

KFH421.5
L35
A25
(50-8)

ADMINISTRATIVE SURVEY OF THE TERRITORY OF HAWAII

Preliminary Report Number 8

POST-AUDITING

August 22, 1950
LEGISLATIVE REFERENCE BUREAU
University of Hawaii

~~For Committee Use Only~~

ADMINISTRATIVE SURVEY OF THE TERRITORY OF HAWAII

Preliminary Report Number 8

Prepared for the Sub-Committee on Governmental Efficiency
of the Holdover Committee of 1949

POST-AUDITING

LEGISLATIVE REFERENCE BUREAU
TERRITORY OF HAWAII

UNIVERSITY OF HAWAII
HONOLULU

STATE OF HAWAII

JUL 11 2019

LEGISLATIVE REFERENCE BUREAU

August 22, 1950
LEGISLATIVE REFERENCE BUREAU
University of Hawaii

very Post-audit

POST-AUDITING

As recommended in Preliminary Report Number 6 of this series, "Financial Reorganization", post-auditing should be separated from pre-auditing and other related functions to effect closer control over finances. In the proposed "Finance Reorganization Act of 1951" (Bill Number 1 of this series), all pre-auditing and accounting functions of the present auditor's office are transferred to the proposed finance department.

Bill Number 2, a proposed "Audit Department Act of 1951", is attached hereto. In brief, the recommended legislation redefines the functions and duties of the auditor's office, continuing the post-audit of territorial books and accounts and transferring to such office the audit of county books and accounts, heretofore performed by the bank examiner, an office held ex-officio by the treasurer. This coordinates related auditing functions in one department, separating them from other financial functions, so that a relatively independent check can be maintained.

Ideally, the post-audit should be performed by an auditor completely independent of the executive, a situation which is not possible under terms of the Hawaiian Organic Act requiring the appointment of an auditor and deputy auditor by the governor. However, under the provisions of the proposed state constitution (Article VI, Section 8), this entire department will be removed from the executive branch and placed under the direct control of the legislature, thus achieving a completely independent and effective check of executive action.

Bill No. 2

AN ACT

RELATING TO THE ORGANIZATION OF CERTAIN EXECUTIVE AGENCIES OF THE TERRITORY OF HAWAII; DEFINING THE POWERS AND DUTIES OF THE AUDIT DEPARTMENT; TRANSFERRING CERTAIN POWERS AND DUTIES.

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

SECTION 1. Definitions. Wherever used in this chapter, unless the context clearly indicates otherwise, the term "territorial agency" or "agency" shall include any office, department, board, council, commission, institution or other division of the executive and judicial departments of the territorial government.

SECTION 2. Audit department; auditor; deputy. There is hereby created an audit department. The department shall be under the supervision and control of an auditor, appointed and removable as provided in Section 80 of the Hawaiian Organic Act. There shall also be a deputy auditor, appointed and removable in like manner.

SECTION 3. (Same as present Section 1552, Revised Laws of Hawaii 1945, "Oath of office").

SECTION 4. (Same as present Section 1555, Revised Laws of Hawaii 1945, "Deputy to act when").

SECTION 5. Appointments by auditor. The auditor shall appoint such professional, clerical or other personnel as shall be necessary to carry out the provisions of this chapter. All such appointments shall be made in accordance with the provisions of chapters 2 and 3, Revised Laws of Hawaii 1945.

SECTION 6. Audit of accounts. The auditor, or his duly authorized deputy or assistants, shall examine and audit all accounts, reports and statements and make independent verification of all assets, liabilities, inventories, revenues and expenditures of all territorial agencies and of all counties at least once each year, and at any other time if deemed advisable or if so directed by the governor or legislature. Such examinations and audits shall include all accounts or funds held directly or in trust by the territory, any county, or any agency, officer or employee thereof.

SECTION 7. Reports. The auditor shall make an annual report to the governor and the board of supervisors of each county, and a report to each regular session of the legislature, such reports to be in such detail as may be necessary to report fully his findings. He shall report to the governor, the attorney general and the board of supervisors forthwith, any and all instances of misfeasance, malfeasance or nonfeasance which may be disclosed by any audit conducted by him. He shall make any additional reports upon request by the governor, board of supervisors, legislature or any committee thereof.

SECTION 8. Duties when violations are discovered. If the auditor shall disclose any instance of misfeasance, malfeasance or nonfeasance, or any other irregularity on the part of any officer or employee of any county or any territorial agency, it shall be the duty of the attorney general or the respective county attorney to forthwith institute and prosecute such civil proceedings against such delinquent officer or employee, or upon his official bond, or both, as may be appropriate to secure to the Territory or county the recovery of any funds or other assets unlawfully expended or disposed of, and he shall cause such criminal proceedings to be instituted by the proper authorities as the

evidence may warrant.

SECTION 9. Examining persons, books. The auditor shall cause to be made such investigations or examinations as he believes necessary in carrying out the provisions of this chapter, and he or his duly authorized deputy or assistants shall have power to administer oaths in connection therewith. Officers and employees of all agencies shall assist him, when and as he may require, in such investigations and examinations. He may cause search to be made, extracts to be taken from every book, paper or record in the custody of any public office without paying any fee for the same and it shall be the duty of every officer having the custody of any such book, paper or record to make such search and furnish such extracts as thereto requested.

SECTION 10. No privilege to witnesses; immunity from prosecution. No witness before the auditor or his duly authorized deputy or assistants shall be privileged to refuse to testify to any fact or to produce any paper, respecting which he shall be examined, upon the ground that his testimony to such fact or his production of such paper might incriminate himself, but no prosecution can afterwards be had against him for any offense concerning which he has testified. Any official paper or record produced by such witness is not within such privilege.

SECTION 11. Penalties. Any officer, employee, or person who shall fail or neglect to conform to any of the provisions of this chapter, or the rules and regulations issued pursuant thereto, or shall fail or neglect to attend the auditor or his duly authorized deputy or assistants for the purpose of being examined or to produce any accounts, books, vouchers or other documents or to answer any other lawful question when required to do so by the auditor or his duly authorized deputy or assistants, shall be liable to a penalty of not less than _____

dollars, nor more than _____ dollars, on conviction.¹

SECTION 12. Accounting system. The auditor shall advise the commissioner of finance concerning the system of accounts, records and books to be used by all territorial and county agencies. Accounts, records and books shall be kept only by such systems as have been approved by the auditor.

SECTION 13. Transfer of certain powers and duties. All powers and duties heretofore vested in the bank examiner or deputy bank examiner relating to the audit of county books are hereby transferred to the auditor.

SECTION 14. Repeal of conflicting laws. Sections 1551-1571, Revised Laws of Hawaii 1945, are hereby repealed. All other laws or parts of laws inconsistent herewith are hereby amended to conform to the provisions of this Act.

SECTION 15. Short title. This Act may be referred to as the "Audit Department Act of 1951".

SECTION 16. Effective date. This Act shall take effect on July 1, 1951.

¹Present amounts are \$25 and \$100, respectively.