNAP, which stands for the Supplemental Nutrition Assistance Program), if they meet income and other requirements for the Temporary Assistance for Needy Families program, better known by the acronym TANF. The Agriculture Department says 43 states have taken advantage of that so-called "expanded categorical eligibility." The result, the department said, is that people receive food stamps who don't need it and wouldn't qualify under regular program rules.

Remember that TANF is meant to give low-income families with children money they need to cover child care and other expenses. Most states, including Oregon, automatically enroll families in SNAP once they obtain TANF benefits. The new rule, if it goes into effect, would prevent

states from doing this.

It's also worth remembering that even though 85% of TANF families also get SNAP benefits, the vast majority of them still live in poverty, according to an analysis by two professors at the University of Michigan. So the idea that some recipients are unduly cashing in on both TANF and SNAP rings hollow.

Finally, keep this in mind: These programs are meant to give help to struggling families. By extension, that means children benefit from these programs; in fact, nearly half (44%) of SNAP recipients are children.

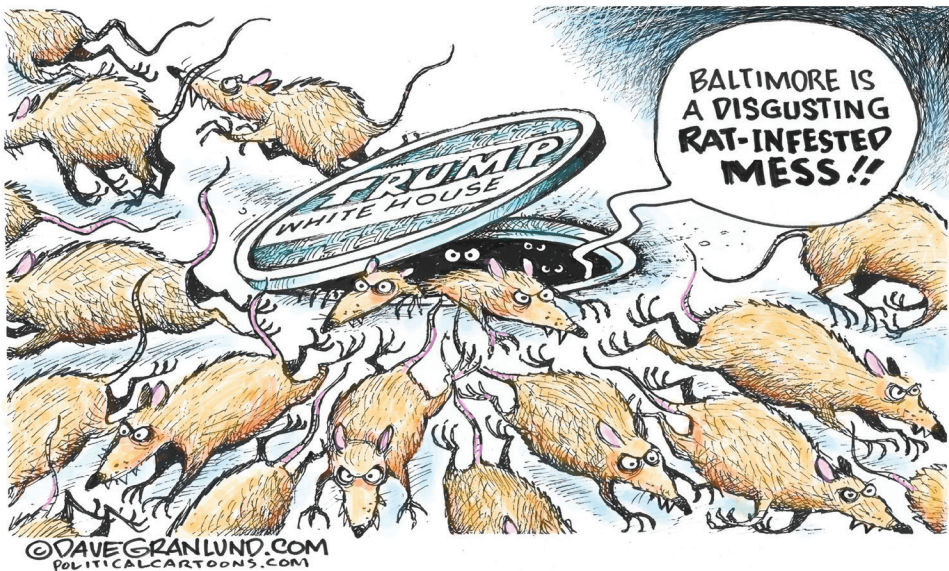
There's a long-term investment that comes from these SNAP dollars: The University of Michigan professors cited a study showing that people who had access to SNAP benefits as children earned higher incomes and were less likely to develop chronic diseases as adults.

There's a short-term economic benefit as well: The Agriculture Department has estimated that every dollar invested in SNAP generates \$1.79 in economic activity, and that pays a dividend for agricultural producers.

The proposal isn't the first salvo the administration has fired against SNAP: You might recall, for example, the proposal in its 2019 budget blueprint to replace half of SNAP benefits with what it called "harvest boxes," containing nonperishable food items such as cereals, beans and canned goods. Congress rejected the proposal, but it has returned in the administration's 2020 budget draft.

If the administration's goal with its most recent proposal is to rein in an out-of-control federal program, the numbers don't bear that out: As the economy has improved, the number of SNAP benefits has dropped, from 47.6 million in 2013 to 39.7 million in 2018. The amount of money spent on the program has dropped as well, from \$79.9 billion in 2013 to \$64.9 billion in 2018.

If the administration is serious about cutting the amount the nation spends on feeding hungry families, a better approach might be to do whatever it can to keep the economy humming. Or it could continue its efforts to squeeze a few bucks from the neediest in our country.



YOUR VIEWS

Sell the old fire station and fund street repairs

My letter to the editor approximately six weeks ago suggested using the proceeds from the sale of the old fire station and other adjoining properties be used for city street repair.

The city is in the process of asking for suggestions from "qualified and experienced developers" for a project that would "stimulate" the downtown corridor. I earlier said the city should put it on the market and not worry about the buyer or their plan for development. Get the sale and go forward

with the street repairs.

Hey, how about the tribes? They could use this property as an outlet store for their recent purchase (Hamley's). Seems like they have the money. With the Hamley's and country club purchases, they have spent almost \$4.5 million. I'm sure they still have a little more left to spend.

Taxpayers: Call your council representative and offer my suggestion. I have had several people who have said they support my idea.

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