

JAN 23 2015

A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE STATE INSPECTOR GENERAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that accountability is a
2 necessary key to maintaining public trust in government.
3 Inspectors general are government officials who are entrusted
4 with fostering and promoting accountability and integrity in
5 government. The legislature further finds that establishing an
6 office of the state inspector general in Hawaii will promote
7 integrity and accountability, maximize the efficiency and
8 effectiveness of state agencies through the conduct of
9 independent investigations, performance reviews and other
10 services, and provide objective and useful information to state
11 officials and residents of Hawaii.

12 Accordingly, the purpose of this Act is to:

- 13 (1) Establish the office of the state inspector general,
14 to be headed by the state inspector general, within
15 the office of the state auditor for administrative
16 purposes only; and



(2) Require the office of the state inspector general to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or quasi-public agency, or the officers or employees of a state agency or quasi-public agency.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

OFFICE OF THE STATE INSPECTOR GENERAL

§ -1 Definitions. As used in this chapter, unless the context requires otherwise:

"Employee" means an individual drawing a salary from a state agency.

"Inspector general" means the state inspector general.

"Office" means the office of the state inspector general.

"Officer" means any person who is elected or appointed to a public office in a state agency.

"Quasi-public agency" means any quasi-public institution that is supported in whole or in part by state funds.



1 "State agency" means any executive department, commission,
2 board, agency, authority, bureau, office, or other establishment
3 of the state government, but excludes the legislature and the
4 judiciary.

5 **§ -2 Office of the state inspector general; state**
6 **inspector general; appointment.** (a) There is established the
7 office of the state inspector general, which shall be placed
8 within the office of the auditor for administrative purposes
9 only. The office shall be headed by the state inspector
10 general, who shall be a full-time public official. The
11 inspector general shall serve a term of four years and shall be
12 paid a salary not to exceed per cent of the salary of the
13 director of human resources development.

14 (b) The inspector general shall be nominated by the
15 governor and, by and with the advice and consent of the senate,
16 appointed by the governor. The inspector general may only be
17 removed from office by the governor for cause; provided that the
18 governor shall give prior notification of the removal to the
19 president of the senate and the speaker of the house of
20 representatives.



(c) The inspector general shall have a minimum of five years' experience or expertise in accounting, public administration, or audit investigations as a certified public accountant or certified internal auditor.

(d) The inspector general shall hire staff necessary to carry out the purposes of this chapter.

(e) The inspector general and employees of the office shall be included in any benefit program generally applicable to the officers and employees of the State.

(f) Nothing in this chapter shall be construed to limit or prevent the legislature from reviewing the operations of any state department or otherwise limit the statutory responsibilities of the state auditor.

§ -3 Powers and duties of inspector general. (a) The inspector general shall:

- (1) Receive complaints regarding alleged fraud, waste, abuse, or corruption by any state agency or quasi-public agency or by any officer or employee of a state agency or quasi-public agency; provided that the inspector general shall have the discretion to



1 determine whether a complaint has provided reasonable
2 cause to investigate;

3 (2) Investigate the management and operations of state
4 agencies, quasi-public agencies, and independent
5 contractors of state agencies to determine whether
6 acts of fraud, waste, abuse, or corruption have been
7 committed or are being committed by officers,
8 employees, or independent contractors of a state
9 agency or officers or employees of a quasi-public
10 agency, including any allegations of criminal acts
11 affecting the operations of state agencies and quasi-
12 public agencies;

13 (3) Prepare a detailed report of each investigation
14 stating whether fraud, waste, abuse, or corruption has
15 been detected; provided that if fraud, waste, abuse,
16 or corruption has been detected, the report shall:

17 (A) Identify the person who has committed the
18 wrongful act or omission;

19 (B) Describe the wrongful act or omission; and

20 (C) Describe any corrective measures taken or
21 implemented by the state agency or quasi-public



1 agency subject to the investigation to prevent
2 recurrences of similar actions;

3 (4) Provide timely notification to the attorney general
4 and appropriate law enforcement agencies when the
5 inspector general has reasonable grounds to believe
6 there has been a violation of state criminal law;

7 (5) Conduct performance reviews of state agencies to
8 assess the efficiency, effectiveness, or economy of
9 programs and ascertain, among other things, the proper
10 expenditure of state funds; provided that the
11 inspector general shall prepare a report for each
12 performance review that:

13 (A) Details any findings for improving the
14 efficiency, effectiveness, or economy of the
15 state agency subject to the performance review;
16 and

17 (B) Makes recommendations, including proposed
18 legislation, necessary to effectuate these
19 findings;

20 (6) Coordinate and require standards for existing internal
21 audit programs and for other internal audit programs



1 in state agencies, as needed to ensure that state
2 agencies maintain an adequate system of internal
3 management control;

4 (7) Assess the condition of the accounting, financial, and
5 administrative controls of state agencies and make
6 recommendations to protect the State's assets, as
7 needed;

8 (8) Assist state agency internal auditing programs with
9 technical auditing issues;

10 (9) Assist state residents in understanding their rights
11 and the processes available to residents to express
12 concerns regarding the activities of a state agency or
13 quasi-public agency or any officer or employee of a
14 state agency or quasi-public agency;

15 (10) Maintain a record on inquiries received, the types of
16 assistance requested, any actions taken, and the
17 disposition of each inquiry;

18 (11) Upon request, assist state residents in using
19 procedures and processes available to express concerns
20 regarding the activities of an agency or any officer
21 or employee of an agency;



1 (12) Ensure that state residents have access to the
2 services provided by the inspector general and receive
3 timely responses from the inspector general to
4 inquiries;

5 (13) Make and enter into contracts necessary to carry out
6 the purposes of this chapter; and

7 (14) Adopt rules in accordance with chapter 91 necessary to
8 carry out the purposes of this chapter.

9 (b) If the inspector general receives a complaint that
10 alleges fraud, waste, abuse, or corruption by the University of
11 Hawaii or any of its officers or employees, the inspector
12 general shall, except for reasonable and articulable causes,
13 refer the complaint to the internal audit department of the
14 University of Hawaii for investigation; provided that if the
15 complaint concerns the president, members of the board of
16 regents, or an internal audit department of the University of
17 Hawaii, the investigation shall be conducted by the inspector
18 general; provided further that:

19 (1) The inspector general may provide assistance for
20 investigations into alleged fraud, waste, abuse, or



1 corruption if requested by the University of Hawaii;

2 and

3 (2) The University of Hawaii shall provide periodic
4 updates on the status of any investigation into
5 alleged fraud, waste, abuse, or corruption and make
6 the results of that investigation available to the
7 inspector general.

8 **§ -4 Cooperation of state agencies, quasi-public agency,**
9 **and officers.** (a) Each state agency, quasi-public agency, and
10 every officer and employee shall promptly report any allegations
11 of criminal acts or acts of fraud, waste, abuse, or corruption
12 and cooperate with, and provide assistance to, the inspector
13 general in the performance of any investigation. This reporting
14 requirement shall be deemed satisfied for officers or employees
15 of a state agency or quasi-public agency once the administrative
16 head of a state agency or quasi-public agency reports to the
17 inspector general any allegations of criminal acts, fraud,
18 waste, abuse, or corruption within the state agency or quasi-
19 public agency or once an employee reports directly to the
20 inspector general any allegations of criminal acts, fraud,
21 waste, abuse, or corruption by an employer within the state



1 agency or quasi-public agency, subject to any applicable
2 whistleblowers' protections under chapter 378, part V. Each
3 state agency or quasi-public agency shall make its premises,
4 equipment, personnel, books, records, and papers readily
5 available to the inspector general upon request.

6 (b) When the administrative head of a state agency, quasi-
7 public agency, or an officer discovers any unauthorized,
8 illegal, irregular, improper, or unsafe handling or expenditure
9 of state funds, or if it comes to the administrative head's
10 attention that any unauthorized, illegal, irregular, improper,
11 or unsafe handling or expenditure of state funds is contemplated
12 but has not been consummated, the administrative head of the
13 state agency shall promptly report to the inspector general.

14 (c) The inspector general may enter upon the premises of
15 any state agency or quasi-public agency at any time, without
16 prior announcement, if necessary to the successful completion of
17 an investigation. In the course of an investigation, the
18 inspector general may question any officer or employee serving
19 in, and any person transacting business with, the state agency
20 or quasi-public agency and may inspect and copy any books,
21 records, or papers in the possession of the state agency or



1 quasi-public agency. The inspector general shall preserve the
2 confidentiality of any information obtained from a state agency
3 or quasi-public agency during the course of an investigation in
4 accordance with applicable state and federal law.

5 **§ -5 Office of state inspector general; police powers;**
6 **summons or citation; failure to obey a summons.** (a) The
7 inspector general shall have police powers and may appoint and
8 commission investigation and enforcement officers within the
9 office. Persons appointed and commissioned under this section
10 shall have and may exercise all of the powers and authority of a
11 police officer, including the power of arrest, in the
12 investigations of allegations of criminal behavior affecting the
13 operations of a state agency or quasi-public agency pursuant to
14 the office's duties under this chapter and the rules adopted
15 thereunder; provided that these powers shall remain in force and
16 effect only while in actual performance of the investigation and
17 enforcement officers' duties.

18 (b) An investigation and enforcement officer, upon
19 arresting any person, may immediately take the person arrested
20 to a police station or before a district judge, note the
21 violation of the law or rule by the person, and issue the person



1 a summons or citation, warning the person to appear and to
2 answer to the charge against the person at a certain place and
3 time within seven days after the arrest. If any person fails to
4 comply with a summons or citation issued, the investigation and
5 enforcement officer shall cause a complaint to be entered
6 against that person and secure the issuance of a warrant for the
7 person's arrest.

8 (c) The office shall cooperate with law enforcement
9 authorities of the State in development of programs and mutual
10 aid agreements to set forth the respective roles and
11 responsibilities of each agency, including but not limited to
12 the categories of investigations that will be overseen by each
13 agency and how to avoid redundancy or operation conflicts.

14 (d) Any investigation and enforcement officer authorized
15 by the inspector general to conduct any investigation shall have
16 the following authority:

- 17 (1) Power to administer oaths for the purposes of
18 receiving complaints and conducting investigations of
19 allegations of criminal behavior affecting the
20 operations of a state agency or quasi-public agency



1 pursuant to the office's duties under this chapter and
2 the rules adopted thereunder; and

3 (2) Authority to obtain, serve, and execute any warrant or
4 process issued by any circuit or district court in the
5 State or under the authority of the inspector general
6 and request and receive criminal history information
7 pursuant to section 846-10.

8 **§ -6 Subpoena powers.** (a) The inspector general or the
9 inspector general's designee may subpoena witnesses, examine
10 them under oath, and require the production of books, papers,
11 documents, or other evidence that the inspector general
12 reasonably believes may relate to an investigation being
13 conducted under this chapter.

14 (b) The books, papers, documents, or other evidence may be
15 retained by the inspector general for a reasonable period of
16 time for examination, audit, copying, testing, and
17 photographing.

18 (c) The subpoena power shall be exercised by the inspector
19 general or the inspector general's designee.

20 (d) Upon application of the inspector general, obedience
21 to the subpoena shall be enforced by the circuit court in the



1 county in which the person subpoenaed resides or is found, in
2 the same manner as a subpoena issued by a circuit court.

3 **§ -7 Reports.** (a) The inspector general shall report
4 to the legislature, no later than twenty days prior to the
5 convening of each regular legislative session, on the office's
6 activities for the immediately preceding fiscal year.

7 (b) The report shall include:

8 (1) A description of any significant problems, abuses, and
9 deficiencies related to the management or operation of
10 state agencies or quasi-public agencies;

11 (2) A description of the recommendations for any
12 corrective actions made by the office with respect to
13 significant problems, abuses, or deficiencies
14 identified by the office;

15 (3) A summary of matters referred to the attorney general
16 and appropriate law enforcement agencies and actions
17 taken on those matters;

18 (4) Information concerning the number of complaints
19 received and types of investigations completed by the
20 office;



(5) The development and maintenance of any internal audit programs in state agencies and quasi-public agencies; and

(6) The results of any state agency or quasi-public agency performance reviews, including a summary of any findings or recommendations for improving the efficiency of state agencies or quasi-public agencies.

(c) The inspector general shall notify the president of the senate, the speaker of the house of representatives, and the governor of any problems, abuses, or deficiencies relating to the management or operation of a state agency or quasi-public agency.

(d) The inspector general shall keep the appropriate administrative heads of all state agencies and quasi-public agencies advised of the office's activities, as they relate to each respective state agency or quasi-public agency.

(e) The inspector general may conduct additional investigations and make reports relating to the management and operations of state agencies or quasi-public agencies, as needed.



1 (f) The reports, information, or documents required under
2 this section shall be transmitted directly to the governor and
3 the legislature.

4 (g) Records that are confidential under federal or state
5 law shall be maintained as confidential by the inspector general
6 and shall not be further disclosed, except as required by law."

7 SECTION 3. Section 378-62, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§378-62 Discharge of, threats to, or discrimination**
10 **against employee for reporting violations of law.** An employer
11 shall not discharge, threaten, or otherwise discriminate against
12 an employee regarding the employee's compensation, terms,
13 conditions, location, or privileges of employment because:

14 (1) The employee, or a person acting on behalf of the
15 employee, reports or is about to report to the
16 employer, or reports or is about to report to a public
17 body, verbally or in writing, a violation or a
18 suspected violation of:

19 (A) A law, rule, ordinance, or regulation, adopted
20 pursuant to law of this State, a political



1 subdivision of this State, or the United States;

2 or

3 (B) A contract executed by the State, a political
4 subdivision of the State, or the United States,
5 unless the employee knows that the report is false;

6 [~~or~~]

7 (2) The employee, or a person acting on behalf of the
8 employee, reports or is about to report to the state
9 inspector general, verbally or in writing, an
10 allegation of fraud, waste, abuse, or corruption by an
11 employer or by an officer or employee of the employer;
12 or

13 [~~+(2)+~~] (3) An employee is requested by a public body to
14 participate in an investigation, hearing, or inquiry
15 held by that public body, or a court action."

16 SECTION 4. Section 846-10, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§846-10 Dissemination.** Criminal history record
19 information may be disseminated to:

20 (1) The governor in individual cases or situations wherein
21 the governor elects to become actively involved in the



1 investigation of criminal activity or the
2 administration of criminal justice in accordance with
3 the governor's constitutional duty to insure that the
4 laws be faithfully executed;

5 (2) The attorney general in connection with the attorney
6 general's statutory authority and duties in the
7 administration and enforcement of the criminal laws
8 and for the purpose of administering and insuring
9 compliance with the provisions of this chapter;

10 (3) The state inspector general, or investigation and
11 enforcement officers authorized by the inspector
12 general, in connection with the state inspector
13 general's statutory authority and duties in the
14 administration and enforcement of laws pursuant to
15 chapter ; and

16 ~~[(+3)]~~ (4) To such other individuals and agencies who are
17 provided for in this chapter or by rule or
18 regulation."

19 SECTION 5. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2015-2016 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2016-2017 for administrative costs associated with the
3 establishment of the office of the state inspector general
4 within the office of the auditor, including the hiring of
5 necessary staff.

6 The sums appropriated shall be expended by the office of
7 the auditor for the purposes of this Act.

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2015.

11
INTRODUCED BY:

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Report Title:

Office of the State Inspector General; State Inspector General;
Establishment of Office; Government Integrity and
Accountability; Appropriation

Description:

Establishes the office of the state inspector general, to be headed by the state inspector general, within the office of the state auditor for administrative purposes only. Requires the office of the state inspector general to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or quasi-public agency, or the officers or employees of a state agency or quasi-public agency. Appropriates funds.

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