

ACT 273

H.B. NO. 3303

A Bill for an Act Relating to the Investigating Powers of the Attorney General and the County Prosecuting Attorneys.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 28-2.5, Hawaii Revised Statutes, is amended to read as follows:

“§28-2.5 Investigations. (a) The attorney general shall investigate alleged violations of the law when directed to do so by the governor, or when the attorney general determines that an investigation would be in the public interest.

(b) The attorney general, when conducting a civil, administrative, or criminal investigation, or the county prosecuting attorneys, when conducting a criminal investigation in their respective jurisdictions, may, subject to the privileges enjoyed by all witnesses in this State, subpoena witnesses, examine them under oath, and require the production of any books, papers, documents, or other objects designated therein or any other record however maintained, including those electronically stored, which are relevant or material to the investigation.

(c) A subpoena issued under subsection (b):

- (1) Shall state the name of the issuing authority and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein, and may also command the person to whom it is directed to produce books, papers, documents, or other objects specifically designated therein;
- (2) May be served by any police officer or by any employee of the issuing authority who has the powers of a police officer at any place within the jurisdiction of the issuing authority;
- (3) Shall require attendance of the witness only in the county wherein he is served with the subpoena or at such other place as is agreed upon by the witness and the issuing authority; provided that if the subpoena is served in a county other than that in which the witness resides or is employed or transacts his business in person, the issuing authority shall bear the expense of travel by the witness to and attendance at the place named in the subpoena to the same extent as provided by the rules of court; and
- (4) Shall contain a short, plain statement of the recipient's rights and the procedure for enforcing and contesting the subpoena.

(d) The issuing authority shall pay to a financial institution which is served a subpoena issued under this section a fee for reimbursement of such costs as are necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, documents, or other objects designated by the subpoena. Reimbursement shall be paid at the rate of \$15 per hour for research time and 50 cents per page for reproduction.

[(d)] (e) Upon application by the attorney general or the county prosecuting attorney who issued the subpoena, a circuit court of the county wherein the witness resides or is found may compel obedience to the subpoena; provided that the court, on motion promptly made, may quash or modify the subpoena if compliance would be unreasonable or oppressive or violate any privilege the witness may be entitled to exercise in a court proceeding.

[(e)] (f) Compliance with a subpoena issued pursuant to this section shall not give rise to a civil action for damages by an individual or entity as to whom testimony has been given or documents or other things provided in compliance with the subpoena."

SECTION 2. The legislative auditor shall conduct a study on the actual costs incurred by financial institutions in securing for, reproducing, or transporting books, papers, documents, or other objects in compliance with subpoenas issued pursuant to section 28-2.5, Hawaii Revised Statutes. The legislative auditor shall report its findings to the legislature twenty days prior to the convening of the 1994 legislative session.

SECTION 3. A financial institution complying with a request for information by the legislative auditor pursuant to this Act shall be immune from liability for damages resulting from its compliance.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underlined.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 19, 1992.)