

Opinion

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EDITORIAL

Records advocate is quitting

Gov. Kate Brown's decision to hire Oregon's first public records advocate in January 2018 was a promising step toward addressing deficiencies with how agencies, at both the state and local level, comply with the state's public records law.

It's troubling, though, that the first person to have the job, Ginger McCall, on Monday announced her resignation, effective Oct. 11. McCall cited "meaningful pressure from the Governor's General Counsel to represent the Governor's Office's interests on the Public Records Advisory Council, even when those interests conflict with the will of the Council and the mandate of the Office of the Public Records Advocate."

McCall said that during a January 2019 meeting with Misha Isaak, the governor's general counsel, Isaak told McCall she should be "less ambitious."

Worse yet, considering the ostensible purpose of McCall's position is to ensure that the public — which is to say, each of us — has access to records to which we are legally entitled, McCall said she felt that Isaak had implied she should not reveal, in particular to journalists, that she was expected to parrot the governor's office script even if it conflicted with her beliefs.

In other words, the state official supposedly committed to transparency says she was told to drape an opaque cloak over crucial aspects of her job.

Brown's communications director, Chris Pair, disputes McCall's claims that she was pressured.

Pair said the Legislature, in creating the Office of the Public Records Advocate, decided that the position would be under the governor's authority.

This might well be part of the problem here.

If McCall's successor is to truly serve as an advocate for the public, rather than a mouthpiece for the government, then he or she needs to be insulated from influence, whether direct or implied, from state officials.

That's because there is an inherent, and unfortunate, tension between government officials who hold these records, and members of the public, including journalists, who want to have a look at those records as the law prescribes.

McCall cited shortcomings in how the law is applied in November 2018 with her first public report about transparency in Oregon. She noted, among other things, that the fees agencies charge to supply public records are "highly discretionary" and "a perennial source of animosity, confusion, and frustration for public bodies and requesters alike."

McCall also pointed out that the law has "little accountability" for agencies that fail to comply with records requests.

A potential model for Oregon's public records advocate is the position that was once relatively common in America's larger newspapers but today, sadly, is rare — an employee known as either the public editor or the ombudsman.

The basic idea was that the public editor would hold the newspaper accountable for errors but also, and more importantly, examine, with the eye of a journalist, potential lapses in ethical standards.

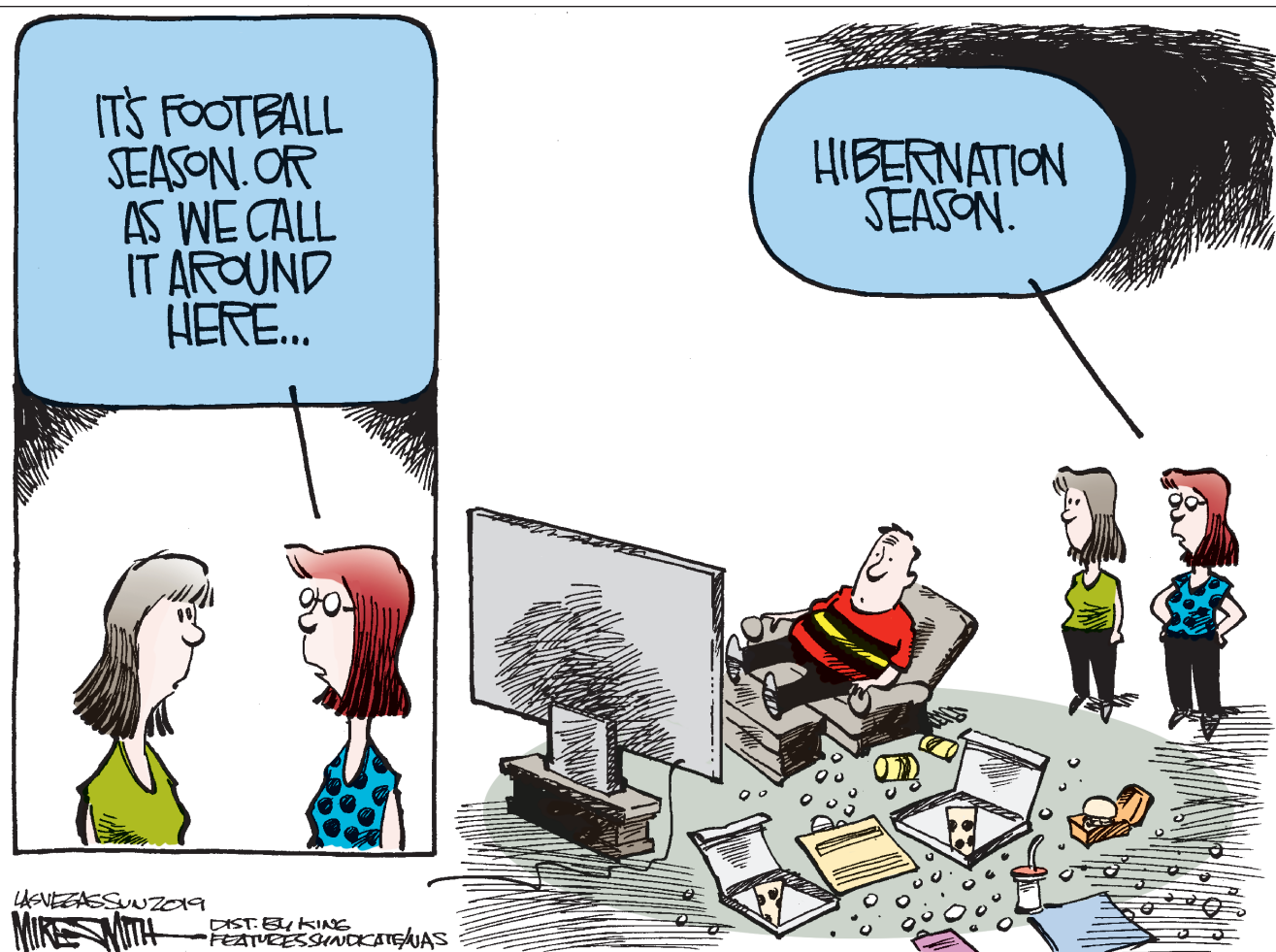
This concept was credible, of course, only when the newspaper published the public editor's findings, and opinions, without alteration or influence.

Newspapers are private businesses. They are not subject to the public records law. Yet they seem to value the independence of an ombudsman more than Oregon state officials do.

Gov. Brown said Monday that she agrees with McCall that the records advocate "should be truly independent." Brown also said she planned to meet with McCall to discuss ways to "create a truly independent position."

That shouldn't be difficult. The governor should start by making sure her next general counsel — Brown appointed Isaak to the Oregon Court of Appeals, effective Nov. 1 — supports the independence of the public records advocate rather than cajoles that person to defer to the governor's office.

— Jayson Jacoby, Baker City Herald editor



Taxes a bigger obstacle to climate plans than skepticism

RAMESH PONNURU

Much has been made of the willingness of Democratic presidential candidates to risk taking positions that aren't popular with voters at large in order to boost themselves in the primaries. Democratic politicians and strategists are aware that most people don't want to see private health insurance banned, for example, but such leading contenders as Senators Elizabeth Warren and Bernie Sanders have come out for it anyway.

There has been less focus on the political risks of the candidates' approach to climate change. In part that's because so many Republicans have taken their own unpopular stance on the issue: denying that there's a problem. Gallup finds that nearly two-thirds of voters believe that human activity is causing the globe to get warmer, and that percentage has been rising over the years. Young voters are especially concerned about the issue. It's part of the reason that some Republicans, such as Representative Matt Gaetz of Florida, have broken with many of their colleagues on the matter. "I think history will judge very harshly those who are climate deniers," he said.

But the Democrats may be getting overconfident. At last week's "climate town hall" on CNN, Senator Warren, former Vice President Joe Biden, and South Bend, Indiana, Mayor Pete Buttigieg all endorsed a carbon tax. Senator Kamala Harris did, too, although she called her tax a "fee." All of these candidates are breaking with past Democrats. Neither President Barack Obama nor Hillary Clinton endorsed a carbon tax. A memo for the Clinton campaign estimated that a carbon tax

of \$42 per ton on greenhouse-gas emissions would raise annual energy costs by \$478 for the average household, and by \$268 for the poorest fifth of households.

When considering that number, keep in mind another poll finding. In November 2018, the AP-NORC Center for Public Affairs Research ran a survey about climate change that found, in line with other polls, that most Americans believe it is happening and that human activity is causing it. Nearly half of respondents said that recent extreme weather events had influenced their thinking on the issue. But 68 percent opposed paying even \$10 extra in their monthly utility bills to address the issue.

The Clinton campaign's memo also noted that the revenues from the tax could be rebated so that only the highest-earning fifth of households ended up with a net tax increase. But this should be less reassuring to Democrats than it appears. For one thing, several of the candidates either aren't promising to rebate the taxes or aren't emphasizing the point to deflect the inevitable attack on them. When asked about carbon taxes, Warren and Biden didn't say they would have a rebate. Harris said that some of the money would go "to empower those communities that for too long have been ignored," which doesn't sound like a tax rebate.

Even a tax increase on the top fifth of households is a heavier political lift than Democrats have been prepared

for. A household with an annual income of \$130,000 is in that fifth. The tax increases of the last two Democratic presidents kicked in at a much higher threshold. And the gross cost may matter politically, not just the net cost. Even if the Democrats promise a rebate, Republicans can sow doubt that voters will actually see one.

Washington State's relatively liberal electorate has rejected carbon taxes twice in recent years. In 2016, a carbon tax was paired with a sales-tax cut and drew the opposition of 59% of voters. In 2018, on a generally good day for liberal causes, 56% opposed a carbon tax with no rebate.

You can approve or disapprove with the public's low tolerance for higher costs in the fight against global warming. (I myself favor lower-cost alternatives to carbon taxes.) But even those who consider it shortsighted have to reckon with it. Resistance to the costs of taxes and regulations is likely to be a bigger obstacle to climate plans, in the end, than disbelief in global warming.

The journalists at Vox did one of those round-ups of who won and lost from the climate town halls. (Winner: CNN; loser: meat.) But they ignored someone who might turn out to be the biggest winner: President Donald Trump, who will surely hit the cost issue hard as we get closer to the election.

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OUR VIEW

Disclosure the best voter insurance

On Sept. 4 the Oregon Supreme Court refused to delay hearing arguments in a campaign finance case from Multnomah County until after the 2020 election. The delay raises the possibility that campaign contributions could be limited before the 2020 general election.

Court direction about what's legal and what's not should set a clearer path for any campaign finance proposals in Oregon. But it may well be that swift and accurate reporting of campaign contributions and spending is a better way to reform the system.

Limiting campaign spending always raises thorny questions of limiting free speech. Disclosure requirements certainly have complications, as well, but nowhere near those of limits.

Several business groups asked the state's highest court to delay hearing and, presumably, deciding if campaign finance limits put in place in Multnomah County pass constitutional

muster until after the 2020 general election. They argued hearing the case now, just over a year from that election, is inappropriate, given the timing involved. The court rejected that argument.

The court's final ruling on this matter has to do with its 1997 decision in *Vannatta v. Keisling*. That said donor limits violate the state's guarantee of free speech. If the court decides that decision was wrong, a ballot measure

Letters to the editor

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approved in 2006, which sets very strict limits, would become law. A decision like that also would have repercussions for a 2020 campaign finance ballot measure placed by the 2019 Legislature. That measure is aimed in part at killing the 2006 limits and setting a new judicial standard for setting new caps.

One recurring problem in attempts to set campaign finance limits is that donors who are determined to give can nearly always find a way to do so. Many Oregonians, including us, worry about the influence of money in politics — or at least the amounts spent and the efforts candidates must go through to raise money. Setting limits on spending may promise a lot and only deliver a little.

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