

SB 890 A STAFF MEASURE SUMMARY

Carrier: Sen. Taylor

Senate Committee On Judiciary

Action Date: 03/23/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-0-1-0

Yeas: 4 - Dembrow, Linthicum, Manning Jr, Prozanski

Exc: 1 - Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Allows limited disclosure of legally privileged information without waiver of privilege if disclosure is by city or city employee or agent to elected auditor or employee of elected auditor for purposes of audit or investigation. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Measure only applies to Portland's City Auditor's Office
- Portland's elected auditor, with specific powers and duties, may be unique in nation
- Information necessary for accurate and complete audits
- Protection extends only to information or records disclosed for purposes of audit or investigation

EFFECT OF AMENDMENT:

Specifies privilege not waived to extent records or information disclosed for purposes of audit or investigation.

BACKGROUND:

In 1868, the City of Portland, Oregon elected its first public auditor. Several major cities across the nation include an auditor's office within their city government, but Portland is the only city in Oregon to have an independent auditor's office and may be unique in the nation with the powers and duties conferred on the Auditor. The mission of the Portland Auditor's Office is "to promote open and accountable government by providing independent and impartial reviews, access to public information, and services for City government and the public." One way in which auditors carry out this function is by reviewing documents and interviewing individuals. At times, this may require review of legal documents prepared by city attorneys. The city holds a privilege to keep communications made between the city and its attorneys confidential. Revealing confidential legal communications could violate the Oregon Evidence Code and the Oregon Rules of Professional of Conduct.

Senate Bill 890-A specifies that disclosure of privileged information and records by the city, or any officer, employee, or agent of the city to the city auditor or employee of the city auditor, for the purposes of an audit or investigation, does not waive the privileged nature of the communication or information.