

Oregon seeks global trade pact exclusion

Economy - Citing a lack of input, the governor asks the U.S. to leave the state out of any expanded deal

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By Edward Walsh

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Gov. Ted Kulongoski is asking the Bush administration to exclude Oregon from a proposed expansion of an international trade agreement on the service sector of the economy. He also asks to remove the state from parts of the agreement that cover health care, land use and zoning, and gambling.

In a letter to U.S. Trade Representative Robert Portman, Kulongoski said the World Trade Organization's General Agreement on Trade in Services "contains several provisions that conflict with our ability to effectively and appropriately regulate in the public interest."

The governor asked Portman to amend a U.S. proposal to expand the agreement to exclude Oregon.

"Although I respect federalism and the role of the U.S. trade representative," Kulongoski wrote, "I cannot support allowing Oregon to be bound by any expansion of such a problematic agreement."

Aides to the governor said the main purpose of the letter was to call attention to the obscure negotiations to expand the trade agreement now going on in Geneva and to press federal officials to consult more with state and local officials before entering into international trade agreements that could affect state and local governments.

"State and local governments should not be bound by the terms of international trade agreements unless they give their prior informed consent," Kulongoski said in the March 17 letter to Portman.

"We wanted to make sure we're not compromised by a trade agreement," said Chris Warner, Kulongoski's labor and transportation policy adviser. "We're not at the table."

Warner said it is not clear to Kulongoski's staff what new services would be subject to WTO trade rules under an expanded trade agreement.

"It's not enough to know after the fact," he said.

According to Mary Bottari, an analyst with Public Citizen, a consumer advocacy group that has been highly critical of the WTO, one area that an expanded agreement would cover is higher education, a traditional province of state governments.

In an e-mail response to questions, an official in the press office of the U.S. trade representative said Kulongoski's letter "will receive a full response."

The official said the terms of the U.S. offer in the current negotiations have been publicly available since they were made last May. She said new services that would be covered under an expanded trade agreement include some business services such as translation services, energy services such as field testing for natural resources, and private but not public higher education.

"We have had a long-standing process of consulting federal, state and local government officials," the official added.

The GATS rules cover a broad array of practices dealing with market access and other aspects of economic activity among countries and their citizens. For example, the agreement calls for "nondiscrimination." That means that laws and regulations that favor domestic providers of a service may be challenged before the WTO.

In 2005, a WTO panel ruled that U.S. "gambling and betting services" are subject to GATS coverage under a section of the agreement on "other recreational services." This prompted a letter to Portman from 29 state attorneys general, including Oregon Attorney General Hardy Myers, calling the ruling "quite troubling."

"The panel's determination that the gambling sector is subject to all GATS requirements means that an array of common U.S. gambling regulations, including limitations on the number of casinos or slot machines, state monopoly lotteries or exclusive Indian gaming rights, are now subject to challenge before future WTO tribunals as violating U.S. GATS obligations," the attorneys general said.

States cannot unilaterally opt out of trade agreements made by the federal government, but they can ask to be excluded from parts or all of those agreements. For example, the GATS section that covers legal services contains numerous state exclusions that are exempt from the agreement.

In asking Portman to remove Oregon from the GATS section that covers health care, including distribution of prescription drugs, Kulongoski said, "It is simply unacceptable to expose our progress on ensuring Oregon residents' access to affordable, quality health care and medicine to second-guessing by a WTO tribunal."

Kulongoski also said that Oregon could not afford to expose its land use and zoning laws and state gambling regulations to commitments made by the federal government.

Edward Walsh: 503-294-4153; edwardwalsh@news.oregonian.com

Kolongoski's letter is available at:

http://www.citizenstrade.org/pdf/kolongoskiletter_03172006.pdf