

Sen. Floyd Prozanski, chairman
Senate Judiciary Committee
Oregon Legislature
900 Court St. NE
Salem OR 97301



Dear Sen. Prozanski and Members of the Committee:

Thank you for the opportunity to testify on behalf of the Oregon Newspaper Publishers Association on Senate Bill 890.

We understand the intent behind the bill is to enable an elected city auditor, in particular the elected city auditor of Portland, to obtain the widest possible assortment of documents and information for any audit, including information that is legally privileged.

As described to me, the intent was to create a scheme similar to the review by a district attorney in a public records appeal. In that case, turning over the relevant records to the district attorney does not waive any privilege, specifically the attorney-client privilege.

This allows the district attorney to have the fullest possible knowledge before she or he delivers a public records order.

Similarly, the elected auditor would like to gather all relevant information and would like to ensure that the attorney-client privilege, or a waiver thereof, is not an impediment to that occurring.

To the extent this bill ensures greater government accountability and greater transparency, if the expectation is a fuller, more complete audit is made public when completed, the Oregon Newspaper Publishers Association supports the concept.

However, there is a concern about unintended consequences. The bill language should be narrowed so that any privileged information turned over by any "officer, employee or agent of the city," who is operating in a whistleblower capacity, is not barred from release by the auditor if it is relevant to the audit.

The amended language would then read:

SECTION 1. The disclosure of legally privileged information and records of a city by the city, or any officer, employee or agent of the city, *if disclosed at the direction of the city attorney's office*, to the elected auditor of the city, or any employee or agent of the elected auditor who is employed for the purpose of auditing or investigating the city, does not waive the privilege with

respect to any other person, to the extent the information and records are disclosed for the purpose of an audit or investigation.

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Therese Bottomly". The signature is fluid and cursive, with the first name "Therese" written in a larger, more prominent script than the last name "Bottomly".

Therese Bottomly
Past President, 2016-17
Oregon Newspaper Publishers Association