
HOUSE RESOLUTION

ESTABLISHING A TASK FORCE TO STUDY STRUCTURAL CHANGES AND
PROCEDURES TO THE OFFICE OF THE LEGISLATIVE AUDITOR TO
IMPROVE ACCOUNTABILITY AND INDEPENDENCE.

1 WHEREAS, the office of the auditor is established by
2 Article VII, section 10, of the Hawaii State Constitution, and
3 Chapter 23 of the Hawaii Revised Statutes; and
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5 WHEREAS, the Article VII, section 10 of the Hawaii State
6 Constitution calls for the auditor to be appointed by the
7 legislature, and the budget of the office of the auditor is
8 included within the legislative budget; and
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10 WHEREAS, in 2002, the year immediately preceding the tenure
11 of the current administration, the budget of the office of the
12 auditor stood at slightly over two million dollars; and
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14 WHEREAS, in 2003, the legislature overrode a gubernatorial
15 veto and enacted Act 4, Special Session Laws of Hawaii 2003,
16 which established the audit revolving fund; and
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18 WHEREAS, Act 4 compels executive departments to deposit
19 moneys received or generated by an executive department as a
20 result of the cost of financial audits conducted by or
21 contracted for by the auditor into the audit revolving fund; and
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23 WHEREAS, deposits into the audit revolving fund have
24 fluctuated in the years since its creation from \$3,013,125 in
25 fiscal year 2004, \$1,500,000 in fiscal years 2005, and 2006,
26 \$4,221,820 in fiscal year 2007, \$2,429,360 in fiscal year 2008,
27 and \$2,550,828, in fiscal years 2009 and 2010; and
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29 WHEREAS, over the same time periods, the budget of the
30 office of the auditor, as included in the legislative budget,



1 has steadily increased to a high of \$2,910,685 in fiscal year
2 2008; and

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4 WHEREAS, appropriations out of the audit revolving fund
5 more than doubled the actual expenditures by the office of the
6 auditor during the same time period, with the office of the
7 auditor authorized to expend over \$9 million in fiscal year 2009
8 compared to just over \$2 million in fiscal year 2002; and

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10 WHEREAS, prior to 2003, the auditor was universally hailed
11 for executing her duties in a fair and impartial manner; and

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13 WHEREAS, in recent years, the audit process by the office
14 of the auditor has taken a more biased and political flavor,
15 including drafts of audits that present conclusions that
16 overstep the scope of the office, such as in one highly
17 publicized incident where the draft audit recommended the
18 termination of a department director and drew legal conclusions
19 of liability, even after the Attorney General testified in a
20 Senate Investigative Committee that the department director was
21 not criminally liable for purported violations of the law; and

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23 WHEREAS, the accused department director and the Governor
24 criticized the draft as "political", "lacks understanding",
25 "fails to accurately assess factual information", and
26 "completely absen[t] of objectivity."; and

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28 WHEREAS, the final version of this particular audit has yet
29 to be released, indicating major revisions and giving credence
30 to the criticisms of the accused department director and
31 Governor; and

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33 WHEREAS, another example of this disturbing trend of
34 impartiality is the very recently completed draft of an audit of
35 the Department of Budget and Finance which was supposed to
36 entail a financial examination of the department; and

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38 WHEREAS, the auditor chose to implicitly accuse the
39 Department of Budget and Finance of violating state law by
40 investing state funds in student loan auction rate securities, a



1 short term investment that many jurisdictions invest general
2 funds in; and

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4 WHEREAS, the investments have not lost a single dollar, and
5 the Department of Budget and Finance sold at least \$10 million
6 of this type of security for par, or face, value; and

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8 WHEREAS, these investments also pay interest periodically;
9 and

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11 WHEREAS, the draft has been criticized by the Governor as
12 "an unfounded, false, and defamatory attack on the integrity of
13 the department and its employees", but even more disturbing, the
14 draft also draws a legal conclusion about the state's purchase
15 of auction-rate securities that the auditor is unqualified to
16 make, is not based on evidence and is at odds with a written
17 opinion by the state attorney general; and

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19 WHEREAS, the only accountability measures currently in
20 place for the office of the legislative auditor is the
21 legislative budget process, for which the legislature has
22 increased the budget over the years, and the appointment
23 process, which is once every eight years; and

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25 WHEREAS, other states strive for accountability and
26 impartiality in their auditors through a number of means, such
27 as creating an office that is not attached to either the
28 executive or legislative branch, making the auditor an elected
29 position, or having another entity provide a check against the
30 auditor, such as a state inspector general; and

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32 WHEREAS, recent events have broached the possibility that
33 structural changes may be needed to increase the accountability
34 and independence of the office of the auditor; now, therefore,

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36 BE IT RESOLVED by the House of Representatives of the
37 Twenty-fifth Legislature of the State of Hawaii, Regular Session
38 of 2010, that there be a task force created to study the various
39 options for increasing the accountability and independence of
40 the office of the auditor, and the feasibility of the various
41 options; and



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BE IT FURTHER RESOLVED that the task force be composed of an equal number of individuals from the majority and minority caucuses of both the House and Senate, as selected by their respective leadership; and

BE IT FURTHER RESOLVED that the task force also include a representative from the executive branch, the office of the auditor, and the legislative reference bureau; and

BE IT FURTHER RESOLVED that the task force elect a chair from its membership, not to include the representative from the executive branch, the office of the auditor, or the legislative reference bureau; and

BE IT FURTHER RESOLVED that the task force submit its written findings and recommendations, including potential legislation, to the Legislature not later than twenty days prior to the convening of the Regular Session of 2011; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to Governor, the Speaker of the House of Representatives, the Senate President, the Office of the Auditor, and the Legislative Reference Bureau.

OFFERED BY:



MAR 10 2010

