

Senate Bill 177

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires state agencies to produce materials relevant to audits conducted by Secretary of State. Provides that production of confidential or privileged material does not constitute waiver of confidentiality or privilege. Prohibits Secretary of State from using or disclosing confidential or privileged materials for any purpose except to carry out certain statutory duties. Specifies circumstances in which confidential or privileged information may be included in audit reports.

A BILL FOR AN ACT

1
2 Relating to audits.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 297.**

5 **SECTION 2. (1) Notwithstanding any other provision of Oregon law, the Secretary of**
6 **State may require a state agency to produce any materials that the Secretary of State deems**
7 **relevant to an audit that the Secretary of State is conducting, including a performance audit**
8 **as defined in ORS 297.070.**

9 **(2) Officers and employees of state agencies shall make available to the Secretary of**
10 **State, for examination and reproduction, any materials that the Secretary of State requires**
11 **to be produced under this section.**

12 **(3)(a) No law that provides for confidentiality of materials prevents the production of**
13 **materials under this section. The production or use of confidential or privileged material**
14 **under this section does not constitute a waiver of confidentiality or privilege.**

15 **(b) When producing confidential or privileged material under this section, a state agency**
16 **shall prominently designate the material as confidential or privileged.**

17 **(4) Except as otherwise required by law, the Secretary of State, and officers or employees**
18 **of the Secretary of State, may not use or disclose confidential or privileged materials**
19 **produced under this section for any purpose other than the performance of their duties un-**
20 **der this chapter.**

21 **(5) When issuing audit reports under this chapter, the Secretary of State shall, consist-**
22 **ent with generally accepted government auditing standards:**

23 **(a) Omit confidential or privileged information unless the inclusion of such information**
24 **is both necessary and essential to support audit findings;**

25 **(b) Refer to confidential or privileged information that is included in the report only with**
26 **the minimum level of specificity necessary to support audit findings; and**

27 **(c) If necessary to avoid distortion of audit findings, disclose in the report that certain**
28 **information has been omitted and the circumstances that make the omission necessary.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(6)(a) In response to a public records request for materials produced under this section,**
2 **the Secretary of State shall:**

3 **(A) Produce any responsive final audit report and work papers to the extent they are not**
4 **exempt from disclosure under ORS 192.311 to 192.478;**

5 **(B) Refer the request to the relevant state agency; and**

6 **(C) Provide a copy of the referral to the requester.**

7 **(b) A state agency shall treat a referral under this subsection as a new public records**
8 **request from the requester.**

9 **(7) The Secretary of State may adopt rules necessary to carry out the provisions of this**
10 **section.**

11 **(8) As used in this section:**

12 **(a) “Confidential material” means material the disclosure of which is prohibited or lim-**
13 **ited under existing law, or that is subject to an exemption from disclosure under ORS 192.311**
14 **to 192.478.**

15 **(b) “Materials” includes all books, accounts, documentation, reports, correspondence and**
16 **records of any kind, including information in electronic formats.**

17 **(c) “Privileged material” means materials that are protected from disclosure under ORS**
18 **40.225 to 40.295 or any other law relating to evidentiary privilege.**

19 **(d) “State agency” means any state office, department, division, bureau, board and com-**
20 **mission, whether in the executive, legislative or judicial branch.**

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