



Cascade Commentary

October 2018 #18-19

Summary:

Former Portland City Commissioner Steve Novick has been hired by the Oregon Department of Justice as a Special Assistant Attorney General (SAAG). What many Oregonians may not know is that his entire salary is being paid by an out-of-state private source.

Word Count 700

“What you’re talking about is law enforcement for hire....Really, what’s being done is circumventing our normal mode of government.”

4850 SW Scholls Ferry Road
Suite 103
Portland, Oregon 97225

t: 503.242.0900
f: 503.242.3822
info@cascadepolicy.org
www.cascadepolicy.org

Is Oregon’s Department of Justice for Hire?

By Justus Armstrong

Last June, former Portland City Commissioner Steve Novick was hired by the Oregon Department of Justice as a Special Assistant Attorney General (SAAG). What many Oregonians may not know is that his entire salary is being paid by an out-of-state private source.

New York University’s State Energy & Environmental Impact Center, backed by Bloomberg Philanthropies, funds Novick’s legal fellowship with the aim of strengthening state attorney general offices in their crusade against the Trump administration’s environmental policies.

The unprecedented practice of providing external funding to state attorneys general to push a policy agenda ought to raise ethical concerns. As attorney Andrew Grossman put it: “What you’re talking about is law enforcement for hire....Really, what’s being done is circumventing our normal mode of government.”

In August 2018, Competitive Enterprise Institute published a report by Christopher Horner which details the roots and function of the SAAG program. *Law Enforcement for Rent: How Special Interests Fund Climate Policy through State Attorneys General* describes the genesis of the SAAG program as an informal coalition between states, spearheaded by former New York Attorney General Eric Schneiderman.

A letter included in the report’s appendix from Schneiderman and Vermont Attorney General William Sorrell to Oregon Attorney General Ellen Rosenblum shows she was invited to a March 2016 meeting of this coalition. The letter describes the program as “an important part of the national effort to ensure the adoption of stronger federal climate and energy policies.” Correspondence between members of the coalition (also compiled by Horner) expresses a desire to collaborate on targeting companies in the energy industry with regulatory and enforcement tools.

(over)



This same environmental policy agenda drives NYU's Center, as expressed in its communication with state attorneys general. Emails state that the "opportunity to potentially hire an NYU Fellow is open to all state attorneys general who demonstrate a need and commitment to defending environmental values and advancing progressive clean energy, climate change, and environmental legal positions." NYU's website directs interested attorneys general to [demonstrate a need for outside funding to pursue these legal positions](#).

If this sounds questionable, imagine a similar practice being used to serve other political agendas. If a nonprofit backed by Charles and David Koch offered to fund a position in a state to provide legal assistance on regulatory matters, would it be considered a conflict of interest? If the National Rifle Association were bankrolling state employees to serve as a "resource" on gun law enforcement, would it raise red flags? This isn't simply about protecting the environment versus not. It's a question of impropriety and corruption. NYU states in its agreements that fellows owe their loyalty solely to the state attorney general once they're assigned there, but SAAGs like Novick are still being paid by an outside source while working on behalf of the state.

It appears that Rosenblum was anxious about the ethical gray areas of this arrangement from the start. Emails from within the DOJ show that Rosenblum instructed the DOJ not to use the word "volunteer" to describe Novick's position in his hiring paperwork. The obfuscating language of the hiring process is notable: In reality, Novick isn't working as a "volunteer" or a "research fellow," but as an environmental lawyer, as he has been for years. Rosenblum also showed apprehension about the potential media attention the unprecedented arrangement could draw, as one email states:

"We need to be sure we are prepared to explain his position to the media, who, no doubt, will be interested. (Because he is being paid by an outside entity—which is quite unusual I think)...."

Novick's position is quite unusual indeed, and Oregonians deserve an explanation. Regardless of one's views on Novick, Rosenblum, or Bloomberg's environmental policy agenda, embedding privately funded legal counsel in our justice department is a conflict of interest. The Attorney General's office should be loyal to Oregon citizens, not out-of-state donors, and should uphold the law rather than push a legislative agenda.

If statutes aren't clear enough on the practice, Oregon voters may need to consider a constitutional amendment to keep privately paid employees out of state offices and keep the DOJ from undermining the democratic process. The Resistance agenda belongs on the campaign trail, not in law enforcement.

Justus Armstrong is a Research Associate Cascade Policy Institute, Oregon's free market public policy research organization.

Cascade Policy Institute is a tax-exempt educational organization as defined under IRS code 501 (c)(3). Nothing appearing in this Cascade Commentary is to be construed as necessarily representing the views of Cascade or its donors. The views expressed herein are the author's own.

"...[E]mbedding privately funded legal counsel in our justice department is a conflict of interest. The Attorney General's office should be loyal to Oregon citizens, not out-of-state donors, and should uphold the law rather than push a legislative agenda."

Attention editors
and producers:

Cascade Commentaries are provided for reprint in newspapers and other publications, with credit given to author(s) and Cascade. Contact Cascade to arrange print or broadcast interviews on this commentary topic.

Please contact:

Cascade Policy Institute
4850 SW Scholls Ferry Rd.
Suite 103
Portland, Oregon 97225

Phone: (503) 242-0900
Fax: (503) 242-3822

www.cascadepolicy.org
info@cascadepolicy.org