

LEGISLATIVE SERVICE AGENCIES

AUDITOR

<http://auditor.hawaii.gov>

The State Constitution, Article VII, section 10, 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 and may be removed from office for cause by a two-thirds vote of the members of the Legislature in joint session.

The powers and duties of the Auditor are provided for in chapter 23, HRS. 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. Finally, the Auditor 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 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

State Ethics Commission <http://hawaii.gov/ethics>

The State Ethics Commission is created under the mandate of Article XIV of the State Constitution and established under section 84-21, HRS. The Commission administers and enforces two sets of state laws: Standards of Conduct, chapter 84, HRS, that includes the Code of Ethics under part II; and the law on lobbyists, chapter 97, HRS.

The Commission consists of five members who serve four-year terms. The Judicial Council, appointed under section 601-4, HRS, nominates two individuals for each vacancy on the Commission and sends its list of nominees to the Governor, who then appoints one of the two nominees 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. Under its constitutional mandate, commission members are prohibited from taking an active part in political management or in political campaigns.

The Code of Ethics establishes standards of conduct that apply to all state officials and state employees, including members of state boards and commissions. The Code, however, does not apply to state judges, who are subject to a separate code of conduct. The 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 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 Code of Ethics. In addition, the Commission initiates, receives, and considers charges of alleged violations of the 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. A decision rendered by the Commission after a hearing becomes a matter of public record.

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

The law on lobbyists, chapter 97, HRS, requires that individuals who meet certain criteria register as lobbyists with the Commission. Lobbyists, their clients, and those who spend \$750 or more for the purpose of lobbying in any six-month period must report their expenditures, as well as contributions received for the purpose of lobbying, to 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 law on lobbyists. 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 law on lobbyists.

LEGISLATIVE REFERENCE BUREAU

<http://lrbhawaii.org>

The Legislative Reference Bureau, established pursuant to chapter 23G, HRS, is a nonpartisan legislative service agency that provides a wide variety of comprehensive impartial research and reference services to the Legislature as a whole and to individual legislators and legislative committees. In some cases, the Bureau also provides nonpartisan services for other government agencies, other entities, and the general public. The Bureau consists of five separate and distinct divisions: Research, Statute Revision, Systems Office, Library, and the Public Access Room. 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 a 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. By law, the services provided by the Bureau to legislators are confidential, unless the confidentiality is waived by the requestor.¹

Research Division

The Bureau's Research Division assists the Legislature through comprehensive, nonpartisan research memoranda and reports and drafting of various legislative documents, including drafting bills, resolutions, bill reviews, committee reports, and floor amendments, letters and memoranda, and published reports and studies. In addition, Research Division staff members are sometimes tasked with supporting legislative task forces and working groups and assisting the Senate and House Clerks in preparing operational documents for the Legislature, such as Requests for Proposals and procurement contracts.

Statute Revision Division

Chapter 23G, part II, HRS, addresses the Bureau's statute revision and publication functions.² Under section 23G-11, HRS, the Director, or a member of the staff of the Bureau designated by the Director, serves as the Revisor of Statutes of the State. The Statute Revision Division reviews the laws enacted each session and is responsible for several publications that are published during the interim, including most notably:

- The Session Laws of Hawaii, containing all the laws enacted and any constitutional amendments proposed during a legislative session, along with a suitable index and tables showing what statutes have been affected;
- The annual cumulative supplements to the HRS,³ containing all subsequent amendments or repeals that have been made to those statutory sections appearing in the most recent hardbound volumes and any new statutory sections that have been enacted into law;
- Hardbound replacement volumes to the HRS.⁴

The Statute Revision Division also engages in the continuous review of existing law to identify errors or inconsistencies in the HRS and session laws. As necessary, the Division staff prepares a statutory revision bill that is "housekeeping" in nature to correct the technical nonsubstantive errors found in the HRS or session laws. The Division also is statutorily charged

¹ See section 23G-4, HRS.

² While the Bureau is responsible for publication functions, the Lieutenant Governor is responsible for all facets of the sale and distribution of the Session Laws of Hawaii, Hawaii Revised Statutes replacement volumes, and HRS supplements, including pricing. See section 23G-18, HRS.

³ The Hawaii Revised Statutes is a compilation of all of Hawaii's laws that are of a general and permanent nature.

⁴ The entire HRS, comprised of volumes 1 through 14, was replaced in 1993; the index in 1996. Since 2001, individual HRS volumes have been periodically replaced.

with: prescribing and distributing a uniform format for all state agencies for the compiling and publication of their rules;⁵ and compiling and publishing an index to all rules, with annual supplements, that includes an annual table indicating administrative agency rules that implement or interpret state laws.⁶ To facilitate the perceived intent of the Legislature and to assist the agencies in meeting the mandated rules format, Statute Revision staff, upon request, review governmental agencies' administrative rules for conformance with a mandated format.

Systems Office

The Bureau's Systems Office coordinates the integration of the Bureau's computer systems with the House and Senate information systems. Pursuant to statute,⁷ the Systems Office is also responsible for maintaining the Bureau's data management system, which is used by the Bureau staff to electronically access information relating to legislative documents, legislators, and the Legislature and for critical internal operations such as managing internal documents and workload tracking. A significant portion of the Systems Office's workload, in creating and maintaining searchable databases, tracking legislation, and customizing bill status reports, supports the work of other divisions of the Bureau, particularly the Research Division. The Systems Office also provides substantial assistance directly to Legislators, their staff, and other legislative offices. In addition, the Systems Office produces and disseminates bill status information via various session publications (Crossover Bills, Bills Passed, Resolutions Adopted, etc.), which are also made available on the Bureau's website.

Library

The Bureau is statutorily charged with maintaining a reference library as an information resource to serve and support the Legislature and legislative staff, including the other divisions within the Bureau.⁸ The Library also is available for use by other government agencies and the general public.⁹ The Library's collection consists of over 123,000 volumes, including Hawaii statutes and case law, agency reports, and other state documents, a ten-year archive of bills and resolutions, House and Senate journals dating back to 1901, Session Laws of Hawaii back to 1848, statute collections from the federal government and other states, and numerous other reference volumes and reports. In addition, the collection contains thousands of volumes of law reviews, scholarly journals, magazines, and other periodicals. The Library also distributes Bureau publications and maintains the Bureau's website.

⁵ See sections 23G-12(7) and 91-4.2(1), HRS.

⁶ See sections 23G-12(6), 91-4.2(2), and 91-4.4, HRS.

⁷ See section 23G-3(8), HRS.

⁸ See section 23G-3(6), HRS.

⁹ *Id.*

Public Access Room

The Public Access Room (PAR), established in the State Capitol and maintained by the Bureau,¹⁰ serves as a resource to the public 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 actively involved in the legislative process.

PAR staff members provide research assistance, training, and outreach to members of the public who wish to understand the legislative process and to participate more effectively in their own governance. This outreach includes conducting workshops and tutorials throughout the year, both in-house and in Hawaii's various communities throughout the State.

OMBUDSMAN

<http://ombudsman.hawaii.gov>

The Office of the Ombudsman is governed by chapter 96, HRS. 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 office of the Legislature. The Office does not function directly as an agency that serves the Legislature; 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, HRS, the Ombudsman investigates administrative acts that 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 giving rise 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, HRS, after an

¹⁰ See section 21G-2, HRS.

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 rule 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.