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RECEIVED
JUN 7 1995
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DEPT. OF JUSTICE
SALEM, OREGON

June 2, 1995

Philip Yates
Attorney
Cascade Building
30240 S.W. Parkway Ave., Suite 9
Wilsonville, OR 97070

Re: ***Petition for Public Records Disclosure Order: Office of Legislative Counsel Records***

Dear Mr. Yates:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on May 30, 1995, asks the Attorney General to direct the Office of Legislative Counsel to make available a diskette of the Oregon Revised Statutes for inspection and copying. For the reasons that follow, we respectfully deny your petition.

The Attorney General may order a state agency to disclose a public record only when the agency has denied the right to inspect or receive a copy of a public record. ORS 192.450. In this case, we understand that you were provided with a copy of the Oregon Revised Statutes (ORS) on diskette, as you requested. Thus there has been no denial of the record, and the Attorney General has no authority to order its disclosure.

We understand that the diskette was provided to you with certain terms and conditions intended to protect the Office of Legislative Counsel's copyright in the material. ORS 171.275. You object to the terms and conditions of the license agreement that accompanied the diskette. However, the record was provided to you, and any dispute regarding the terms and conditions is one that must be resolved between you and the copyright holder, the Legislative Counsel Committee. The Attorney General cannot resolve that dispute through a petition to disclose public records.

Assuming *arguendo* that your request to inspect and to receive a copy of the ORS were construed to have been denied, that denial would have been made by the Legislative Counsel Committee, which establishes the policies for publication and distribution of the Oregon Revised Statutes, and which claims the right to the copyright of the statutes. ORS 171.275. The Legislative Counsel Committee is comprised of elected legislators. When the right to withhold disclosure of public records is claimed by an elected official, the Attorney General cannot consider a public records petition. ORS 192.480. A denial by an elected official must be contested by filing proceedings in a circuit court. *Id.*

For these reasons, we respectfully deny your petition to compel disclosure.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel
to the Attorney General

ESH:AV:jpl:JAA01885
c: Thomas G. Clifford
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