



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,  
ON HOUSE BILL NO. 238, RELATING TO THE OFFICE OF THE STATE  
INSPECTOR GENERAL**

**House Committee on Judiciary  
February 3, 2015**

Chair Rhoads and Members of the Committee:

I am Jan Yamane, Acting State Auditor. Thank you for the opportunity to offer comments on House Bill 238, which 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.

Placement of the office of the inspector general within the Office of the State Auditor makes it a legislative branch agency. Yet, the measure provides that the inspector general shall be nominated by the Governor, confirmed by the Senate, and appointed by the Governor. Moreover, the inspector general may only be removed from office by the Governor for cause. It appears that the inspector general falls under the supervision of the Governor, perhaps making placement of this office more appropriately in the executive branch rather than in the legislative branch.

By contrast, our office—the Office of the State Auditor—is a legislative branch agency that is included in the legislative budget. The Auditor's appointment is by the Legislature, by a majority vote of each house in joint session. The Auditor can be removed for cause by a two-thirds vote of the members in joint session.

Thank you for the opportunity to provide comments on House Bill 238. I am available for questions should you have any.

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Glenn Shiroma	Individual	Support	No

Comments: Department of Attorney General investigation division refused to act on complaints.

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

**LATE**

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

**H.B. NO. 238, RELATING TO THE OFFICE OF THE STATE INSPECTOR GENERAL.**

**BEFORE THE:**

**HOUSE COMMITTEE ON JUDICIARY**

**DATE:** Tuesday, February 3, 2015

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Charleen M. Aina, Deputy Attorney General

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Chair Rhodes and Members of the Committee:

The Department of the Attorney General testifies to provide the comments below, about the bill.

The bill proposes the establishment of an Office of the State Inspector General (“Office”) that is authorized to investigate, assess, review, and report on the management and operations of state executive branch agencies or quasi-public agencies, including complaints alleging fraud, waste, abuse, or corruption by state executive branch agencies or quasi-public agencies, and their officers or employees. The bill also confers the power to arrest, and all the other powers and authority of a police officer on the Inspector General, and the investigation and enforcement officers the Inspector General appoints to perform the duties of the Office. In addition, the bill amends (1) section 378-62, Hawaii Revised Statutes, to specifically protect employees who report allegations of fraud, waste, abuse, or corruption to the Inspector General, against retaliatory or discriminatory acts for making such reports by their employers, and (2) section 846-10, Hawaii Revised Statutes, to allow the Inspector General and the officers appointed to investigate allegations of fraud, waste, abuse, or corruption, access to criminal history record information maintained by the Hawaii Criminal Justice Data Center.

The Attorney General respectfully suggests that the Committee revise the bill to:

1. Define “Quasi-public agency” without including the term itself in the definition.
2. Prescribe the scope of the Inspector General’s authority to investigate in greater detail, either by including definitions for the terms “waste,” “abuse,” and “corruption,” or by providing the context in which such acts or omissions occur, for example, by describing the

Inspector General's duties as "investigating complaints or information concerning the possible existence of an activity constituting a violation of law or rules, or mismanagement, gross waste of funds, or abuse of authority," or "conducting investigations and preparing reports relating to the administration of the programs and operations of a state agency or quasi-public agency."

3. Include standards for conducting investigations, or direct that at minimum the Standards for Audits of the federal Comptroller General direct the investigations the Inspector General conducts.

4. Provide procedural safeguards, including a right to representation, an opportunity to respond, when investigations regarding individual officers and employees may result in disciplinary action, or other adverse consequences.

5. Cloak investigations involving individual officers and employees and the reports prepared at the conclusion of such investigations with confidentiality, at minimum to the extent permitted under the chapter 92F, Hawaii Revised Statutes.

6. Add provisions to minimize overlaps among and between, and to coordinate the powers and functions of the Inspector General, and the Auditor, the Ombudsman, the Attorney General, and the Legislature, in connection with their respective responsibilities to receive and investigate complaints from the public, conduct financial, and program or performance audits, and investigate and prosecute criminal conduct.

Finally, we have serious concerns about the necessity to confer police powers on the Inspector General and person the Inspector General appoints to investigate the kinds of complaints described in the measure.

We prepared this testimony after reviewing federal and state statutes relating to powers and authority of federal and state inspectors general, and would welcome the opportunity to work with the Committee's staff to make the revisions we suggest be made to the bill.

Thank you for the opportunity to testify.