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## A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE STATE INSPECTOR GENERAL.

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

1           SECTION 1. The legislature finds that accountability is a  
2 necessary key to maintaining public trust in government.  
3 Inspectors general are government officials who are entrusted  
4 with fostering and promoting accountability and integrity in  
5 government. The legislature further finds that establishing an  
6 office of the state inspector general in Hawaii will promote  
7 integrity and accountability, maximize the efficiency and  
8 effectiveness of state agencies through the conduct of  
9 independent investigations, performance reviews and other  
10 services, and provide objective and useful information to state  
11 officials and residents of Hawaii.

12           Accordingly, the purpose of this Act is to:

13           (1) Establish the office of the state inspector general,  
14           to be headed by the state inspector general, within  
15           the office of the state auditor for administrative  
16           purposes only; and



1 (2) Require the office of the state inspector general to  
2 investigate complaints alleging fraud, waste, abuse,  
3 or corruption by a state agency or quasi-public  
4 agency, or the officers or employees of a state agency  
5 or quasi-public agency.

6 SECTION 2. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to be appropriately designated and to read  
8 as follows:

9 "CHAPTER

10 OFFICE OF THE STATE INSPECTOR GENERAL

11 § -1 Definitions. As used in this chapter, unless the  
12 context requires otherwise:

13 "Employee" means an individual drawing a salary from a  
14 state agency.

15 "Inspector general" means the state inspector general.

16 "Office" means the office of the state inspector general.

17 "Officer" means any person who is elected or appointed to a  
18 public office in a state agency.

19 "Quasi-public agency" means any quasi-public institution  
20 that is supported in whole or in part by state funds.



1 "State agency" means any executive department, commission,  
2 board, agency, authority, bureau, office, or other establishment  
3 of the state government, but excludes the legislature and the  
4 judiciary.

5 § -2 Office of the state inspector general; state  
6 inspector general; appointment. (a) There is established the  
7 office of the state inspector general, which shall be placed  
8 within the office of the auditor for administrative purposes  
9 only. The office shall be headed by the state inspector  
10 general, who shall be a full-time public official. The  
11 inspector general shall serve a term of four years and shall be  
12 paid a salary not to exceed per cent of the salary of the  
13 director of human resources development.

14 (b) The inspector general shall be nominated by the  
15 governor and, by and with the advice and consent of the senate,  
16 appointed by the governor. The inspector general may only be  
17 removed from office by the governor for cause; provided that the  
18 governor shall give prior notification of the removal to the  
19 president of the senate and the speaker of the house of  
20 representatives.



1 (c) The inspector general shall have a minimum of five  
2 years' experience or expertise in accounting, public  
3 administration, or audit investigations as a certified public  
4 accountant or certified internal auditor.

5 (d) The inspector general shall hire staff necessary to  
6 carry out the purposes of this chapter.

7 (e) The inspector general and employees of the office  
8 shall be included in any benefit program generally applicable to  
9 the officers and employees of the State.

10 (f) Nothing in this chapter shall be construed to limit or  
11 prevent the legislature from reviewing the operations of any  
12 state department or otherwise limit the statutory  
13 responsibilities of the state auditor.

14 § -3 Powers and duties of inspector general. (a) The  
15 inspector general shall:

16 (1) Receive complaints regarding alleged fraud, waste,  
17 abuse, or corruption by any state agency or quasi-  
18 public agency or by any officer or employee of a state  
19 agency or quasi-public agency; provided that the  
20 inspector general shall have the discretion to



1 determine whether a complaint has provided reasonable  
2 cause to investigate;

3 (2) Investigate the management and operations of state  
4 agencies, quasi-public agencies, and independent  
5 contractors of state agencies to determine whether  
6 acts of fraud, waste, abuse, or corruption have been  
7 committed or are being committed by officers,  
8 employees, or independent contractors of a state  
9 agency or officers or employees of a quasi-public  
10 agency, including any allegations of criminal acts  
11 affecting the operations of state agencies and quasi-  
12 public agencies;

13 (3) Prepare a detailed report of each investigation  
14 stating whether fraud, waste, abuse, or corruption has  
15 been detected; provided that if fraud, waste, abuse,  
16 or corruption has been detected, the report shall:

- 17 (A) Identify the person who has committed the  
18 wrongful act or omission;
- 19 (B) Describe the wrongful act or omission; and
- 20 (C) Describe any corrective measures taken or  
21 implemented by the state agency or quasi-public



- 1                   agency subject to the investigation to prevent  
2                   recurrences of similar actions;
- 3           (4)   Provide timely notification to the attorney general  
4           and appropriate law enforcement agencies when the  
5           inspector general has reasonable grounds to believe  
6           there has been a violation of state criminal law;
- 7           (5)   Conduct performance reviews of state agencies to  
8           assess the efficiency, effectiveness, or economy of  
9           programs and ascertain, among other things, the proper  
10          expenditure of state funds; provided that the  
11          inspector general shall prepare a report for each  
12          performance review that:
- 13               (A)   Details any findings for improving the  
14               efficiency, effectiveness, or economy of the  
15               state agency subject to the performance review;  
16               and
- 17               (B)   Makes recommendations, including proposed  
18               legislation, necessary to effectuate these  
19               findings;
- 20          (6)   Coordinate and require standards for existing internal  
21          audit programs and for other internal audit programs



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- 1           in state agencies, as needed to ensure that state  
2           agencies maintain an adequate system of internal  
3           management control;
- 4           (7) Assess the condition of the accounting, financial, and  
5           administrative controls of state agencies and make  
6           recommendations to protect the State's assets, as  
7           needed;
- 8           (8) Assist state agency internal auditing programs with  
9           technical auditing issues;
- 10          (9) Assist state residents in understanding their rights  
11          and the processes available to residents to express  
12          concerns regarding the activities of a state agency or  
13          quasi-public agency or any officer or employee of a  
14          state agency or quasi-public agency;
- 15          (10) Maintain a record on inquiries received, the types of  
16          assistance requested, any actions taken, and the  
17          disposition of each inquiry;
- 18          (11) Upon request, assist state residents in using  
19          procedures and processes available to express concerns  
20          regarding the activities of an agency or any officer  
21          or employee of an agency;



1           (12) Ensure that state residents have access to the  
2           services provided by the inspector general and receive  
3           timely responses from the inspector general to  
4           inquiries;

5           (13) Make and enter into contracts necessary to carry out  
6           the purposes of this chapter; and

7           (14) Adopt rules in accordance with chapter 91 necessary to  
8           carry out the purposes of this chapter.

9           (b) If the inspector general receives a complaint that  
10          alleges fraud, waste, abuse, or corruption by the University of  
11          Hawaii or any of its officers or employees, the inspector  
12          general shall, except for reasonable and articulable causes,  
13          refer the complaint to the internal audit department of the  
14          University of Hawaii for investigation; provided that if the  
15          complaint concerns the president, members of the board of  
16          regents, or an internal audit department of the University of  
17          Hawaii, the investigation shall be conducted by the inspector  
18          general; provided further that:

19               (1) The inspector general may provide assistance for  
20               investigations into alleged fraud, waste, abuse, or





1           corruption if requested by the University of Hawaii;  
2           and

3           (2) The University of Hawaii shall provide periodic  
4           updates on the status of any investigation into  
5           alleged fraud, waste, abuse, or corruption and make  
6           the results of that investigation available to the  
7           inspector general.

8           § -4 Cooperation of state agencies, quasi-public agency,  
9           and officers. (a) Each state agency, quasi-public agency, and  
10          every officer and employee shall promptly report any allegations  
11          of criminal acts or acts of fraud, waste, abuse, or corruption  
12          and cooperate with, and provide assistance to, the inspector  
13          general in the performance of any investigation. This reporting  
14          requirement shall be deemed satisfied for officers or employees  
15          of a state agency or quasi-public agency once the administrative  
16          head of a state agency or quasi-public agency reports to the  
17          inspector general any allegations of criminal acts, fraud,  
18          waste, abuse, or corruption within the state agency or quasi-  
19          public agency or once an employee reports directly to the  
20          inspector general any allegations of criminal acts, fraud,  
21          waste, abuse, or corruption by an employer within the state



1 agency or quasi-public agency, subject to any applicable  
2 whistleblowers' protections under chapter 378, part V. Each  
3 state agency or quasi-public agency shall make its premises,  
4 equipment, personnel, books, records, and papers readily  
5 available to the inspector general upon request.

6 (b) When the administrative head of a state agency, quasi-  
7 public agency, or an officer discovers any unauthorized,  
8 illegal, irregular, improper, or unsafe handling or expenditure  
9 of state funds, or if it comes to the administrative head's  
10 attention that any unauthorized, illegal, irregular, improper,  
11 or unsafe handling or expenditure of state funds is contemplated  
12 but has not been consummated, the administrative head of the  
13 state agency shall promptly report to the inspector general.

14 (c) The inspector general may enter upon the premises of  
15 any state agency or quasi-public agency at any time, without  
16 prior announcement, if necessary to the successful completion of  
17 an investigation. In the course of an investigation, the  
18 inspector general may question any officer or employee serving  
19 in, and any person transacting business with, the state agency  
20 or quasi-public agency and may inspect and copy any books,  
21 records, or papers in the possession of the state agency or



1 quasi-public agency. The inspector general shall preserve the  
2 confidentiality of any information obtained from a state agency  
3 or quasi-public agency during the course of an investigation in  
4 accordance with applicable state and federal law.

5 § -5 Office of state inspector general; police powers;  
6 summons or citation; failure to obey a summons. (a) The  
7 inspector general shall have police powers and may appoint and  
8 commission investigation and enforcement officers within the  
9 office. Persons appointed and commissioned under this section  
10 shall have and may exercise all of the powers and authority of a  
11 police officer, including the power of arrest, in the  
12 investigations of allegations of criminal behavior affecting the  
13 operations of a state agency or quasi-public agency pursuant to  
14 the office's duties under this chapter and the rules adopted  
15 thereunder; provided that these powers shall remain in force and  
16 effect only while in actual performance of the investigation and  
17 enforcement officers' duties.

18 (b) An investigation and enforcement officer, upon  
19 arresting any person, may immediately take the person arrested  
20 to a police station or before a district judge, note the  
21 violation of the law or rule by the person, and issue the person



1 a summons or citation, warning the person to appear and to  
2 answer to the charge against the person at a certain place and  
3 time within seven days after the arrest. If any person fails to  
4 comply with a summons or citation issued, the investigation and  
5 enforcement officer shall cause a complaint to be entered  
6 against that person and secure the issuance of a warrant for the  
7 person's arrest.

8 (c) The office shall cooperate with law enforcement  
9 authorities of the State in development of programs and mutual  
10 aid agreements to set forth the respective roles and  
11 responsibilities of each agency, including but not limited to  
12 the categories of investigations that will be overseen by each  
13 agency and how to avoid redundancy or operation conflicts.

14 (d) Any investigation and enforcement officer authorized  
15 by the inspector general to conduct any investigation shall have  
16 the following authority:

17 (1) Power to administer oaths for the purposes of  
18 receiving complaints and conducting investigations of  
19 allegations of criminal behavior affecting the  
20 operations of a state agency or quasi-public agency



1           pursuant to the office's duties under this chapter and  
2           the rules adopted thereunder; and

3           (2) Authority to obtain, serve, and execute any warrant or  
4           process issued by any circuit or district court in the  
5           State or under the authority of the inspector general  
6           and request and receive criminal history information  
7           pursuant to section 846-10.

8           § -6 Subpoena powers. (a) The inspector general or the  
9           inspector general's designee may subpoena witnesses, examine  
10          them under oath, and require the production of books, papers,  
11          documents, or other evidence that the inspector general  
12          reasonably believes may relate to an investigation being  
13          conducted under this chapter.

14          (b) The books, papers, documents, or other evidence may be  
15          retained by the inspector general for a reasonable period of  
16          time for examination, audit, copying, testing, and  
17          photographing.

18          (c) The subpoena power shall be exercised by the inspector  
19          general or the inspector general's designee.

20          (d) Upon application of the inspector general, obedience  
21          to the subpoena shall be enforced by the circuit court in the



1 county in which the person subpoenaed resides or is found, in  
2 the same manner as a subpoena issued by a circuit court.

3 § -7 Reports. (a) The inspector general shall report  
4 to the legislature, no later than twenty days prior to the  
5 convening of each regular legislative session, on the office's  
6 activities for the immediately preceding fiscal year.

7 (b) The report shall include:

8 (1) A description of any significant problems, abuses, and  
9 deficiencies related to the management or operation of  
10 state agencies or quasi-public agencies;

11 (2) A description of the recommendations for any  
12 corrective actions made by the office with respect to  
13 significant problems, abuses, or deficiencies  
14 identified by the office;

15 (3) A summary of matters referred to the attorney general  
16 and appropriate law enforcement agencies and actions  
17 taken on those matters;

18 (4) Information concerning the number of complaints  
19 received and types of investigations completed by the  
20 office;



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1           (5) The development and maintenance of any internal audit  
2           programs in state agencies and quasi-public agencies;  
3           and

4           (6) The results of any state agency or quasi-public agency  
5           performance reviews, including a summary of any  
6           findings or recommendations for improving the  
7           efficiency of state agencies or quasi-public agencies.

8           (c) The inspector general shall notify the president of  
9           the senate, the speaker of the house of representatives, and the  
10          governor of any problems, abuses, or deficiencies relating to  
11          the management or operation of a state agency or quasi-public  
12          agency.

13          (d) The inspector general shall keep the appropriate  
14          administrative heads of all state agencies and quasi-public  
15          agencies advised of the office's activities, as they relate to  
16          each respective state agency or quasi-public agency.

17          (e) The inspector general may conduct additional  
18          investigations and make reports relating to the management and  
19          operations of state agencies or quasi-public agencies, as  
20          needed.



1 (f) The reports, information, or documents required under  
2 this section shall be transmitted directly to the governor and  
3 the legislature.

4 (g) Records that are confidential under federal or state  
5 law shall be maintained as confidential by the inspector general  
6 and shall not be further disclosed, except as required by law."

7 SECTION 3. Section 378-62, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§378-62 Discharge of, threats to, or discrimination  
10 against employee for reporting violations of law. An employer  
11 shall not discharge, threaten, or otherwise discriminate against  
12 an employee regarding the employee's compensation, terms,  
13 conditions, location, or privileges of employment because:

14 (1) The employee, or a person acting on behalf of the  
15 employee, reports or is about to report to the  
16 employer, or reports or is about to report to a public  
17 body, verbally or in writing, a violation or a  
18 suspected violation of:

19 (A) A law, rule, ordinance, or regulation, adopted  
20 pursuant to law of this State, a political





1 subdivision of this State, or the United States;  
2 or

3 (B) A contract executed by the State, a political  
4 subdivision of the State, or the United States,  
5 unless the employee knows that the report is false;  
6 [~~or~~]

7 (2) The employee, or a person acting on behalf of the  
8 employee, reports or is about to report to the state  
9 inspector general, verbally or in writing, an  
10 allegation of fraud, waste, abuse, or corruption by an  
11 employer or by an officer or employee of the employer;  
12 or

13 [~~(2)~~] (3) An employee is requested by a public body to  
14 participate in an investigation, hearing, or inquiry  
15 held by that public body, or a court action."

16 SECTION 4. Section 846-10, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§846-10 Dissemination. Criminal history record  
19 information may be disseminated to:

20 (1) The governor in individual cases or situations wherein  
21 the governor elects to become actively involved in the



1 investigation of criminal activity or the  
2 administration of criminal justice in accordance with  
3 the governor's constitutional duty to insure that the  
4 laws be faithfully executed;

5 (2) The attorney general in connection with the attorney  
6 general's statutory authority and duties in the  
7 administration and enforcement of the criminal laws  
8 and for the purpose of administering and insuring  
9 compliance with the provisions of this chapter;

10 (3) The state inspector general, or investigation and  
11 enforcement officers authorized by the inspector  
12 general, in connection with the state inspector  
13 general's statutory authority and duties in the  
14 administration and enforcement of laws pursuant to  
15 chapter ; and

16 [~~3~~] (4) To such other individuals and agencies who are  
17 provided for in this chapter or by rule or  
18 regulation."

19 SECTION 5. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so  
21 much thereof as may be necessary for fiscal year 2015-2016 and



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1 the same sum or so much thereof as may be necessary for fiscal  
2 year 2016-2017 for administrative costs associated with the  
3 establishment of the office of the state inspector general  
4 within the office of the auditor, including the hiring of  
5 necessary staff.

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

8 SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2015.

11

INTRODUCED BY:                     *Scott. Gunn*                    

JAN 22 2015



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**Report Title:**

Office of the State Inspector General; State Inspector General;  
Establishment of Office; Government Integrity and  
Accountability; Appropriation

**Description:**

Establishes the office of the state inspector general, to be headed by the state inspector general, within the office of the state auditor for administrative purposes only. Requires the office of the state inspector general to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or quasi-public agency, or the officers or employees of a state agency or quasi-public agency. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

