

Ethics investigation of Kitzhaber, Hayes to move forward

By Paris Achen
Capital Bureau

The Oregon Ethics Commission will pursue an official investigation of former Gov. John Kitzhaber and first lady Cylvia Hayes.

The commission vote, taken in a meeting closed to the public as provided by Oregon law, was based on a preliminary review report and recommendation by ethics commission investigator Marie Scheffers.

The investigator reported "there appears to be a substantial objective basis" to believe that Kitzhaber and Hayes may have violated state government ethics law.

The vote to pursue an official investigation was unanimous, 7-to-0, said Ron Bersin, executive director of the ethics commission.

The watchdog agency in February

2015 had suspended a preliminary review of three complaints of alleged ethics violations against the couple, triggered by pending state and federal investigations.

The allegations concerned use of the public office for profit, conflict of interest and inappropriate acceptance of gifts.

Janet Hoffman, Kitzhaber's lawyer, wrote in a July 12 letter to the commission that the preliminary review report by the commission staff "relies almost entirely on news stories based on speculation and cherry-picked excerpts from a handful of former Governor Kitzhaber's personal emails."

"Such speculation does not amount to substantial objective basis for pursuing an (ethics commission) investigation, and this politically motivated complaint attacking former Governor

Kitzhaber's integrity should be dismissed," Hoffman added.

Kitzhaber and Hayes had been under criminal investigation for more than two years after Willamette Week reported the first lady may have used her position to win several consulting contracts. The scandal eventually prompted Kitzhaber to resign from office in February 2015.

The commission resumed the ethics review late last month after the U.S. Attorney's Office announced no criminal charges would be filed against the couple. The state Department of Justice abandoned its investigation of the couple because its statute of limitation had expired during the federal probe.

Under commission rules, ethics investigators must conduct a preliminary review to determine whether to launch a full investigation.

State ethics investigators have up to 180 days to complete the full investigation and can request a 30-day extension, if more time is needed.

The investigation could entail poring through as many as 4 million pages of documents obtained by the DOJ and two flash drives, according to preliminary review documents.

Even though Hayes was an unpaid adviser in Kitzhaber's office, she and other volunteers are still subject to state ethics law.

Disclosures at the time showed Hayes used a desk, office and computers at the Capitol, according to a report by The Oregonian. Complaints further state that Hayes filed expenses with the state, advised on energy policy related to her environmental consulting business, and had staff from the governor's office make her travel arrangements. She benefited from re-

ceiving consulting contracts as a result of her public office, according to the October 2014 complaint. An Oregon Business Council grant paid \$35,000 to give Hayes her own spokesperson while Gov. Kitzhaber was promoting the council's interest in the Oregon Business Plan, the complaint states.

Lisa Hay, Hayes' federal public defender in the federal investigation, wrote in an April 18 letter that Hayes made a "good faith" effort to work within the boundaries of her role.

"Any errors in adhering to state ethics rules or statutes were the result of confusion with the administration, mistakes and the lack of clear guidelines for an unmarried partner and not due to criminal intent to commit fraud."

Kitzhaber and Hayes could face fines of up to \$5,000 per violation or as little as a letter of reprimand.



EO Media Group/Mateusz Perkowski

Interior Secretary Ryan Zinke, left, and Rep. Greg Walden, R-Ore., speak Saturday about the borders of the Cascade-Siskiyou National Monument at Hyatt Lake, which abuts the monument.

Zinke: How monument's boundaries were set remains a mystery

By Mateusz Perkowski
EO Media Group

Since undertaking a review of Oregon's Cascade-Siskiyou National Monument, Interior Secretary Ryan Zinke hasn't gotten a satisfactory answer to a key question.

"How were the boundaries made? Nobody knows how the boundaries were made," Zinke said during a July 15 visit to the monument.

The original 53,000-acre monument was created in 2000 but was increased to roughly 100,000 acres by the Obama administration last year.

It's now one of 27 national monuments created in the last two decades that are under review by the Trump administration.

Zinke's recommendation for potential changes to the Cascade Siskiyou's monument is due Aug. 23, after which any final decision will be in President Donald Trump's hands.

"He's the best boss I've ever worked for. He doesn't micromanage," said Zinke.

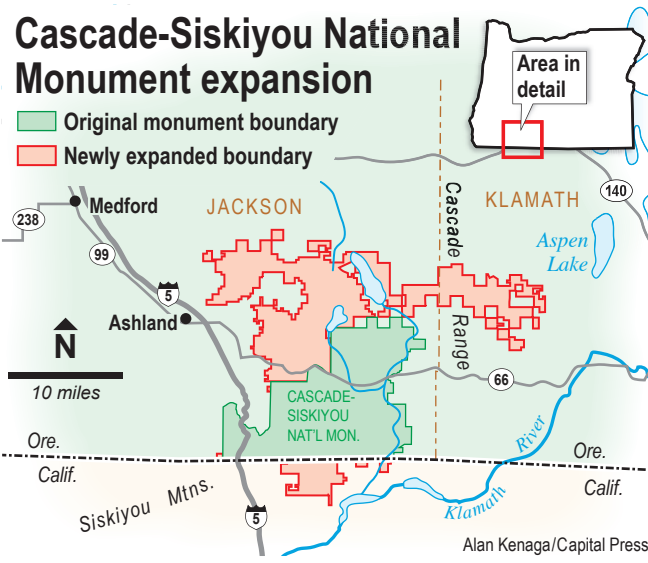
Unlike many national monuments, the Cascade-Siskiyou isn't known for a particular geological feature, but rather for its unique biodiversity.

"Other monuments don't have the same object," said Zinke.

Another particular trait of the Cascade-Siskiyou is the large amount of private land that's enclosed within its boundaries, which can create access problems for landowners, he said.

While he's prepared to accept the premise that the area's flora and fauna justify a monument designation, Zinke said the Cascade-Siskiyou's boundaries seem arbitrary in some areas.

So far, nobody at the Interior Department has taken respon-



sibility for drawing the boundaries or explaining their placement, he said.

It's become clear the boundaries weren't established at the direction of local U.S. Bureau of Land Management officials, Zinke said.

"They had nearly no input in drawing the boundaries and that concerns me," he said.

Any changes to the national monument would be based on science — specifically, which areas contain watersheds, plants, animals, soils and geological features that should be protected, Zinke said.

Zinke is also examining how the boundaries affect traditional economic uses, such as grazing and timber, as well as recreational uses, including hiking, snowmobiling and horseback riding.

A top concern is that managing the land as a wilderness increases the amount of fuels that can contribute to a catastrophic fire, he said.

"Burning habitat down is not acceptable," Zinke said.

Grazing is an important industry in the region, but it's also a tool to keep those fuels in check, said Rep. Greg Walden,

R-Ore., who accompanied Zinke on the two-day trip.

"Cattle can play a productive role," Walden said.

Legal precedents have made clear that presidents can modify national monuments — it has occurred 18 times in the past, Zinke said.

The law is less certain when it comes to an outright rescission of a monument, Zinke said.

Such a decision would have to be substantially justified by the science, he said.

National monuments have been controversial since the first one — the Devils Tower in Wyoming — was designated by President Theodore Roosevelt in 1906, Zinke said.

Such designations have protected some of the greatest national treasures in the U.S., he said.

At the same time, Zinke said he's a strong advocate of multiple uses for public lands.

"Public land is not a political issue, it's an American issue," he said.

During a stop at Hyatt Lake, which abuts the monument, Zinke was greeted by supporters and opponents of the monument.

Term limits would remove 25 legislators from office

By Paris Achen
Capital Bureau

Voter approval of a proposal to enact term limits for state lawmakers would wipe out nearly one-third of the Oregon Legislature membership, according to analysis by a lawyer for the state labor union director.

Harry B. Wilson, SEIU's counsel, submitted the analysis on behalf of Matt Swanson, SEIU state council executive director, Monday to weigh on Initiative Petition 19 for the "Maintain a Citizen Legislature Act."

The proposal by former GOP gubernatorial nominee Bud Pierce would prohibit state legislators from serving for more than eight years in a 12-year period.

If approved for the ballot and passed by voters in 2018, the act would take effect immediately and apply retroactively. That means incumbents with more than eight years in office would have to leave office as soon as election results were official. Incumbents who are re-elected in 2018 would be allowed to serve out those terms, two years for representatives and four years for senators, but they would be removed from office for several weeks between the election and the beginning of their new terms in January.

Wilson identified at least 25 lawmakers who would be affected by the term limits and wrote that the measure "could have profound consequences."

The 20-member legislative Emergency Board, which allocates funds to agencies in between legislative sessions, would lose eight members.



Pamplin Media Group

Initiative Petition 19, a term limit measure backed by former GOP gubernatorial candidate Bud Pierce, would cost 25 sitting legislators their seats, according to analysis by a lawyer for SEIU Oregon State Council.

House Speaker Tina Kotek, D-Portland, and Peter Courtney, D-Salem, the longest serving Senate president in the state's history, would be among the 25 lawmakers who would have to leave office under the initiative.

The Speaker and Senate President are the last two officials from the gubernatorial line of succession.

"It would interrupt the operation of the state boards and commissions, much of which are led in party by representatives and senators," Wilson wrote. Swanson said the initiative is poorly written and would leave a potentially disruptive power vacuum.

Pierce, a Salem oncologist who has hinted at future political aspirations, acknowledged that the immediate effective date of the initiative could create short-term inconveniences at the Legislature. He said he chose to propose the measure as a statutory change, rather than a constitutional amendment, so that lawmakers could fix any flaws in the proposal

after voter approval.

Term limits have worked well for state-level officials and in other states such as California, Pierce said.

"It's not a panacea, but I think it is an important step," Pierce said. "There is just too much power in the incumbency."

That power hold keeps the state from solving some of its biggest problems, he said.

He will need at 88,184 signatures to win a place on the 2018 ballot.

In all, 16 Democrats and nine Republicans would be required to leave office under the proposal: Senate President Courtney, Speaker Kotek, Rep. Sal Esquivel, R-Medford; Rep. Paul Holvey, D-Springfield; Rep. Phil Barnhart, D-Eugene; Rep. Nancy Nathanson, D-Eugene; Rep. Andy Olson, R-Albany; Rep. Sherrie Sprenger, R-Scio; Rep. Brian Clem, D-Salem; Rep. Jeff Barker, D-Aloha; Rep. Brad Witt, D-Clatskanie; Rep. Deborah Boone, D-Cannon Beach; Rep. Mitch Greenlick, D-Portland; Rep. Margaret Doherty, D-Tigard; Rep. Bill Kennemer, R-Oregon City; Rep. Gene Whisnant, R-Sunriver; Rep. Greg Smith, R-Heppner; Rep. Huffman, R-The Dalles; Rep. Cliff Bentz, R-Ontario; Sen. Floyd Prozanski, D-Eugene; Sen. Jackie Winters, R-Salem; Sen. Betsy Johnson, D-Scappoose; Sen. Ginny Burdick, D-Portland; Sen. Richard Devlin, D-Tualatin; and Sen. Rod Monroe, D-Portland.

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