

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE AUDITOR.

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

1 SECTION 1. The legislature finds that the office of the
2 auditor was established pursuant to article VII, section 10, of
3 the state constitution, which authorized the auditor to conduct
4 investigations in addition to audits. Chapter 23, Hawaii
5 Revised Statutes, authorizes the auditor to conduct
6 investigations and provides the powers to conduct them.

7 However, the office of the auditor has not conducted
8 investigations in the past, has not been requested to conduct
9 investigations, and has never been provided funds to enable
10 investigations. Through this Act, the legislature establishes
11 an investigative unit in the office of the auditor, and
12 appropriate funds for this purpose.

13 The investigative unit of the office of the auditor would
14 provide similar investigative functions as inspector generals on
15 the federal level and in several states, including conducting
16 investigations involving alleged or suspected government waste,
17 fraud, abuse, or malfeasance.



1 The purpose of this Act is to establish an investigative
2 unit in the office of the auditor to conduct investigations
3 involving government waste, fraud, abuse, or malfeasance at the
4 request of the legislature or upon the auditor's initiative.
5 The Act also expands the powers of the office of the auditor,
6 and appropriates funds for the investigative unit.

7 SECTION 2. Section 23-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§23-4 Duties.** (a) The auditor shall conduct postaudits
10 of the transactions, accounts, programs, and performance of all
11 departments, offices, and agencies of the State and its
12 political subdivisions. The postaudits and all examinations to
13 discover evidence of any unauthorized, illegal, irregular,
14 improper, or unsafe handling or expenditure of state funds or
15 other improper practice of financial administration shall be
16 conducted at least once in every two years after the close of a
17 fiscal year, and at any other time or times during the fiscal
18 year as the auditor deems necessary or as may be required by the
19 legislature for the purpose of certifying to the accuracy of all
20 financial statements issued by the respective accounting
21 officers and of determining the validity of expenditures of
22 state or public funds.



1 (b) The auditor, in conducting postaudits, to the extent
2 practicable and applicable to the audit scope and objectives,
3 shall review and assess the audited agency's rules as defined in
4 section 91-1.

5 (c) The auditor shall establish an investigative unit
6 within the office of the auditor and shall conduct
7 investigations involving alleged or suspected government waste,
8 fraud, abuse, or malfeasance; provided that investigations may
9 be initiated by:

10 (1) A concurrent resolution adopted by the legislature;

11 (2) A request from a standing committee chair of either
12 the:

13 (A) Senate, with the concurrence of the president of
14 the senate; or

15 (B) House of representatives, with the concurrence of
16 the speaker of the house of representatives;

17 (3) An act of the legislature; or

18 (4) The initiative of the auditor;

19 provided further that the auditor may consider information from
20 a postaudit pursuant to subsection (a) in initiating an
21 investigation."



1 SECTION 3. Section 23-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The auditor may examine and inspect all accounts,
4 books, records, files, papers, and documents and all financial
5 affairs of every department, including the department of
6 taxation, office, agency, and political subdivision.

7 Notwithstanding section 235-116, or any other law making it
8 unlawful for any person, officer, or employee of the State to
9 make known information imparted by any tax return or permit any
10 tax return to be seen or examined by any person, in addition to
11 powers provided to the auditor under this subsection, the
12 department of taxation shall also:

- 13 (1) Permit the auditor to inspect any tax return of any
14 taxpayer;
- 15 (2) Furnish the auditor with an abstract of the return, if
16 the auditor so desires; and
- 17 (3) Supply the auditor with information concerning any
18 item contained in a tax return or disclosed by the
19 report of any investigation of a tax return or of the
20 subject matter of a tax return."

21 SECTION 4. Section 576D-12, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 (a) The agency and its agents shall keep records that may
2 be necessary or proper in accordance with this chapter. All
3 applications and records concerning any individual or case shall
4 be confidential. The use or disclosure of information
5 concerning any individual or case shall be limited to:

6 (1) Persons duly authorized by the State or the United
7 States in connection with their official duties, when
8 their official duties are directly concerned with the
9 administration and implementation of any child support
10 enforcement plan or of a program approved by Title
11 IV-A through E, or under Title II, X, XIV, XVI, XIX,
12 or XX of the Social Security Act, including but not
13 limited to any legal counsel working on behalf of the
14 agency;

15 (2) Disclosure to the extent necessary to provide
16 information to family support payors or payees or
17 their authorized representatives regarding payments
18 received by the agency and the status of their support
19 accounts; provided that the information shall be
20 disclosed to an authorized representative only if the
21 request is accompanied by a written waiver of the
22 payor or payee concerned;



- 1 (3) Disclosure to consumer reporting agencies as provided
2 in section 576D-6(a)(6);
- 3 (4) Other agencies or persons connected with the
4 administration of any other federal or federally
5 assisted program that provides assistance, in cash or
6 in kind, or services, directly to individuals on the
7 basis of need;
- 8 (5) Employees acting within the scope and course of their
9 employment with the department as may be approved by
10 the agency;
- 11 (6) Purposes directly connected with any investigation,
12 enforcement, prosecution, or criminal, civil, or
13 administrative proceeding conducted in connection with
14 the administration of any plan or program in paragraph
15 (1); [~~and~~]
- 16 (7) Disclosure to the family court as may be deemed
17 necessary by the family court for any case pending
18 before a court or for purposes of implementation of
19 section 571-51.5[-]; and
- 20 Disclosure to the office of the auditor as may be
21 deemed necessary for the purposes of section 23-4 or
22 section 23-5."



1 SECTION 5. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$350,000, or so much
3 thereof as may be necessary for fiscal year 2007-2008, and the
4 same sum, or so much thereof as may be necessary for fiscal year
5 2008-2009, for a five-person investigative unit comprising a
6 manager, a senior level supervisor, two investigative staff, and
7 a clerk, with appropriate computer and other equipment.

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

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2007.

13

INTRODUCED BY: *[Signature]*
[Signature]



Report Title:

Office of the Auditor; Investigative Unit

Description:

Authorizes the establishment of an investigative unit within the office of the auditor to conduct investigations involving alleged or suspected government waste, fraud, abuse, or malfeasance at the request of the legislature or upon the auditor's initiative; expands the powers of the office of the auditor; appropriates funds for the investigative unit.

