

## **LEGISLATIVE SERVICE AGENCIES**

### **OFFICE OF THE AUDITOR**

*<http://www.state.hi.us/auditor/>*

Article VII, Section 10, of the State Constitution provides for the appointment of the Auditor. The Auditor is appointed by a majority vote of each house of the Legislature in joint session for a term of eight years. By a two-thirds vote of the members of the Legislature in joint session, the Auditor may be removed from office for cause.

The powers and duties of the Auditor are provided for in chapter 23, Hawaii Revised Statutes. The Auditor conducts post-audits of all transactions, books, accounts, programs, and performances of state and county departments, agencies, and offices. The post-audits are intended to discover any evidence of unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds. In addition, post-audits are conducted to evaluate financial administration and programs and performance of state and county agencies. The Auditor also carries out procurement compliance audits and analyses of proposed mandatory health insurance, professional and occupational regulatory programs ("sunrise" law), and special, revolving, and trust funds. The Auditor also conducts such studies and investigations as may be directed by the Legislature.

The Auditor is provided with the authority to examine and inspect all books, records, files, papers, documents, and all financial affairs of every state and county agency. The Auditor may issue subpoenas compelling testimony or the production of other evidence.

### **ATTACHED FOR ADMINISTRATIVE PURPOSES**

#### **Hawaii State Ethics Commission**

The Hawaii State Ethics Commission is created under the mandate of Article XIV of the State Constitution. The Commission is established within the Office of the Auditor for administrative purposes only. The Commission administers and enforces two sets of state laws: the State Ethics Code, chapter 84, Hawaii Revised Statutes; and the Lobbyists Law, chapter 97, Hawaii Revised Statutes.

The Commission consists of five members who serve for four-year terms. The Judicial Council of the Hawaii Supreme Court nominates two individuals for each position on the Commission and sends its list of nominees to the Governor. The Governor then appoints one of the two nominees from the list to the Commission. Senate confirmation is not required. Members of the Commission must be United States citizens and residents of the State, and can hold no other public office. Members are prohibited from taking an active part in political management or in political campaigns during their term of office.

The State Ethics Code, chapter 84, Hawaii Revised Statutes, establishes standards of conduct that apply to all state officials and state employees, including members of state boards and commissions. The State Ethics Code, however, does not apply to state judges. State judges are subject to a separate code of conduct. The State Ethics Code covers several areas: conflicts of interest; gifts and the reporting of gifts; fair treatment; confidential information; the awarding of state contracts; and post-employment restrictions. The State Ethics Code also requires that certain state officials and employees, as well as candidates for state elective office, file financial disclosure statements with the Commission.

The Commission conducts educational programs, including ethics workshops and a mandatory ethics course for state legislators and other state officials. The Commission also provides advice to state officials and employees about compliance with the State Ethics Code. In addition, the Commission initiates, receives, and considers charges of alleged violations of the State Ethics Code. Investigations are conducted on a confidential basis. The Commission has subpoena powers; the authority to take testimony under oath; and the authority to hold public, contested case hearings. If the Commission finds that a violation of the State Ethics Code has occurred, it becomes a matter of public record.

There are a number of penalties that can be imposed for violations of the State Ethics Code. An employee who is found to have violated the State Ethics Code may be reprimanded, put on probation, demoted, suspended, or discharged. Any favorable state action obtained in violation of the State Ethics Code, and any contract entered into by the State in violation of the State Ethics Code, is voidable. The Commission has the authority to impose a fine of up to \$500 for each violation of any provision of the State Ethics Code.

The Lobbyists Law, chapter 97, Hawaii Revised Statutes, requires that people who meet certain criteria must register as lobbyists with the Commission. Lobbyists, their clients, and those who spend at least \$750 lobbying during a reporting period must report their expenditures, as well as contributions received for the purpose of lobbying, with the Commission.

The Commission has the authority to investigate, on a confidential basis, the activities of any person to determine whether the person is in compliance with the Lobbyists Law. The Commission may hold a public, contested case hearing to determine whether there has been a violation of the Lobbyists Law. Upon the finding of a violation, the Commission may assess an administrative fine of up to \$500 for each violation of the Lobbyists Law.

## **LEGISLATIVE REFERENCE BUREAU**

*<http://www.hawaii.gov/lrb/>*

The Legislative Reference Bureau, established under section 23G-1, Hawaii Revised Statutes, drafts bills and provides impartial research and reference services on legislative issues to the Legislature and legislators. The Director of the Legislative Reference Bureau is appointed for a six-year term by a majority vote of each house of the Legislature in joint session, and may be removed by two-thirds vote of the members of the Legislature in joint session for reasons of

neglect of duty, misconduct, or disability. Employees of the Bureau are hired by the Director and serve at the Director's pleasure. The staff of the Bureau is prohibited by law from revealing to any person outside of the Bureau the contents of any request for services except with the consent of the requestor.

The Bureau is charged with controlling and maintaining any legislative data processing program that may be established. The use of electronic data processing by the Legislature provides on-line search capabilities for information on bills and resolutions introduced in the Legislature, for the Hawaii Revised Statutes, for miscellaneous information concerning the Legislature, such as committees and governor's messages, and for the library catalogues of the Bureau Library and several other government research libraries in a cooperative network.

The Bureau also provides assistance to the general public in finding and following legislative measures through its legislative information systems office which is in charge of the legislative data processing program.

## **Research**

As part of its research and reference service, the Bureau cooperates with other states and territories in securing reports and information on all matters relating to legislative problems. Upon request by the Legislature, the Bureau conducts studies and performs legal research on matters necessary for the enactment of substantive legislation and serves in an advisory capacity to the Legislature and its committees and to other legislative service agencies. The Bureau also drafts bills and resolutions and conducts other research upon request of individual legislators.

## **Library**

The Bureau also maintains a reference library that serves the Legislature, legislative service agencies, government departments and agencies, and the general public. It provides essential information resources and information services which support the legislative process. The Library's online catalog is a union catalog combining the holdings of several other government research libraries. The collection is a combination of legislative studies, executive agency reports, statutes, journals, court cases, and county codes. A newspaper clipping file is maintained for current and historical information, dating back to the 1970s. The Library also distributes the print and electronic versions of Bureau publications and maintains the Bureau's web site.

## **Revisor of Statutes**

Chapter 23G, part II, Hawaii Revised Statutes, provides for statute revision and publication. Under section 23G-11, Hawaii Revised Statutes, the Director, or a member of the staff of the Bureau designated by the Director, is the Revisor of Statutes of the State. The duties of the Revisor of Statutes are: the publication of the session laws and supplements to, and

replacement volumes of, the Revised Statutes; review of annotations to the Revised Statutes; continuous revision of the statutes; publication of the Hawaii Administrative Rules index and supplements thereto; and the preparation of rules of format to be followed by all state agencies in the compilation and publication of their rules. The format rules and the index are prepared so as to be accessible to the public in the Office of the Lieutenant Governor.

As soon as possible after the close of each legislative session, the laws enacted by the Legislature are prepared for publication with a suitable index and tables showing what statutes have been affected. In addition, a cumulative supplement to the last revision of the laws of Hawaii, containing all laws of a general and permanent nature enacted subsequent to the last revision of the laws, and a cumulative index are prepared. The statutes are annotated with references to relevant congressional acts, case law, law journal articles, and related state statutes.

Copies of the session laws and supplements are printed and delivered to the Lieutenant Governor for distribution. The Lieutenant Governor determines the price and distributes and sells the session laws and supplements.

A systematic and continuing study of the laws of Hawaii is also conducted by the Revisor for the purpose of reducing their number and bulk, and removing inconsistencies, redundancies, and unnecessary repetitions, and otherwise improving their clarity.

## **Public Access Room**

The Public Access Room (PAR), established in the State Capitol and maintained by the Bureau, pursuant to section 21G-2, Hawaii Revised Statutes, serves as the citizens' resource at the Capitol. PAR is a year-round, non-partisan facility that provides workspace, computers, printers, fax machines, TTY telephone services, and various other resources, to assist members of the public in becoming more effective with their own advocacy. The staff conducts workshops, both in-house and in the community, on the legislative process, effective use of various Internet sites to research and track legislation, and reading legislative documents. Testimony is also processed and delivered on behalf of individuals who wish to participate in the hearings process.

## **OMBUDSMAN**

*<http://www.ombudsman.hawaii.gov/>*

The Office of the Ombudsman is governed by chapter 96, Hawaii Revised Statutes. The Ombudsman accepts and investigates complaints by the public about any action or inaction by any officer or employee of an executive agency of the state or county government. The Ombudsman is appointed to a six-year term by a majority vote of each house of the Legislature in joint session, and may be removed by two-thirds vote of the members in joint session for reasons of neglect of duty, misconduct, or disability. The Ombudsman is an independent, nonpartisan officer of the Legislature. The Office does not function directly as a legislative

service agency; it is instead a service to the public provided by the Legislature. Being a part of the legislative branch of government, the Ombudsman's power to investigate may be considered an extension of the power of legislative oversight.

Under section 96-8, Hawaii Revised Statutes, the Ombudsman investigates administrative acts which might be:

- (1) Contrary to law;
- (2) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law;
- (3) Based on a mistake of fact;
- (4) Based on improper or irrelevant grounds;
- (5) Unaccompanied by an adequate statement of reasons;
- (6) Performed in an inefficient manner; or
- (7) Otherwise erroneous.

The investigations of the Office may also lead to recommendations for appropriate remedies to correct underlying problems leading to the complaints.

The Ombudsman, by subpoena, may compel the appearance of persons to testify on, and compel the production of documents, papers, or objects relating to the matter under investigation. The Ombudsman is required by law to maintain secrecy in respect to all matters and the identities of complainants or witnesses appearing before the Ombudsman.

Before issuing a statement or recommendation that is critical of any agency or person, the Ombudsman must consult with the agency or person. Under section 96-12, Hawaii Revised Statutes, after an investigation, an opinion and recommendations to the agency are reported if the Ombudsman finds that:

- (1) The matter should be further considered by the agency;
- (2) An administrative act should be modified or canceled;
- (3) A statute or regulation on which an administrative act is based should be altered;
- (4) Reasons should be given for an administrative act; or
- (5) Any other action should be taken by the agency.

The agency may be requested to notify the Ombudsman, within a specified time, of any action taken on recommendations.

After a reasonable time has elapsed after a report of recommendations to the agency, the Ombudsman may submit a report to the Governor, the Legislature, or the public, including any reply made by the agency. The complainant is also notified of the actions taken by the Ombudsman and by the agency.

Central to the classical principle of the Ombudsman institution is that the Office has no actual power to change administrative decisions or actions; instead it must rely on reasoned persuasion to convince agencies to resolve justified complaints.