



Law enforcement for hire? Mike Bloomberg is paying for ‘legal fellows’ to help democratic state attorneys resist Trump

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At least nine state attorneys general offices are looking to hire privately funded lawyers to work on environmental litigation through a foundation founded by a prominent Democratic donor and potential 2020 presidential candidate.

That foundation is former New York City Mayor Michael Bloomberg’s nonprofit, Bloomberg Philanthropies.

Bloomberg Philanthropies launched a \$6 million campaign to embed experienced attorneys in states attorneys offices across the country to push back against Trump administration efforts to roll back environmental regulations. So far, only Democratic attorneys general have hired Bloomberg-funded legal fellows.

Critics labeled the Bloomberg-backed project as “law enforcement for hire” that brings up numerous legal and ethical concerns about a private foundation with public policy goals funding state officials.

“What you’re talking about is law enforcement for hire,” Andrew Grossman, an attorney at Baker Hostetler, told The Daily Caller News Foundation.

“And I think that problem would be apparent to anybody if you’re talking about a conservative donor paying for a special attorney general to investigate and prosecute planned parenthood on any possible ground that might be out there,” Grossman said.

Currently, five state states — Maryland, Massachusetts, New York, Oregon and Washington — and the District of Columbia have hired fellows, TheDCNF has learned. Three more states — Illinois, New Mexico and Virginia — are looking to hire legal fellows.

The fellows’ salaries and benefits are paid for by the State Energy and Environmental Impact Center (SEEIC) at the New York University School of Law.

SEEIC Deputy Director Elizabeth Klein said fellows “provide a supplemental, in-house resource to state attorneys general and their senior staffs on clean energy, climate change, and environmental matters of regional and national importance.”

Though paid by private sources, fellows’ “duty of loyalty is to the [attorney general] office in which they work,” she told TheDCNF in an email.

So far, SEEIC has only partnered with nine Democratic offices. In fact, SEEIC Executive Director Davis Hayes praised these attorneys general offices as champions of “progressive policies on clean energy, the environment and climate change.”

“The State Impact Center’s fellowship program will help attorneys general build on their robust efforts to protect their states from a range of unprecedented federal government threats,” Hayes said in December.

Funding from Bloomberg’s foundation also troubles critics. Bloomberg, who is reportedly considering a presidential run as a Democrat, has a long record of environmental activism. Through his nonprofit, Bloomberg has launched campaigns to keep the U.S. in the Paris climate agreement that President Donald Trump has pledged to withdraw from. Bloomberg has also bankrolled climate campaigns to push green energy and close coal-fired power plants.

Bloomberg funneled more than \$23 million to Democratic candidates and liberal causes during the 2016 election, according to the Center for Responsive Politics. Bloomberg pledged more than \$80 million in the 2018 election cycle to help get Democrats elected.

Chris Horner, a senior fellow at the free market Competitive Enterprise Institute, called it “a highly questionable practice of outsourcing investigations of private parties, to other private parties with an avowed political and policy agenda.”

Oregon Attorney General Ellen Rosenblum became the latest state prosecutor to hire a SEEIC legal fellow. Rosenblum hired former Portland City Commissioner Steve Novick to work on “legal cases related to clean energy, climate change and the environment.”

Novick has a history of anti-fossil fuels activism, and Rosenblum has joined lawsuits to push back against the Trump administration’s rolling back of federal environmental and climate regulations.

New York’s attorney general also has a Bloomberg-funded attorney. Former New York Attorney General Eric Schneiderman filed more than half a dozen lawsuits against the Trump administration efforts to repeal Obama-era regulations.

Schneiderman, who resigned in May over sexual assault allegations, also launched an investigation into allegations ExxonMobil misrepresented the risks of global warming to shareholders and the public.

Schneiderman’s successor, Barbara Underwood, vowed to continue pursuing global warming litigation.

“[A]dd Oregon to the list, along with New York and Maryland of states whose top law enforcement offices admit to having begun down this troubling path of outsourcing law enforcement to private activists,” CEI’s Horner wrote in a blog post in the wake of Novack’s hiring.

Legal Concerns

When asked about ethical or legal concerns with placing fellows in state offices, Klein told TheDCNF, “Each AG office participating in the fellowship program has the authority consistent with applicable law and regulations to accept a Legal Fellow whose salary and benefits are provided by an outside funding source.”

In the past, states have allowed in some instances families of victims of crime to pay for prosecutions or court fees, but that’s a much narrower circumstance than a private organization with public policy goals paying a government official’s salary. Critics said what SEEIC and Democratic attorneys general are doing is unprecedented.

“These arrangements were being made with a clear end in mind to target particular industries and particular companies,” said Grossman, who is also an adjunct scholar at the libertarian Cato Institute.

“This isn’t just about law enforcement, there’s something very different going on here,” Grossman said. “Really, what’s being done is circumventing our normal mode of government.”

In particular, Grossman said hiring Bloomberg-funded attorneys likely violated the Fourteenth Amendment’s due process clause because legal fellows could have a financial interest in pursuing certain cases. Attorneys general may also be motivated to bring cases against certain industries to appease Bloomberg, who wants to see fossil fuels drastically reduced.

Grossman also cited potential state law and even potential First Amendment violations with state officials hiring Bloomberg-funded attorneys.

“There are so many hurdles to doing this in a lawful manner that it’s unthinkable that this could ever stand up to a serious challenge,” Grossman said.

There are also potential separation of power concerns since private funding allows attorneys general to circumvent state legislative bodies. State officials can use private funds to pursue activities lawmakers did not provide for in appropriations.

Of the nine attorneys general offices working with SEEIC, only three responded to TheDCNF’s request for comment.

Both the offices of Illinois Attorney General Lisa Madigan and New Mexico Attorney General Hector Balderas confirmed they had the opportunity to hire a legal fellow, but had not done so.

The office of Washington Attorney General Bob Ferguson told TheDCNF to file a public records request for personnel matters.

“We are proud of the work our office does to protect the environment,” Ferguson spokeswoman Brionna Aho said in an email. “If you have personnel questions, I need to direct you to our public records process.”

Bloomberg Philanthropies did not respond to TheDCNF’s request for comment.