

ODOT director: Problems are fixed

Legislators' reactions range from outrage to support for Garrett

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USA TODAY NETWORK

Oregon Department of Transportation director Matt Garrett told a legislative committee in mid-November that the agency has fixed problems at its Motor Carrier Division detailed in a recent internal audit, a 15-month, \$180,000 Oregon Department of Justice investigation and a whistleblower retaliation lawsuit settlement.

The Statesman Journal reported on the investigations earlier this month. Garrett declined to be interviewed for that article.

But on Nov. 13, the Legislature's Joint Interim Committee on Ways and Means Transportation and Economic Development questioned him about it.

In his testimony, Garrett downplayed the findings.

"I'll quote the gentleman who was the special assistant attorney general, saying 'There are no smoking guns here. There are allegations, and allegations informed by partial information. A lot of ambiguity. A lot of behaviors that were probably you could question. On both sides of the table here,'" Garrett told lawmakers.

His testimony is at odds with the DOJ's written report, which details problems with contracting, electrical work, engineering, inventory, management and more, and contains none of those statements.

An ODOT spokesman later told the Statesman Journal that Garrett was quoting his memory of what the DOJ investigator, Keith Bauer, told him in mid-March during an oral presentation on the findings.

In an email response to questions, Bauer said he recalls saying there was no smoking gun, but declined to comment on the rest of Garrett's statement.

Legislators' reactions, meanwhile, ranged from outrage to solid support for Garrett.

"Disappointed is probably an understatement," Rep. Ron Noble, R-McMinnville, said in an interview.

"I couldn't run a police department that way. I'd be run out of town pretty quick," the former police chief said.

Rep. Susan McLain, D-Hillsboro, said she asked Garrett about any pending audits after she was made co-chair of the Joint Committee on Legislative Audits.

Garrett told her about the internal audit and DOJ investigation, she said, but assured her they showed no malfeasance or negligence, simply weak leadership and protocols that needed to be tightened up a little bit.

The rest of the lawmakers interviewed said they heard nothing about the whistleblower allegations, investigations or lawsuit settlement, even as the

Legislature was debating a \$5.3 billion transportation infrastructure funding bill and ODOT's ability to manage it.

"It raises concerns for me," Sen. Bill Hansell, R-Athens, said. "We deal with the budgets, we deal with policy, we deal with oversight. And I think it's important for us to be aware and to know about departments we're funding if things aren't going like they're supposed to."

Rep. Paul Evans, D-Monmouth, said he doesn't think the problems at Motor Carrier reflect on management at the rest of ODOT or the department's ability to manage the massive infrastructure spending package.

"When you have a large bureaucracy like ODOT does it's not uncommon when one section, one division has some problems," Evans said. "I really think Matt Garrett's the kind of guy that, when he recognizes something's wrong he addresses it. When it comes to these kinds of things I generally defer to the leaders I have confidence in."

Regardless of how the Motor Carrier issues were handled, the lawmakers said accountability at ODOT will improve under the transportation infrastructure bill.

Among the provisions of House Bill 2017, passed in July:

» ODOT will hire an internal auditor to report jointly to the Oregon Transportation Commission and the ODOT director.

» The commission will be required to provide all ODOT audits to two legislative committees each biennium.



Amy Ramsdell Gerritt Law Matt Garrett

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REP. PAUL EVANS, REGARDING THE ODOT

» Authority to hire the ODOT director will be moved from the governor to the commission.

» The commission will appoint a continuous improvement advisory committee.

» The commission will post information about each project on a public website.

"I would have a hard time believing that there won't be many of my colleagues with a microscope and nothing but time to make sure this process gets done right," Evans said.

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Troubles

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► **Paying for patients no longer eligible:** Allen said that as of July, health agency staffers estimated Oregon might have to repay \$17.3 million in federal funds because the state continued paying health organizations to care for people the state had retroactively deemed ineligible for Medicaid. The problem dates back to January 2014. But new leaders at the agency have cast doubt on whether the \$17 million is in the ballpark, saying they are still working to identify the scope of the problem.

► **Residential mental health facilities:** States cannot claim federal Medicaid funds to care for patients at large residential mental health treatment facilities, such as the state hospital. Oregon "overclaimed" \$9.7 million in federal money for people in these facilities, which the state already repaid with general fund money this year, according to Allen's letter.

► **Bariatric surgery payments:** Oregon paid more than it should have for these weight loss surgeries from 2009 through 2015, and started trying to recoup the \$1.5 million in overpayments a year ago.

"As of October 2017, most of the overpayments have still not been repaid by providers, resulting in an accounts receivable balance of \$1.1 million," Allen wrote.

► **Medicaid for dead and incarcerated people:** "If a client is incarcerated

or dies, (per-person) payments should be retroactively adjusted to recoup any payments made after the date of incarceration or death," Allen wrote. "This is not occurring correctly in the system and ... payments have not been fully recouped from the CCOs." The agency currently seeks repayment only for the last year.

► **Abortion coverage:** The state estimates it used \$1.8 million or so in federal funds for abortions, which it will have to repay. Federal law generally bans using federal funds to pay for abortions, although there are exceptions for cases of rape, incest and when the pregnant woman's life is in danger, according to the American Civil Liberties Union.

► **Money due to drug labelers:** Oregon owes an estimated \$22.3 million to drug labelers because the state has not passed along some of the money it was supposed to as part of the Medicaid drug rebate program.

Allen also cited problems at his agency and elsewhere with getting money to the right places. They included:

► **State accounting problem:** The health authority has received an estimated \$20 million from the Division of Child Support to pay for children's health care but has not properly accounted for that money. So state and federal programs were billed for the children's health care.

► **State budget problem:** The health agency could gain \$14.1 million for nursing facility and post-acute care that was incorrectly sent to the Department of Human Services over the past year.

The health authority might also be able to get federal money for services it

has not sought reimbursement for in the past, or for which it claimed less federal funding than it could have, Allen wrote.

Examples include services provided to tribal members at non-tribal facilities, and certain preventive services.

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