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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 department of accounting and general services for  
16           administrative 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 or quasi-public 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 or quasi-public agency.

19 "Quasi-public agency" means any entity, except for  
20 individuals, but including individuals doing business as sole



1 proprietors, that receives or is paid state funds, including  
2 entities receiving funds pursuant to chapters 39 and 42F.

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

7 **§ -2 Office of the state inspector general; state**  
8 **inspector general; appointment; independence.** (a) There is  
9 established the office of the state inspector general, which  
10 shall be placed within the department of accounting and general  
11 services for administrative purposes only. The office shall be  
12 headed by the state inspector general, who shall be a full-time  
13 public official. The inspector general shall serve a term of  
14 five years and shall be paid a salary equal to per cent of  
15 the salary of the director of human resources development.

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



1 president of the senate and the speaker of the house of  
2 representatives.

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

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

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

12 (f). The governor, attorney general, judiciary, or  
13 legislature shall not prevent, impair, or prohibit the inspector  
14 general from initiating, carrying out, or completing any audit,  
15 investigation, or review. Nothing in this chapter shall be  
16 construed to limit or prevent the legislature or any state  
17 agency from conducting any audit, investigation, or review  
18 concurrently with any similar audit, investigation, or review  
19 conducted by the inspector general.



1           **§ -3 Powers and duties of inspector general.** The  
2 inspector general shall have the following duties and  
3 responsibilities:

- 4           (1) Receive and investigate complaints from any source or  
5           upon the inspector general's own initiative regarding  
6           alleged fraud, waste, abuse, or corruption by any  
7           state agency or quasi-public agency or by any officer  
8           or employee of a state agency or quasi-public agency;  
9           provided that the inspector general shall have the  
10          discretion to determine whether a complaint has  
11          provided reasonable cause to investigate and may refer  
12          any complaints to any other appropriate authority;
- 13          (2) Investigate the management and operations of state  
14          agencies, quasi-public agencies, and independent  
15          contractors of state agencies to determine whether  
16          acts of fraud, waste, abuse, or corruption have been  
17          committed or are being committed by officers,  
18          employees, or independent contractors of a state  
19          agency or officers or employees of a quasi-public  
20          agency, including any allegations of criminal acts



- 1 affecting the operations of state agencies and quasi-  
2 public agencies;
- 3 (3) Prepare a detailed report of each investigation  
4 stating whether fraud, waste, abuse, or corruption has  
5 been detected; provided that if fraud, waste, abuse,  
6 or corruption has been detected, the report shall:
- 7 (A) Identify the person who has committed the  
8 wrongful act or omission;
- 9 (B) Describe the wrongful act or omission; and
- 10 (C) Describe any corrective measures taken or  
11 implemented by the state agency or quasi-public  
12 agency subject to the investigation to prevent  
13 recurrences of similar actions;
- 14 (4) Provide timely notification to the attorney general  
15 and appropriate law enforcement agencies when the  
16 inspector general has reasonable grounds to believe  
17 there has been a violation of state criminal law;
- 18 (5) Conduct performance reviews of state agencies to  
19 assess the efficiency, effectiveness, or economy of  
20 programs and ascertain, among other things, the proper  
21 expenditure of state funds; provided that the



- 1 inspector general shall prepare a report for each  
2 performance review that:
- 3 (A) Details any findings for improving the  
4 efficiency, effectiveness, or economy of the  
5 state agency subject to the performance review;  
6 and
  - 7 (B) Makes recommendations, including proposed  
8 legislation, necessary to effectuate these  
9 findings;
- 10 (6) Coordinate and require standards for existing internal  
11 audit programs and for other internal audit programs  
12 in state agencies, as needed to ensure that state  
13 agencies maintain an adequate system of internal  
14 management control;
- 15 (7) Assess the condition of the accounting, financial, and  
16 administrative controls of state agencies and make  
17 recommendations to protect the State's assets, as  
18 needed;
- 19 (8) Assist state agency internal auditing programs with  
20 technical auditing issues;

- 1           (9) Assist state residents in understanding their rights  
2           and the processes available to residents to express  
3           concerns regarding the activities of a state agency or  
4           quasi-public agency or any officer or employee of a  
5           state agency or quasi-public agency;
- 6           (10) Maintain a record on inquiries received, the types of  
7           assistance requested, any actions taken, and the  
8           disposition of each inquiry;
- 9           (11) Upon request, assist state residents in using  
10          procedures and processes available to express concerns  
11          regarding the activities of an agency or any officer  
12          or employee of an agency;
- 13          (12) Ensure that state residents have access to the  
14          services provided by the inspector general and receive  
15          timely responses from the inspector general to  
16          inquiries;
- 17          (13) Make and enter into contracts necessary to carry out  
18          the purposes of this chapter; and
- 19          (14) Adopt rules in accordance with chapter 91 necessary to  
20          carry out the purposes of this chapter.





1           **§ -4 Cooperation of state agencies, quasi-public**  
2 **agencies, officers, and employees.** (a) Each state agency,  
3 quasi-public agency, and every officer and employee shall  
4 promptly report any allegations of criminal acts or acts of  
5 fraud, waste, abuse, or corruption and cooperate with, and  
6 provide assistance to, the inspector general in the performance  
7 of any investigation. This reporting requirement shall be  
8 deemed satisfied for officers or employees of a state agency or  
9 quasi-public agency once the administrative head of a state  
10 agency or quasi-public agency reports to the inspector general  
11 any allegations of criminal acts, fraud, waste, abuse, or  
12 corruption within the state agency or quasi-public agency or  
13 once an employee reports directly to the inspector general any  
14 allegations of criminal acts, fraud, waste, abuse, or corruption  
15 by an employer within the state agency or quasi-public agency,  
16 subject to any applicable whistleblowers' protections under  
17 chapter 378, part V. Each state agency or quasi-public agency  
18 shall make its premises, equipment, personnel, books, records,  
19 and papers readily available to the inspector general upon  
20 request.



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

9 (c) The inspector general may enter upon the premises of  
10 any state agency or quasi-public agency at any time, without  
11 prior announcement, if necessary to the successful completion of  
12 an investigation. In the course of an investigation, the  
13 inspector general may question any officer or employee serving  
14 in, and any person transacting business with, the state agency  
15 or quasi-public agency and may inspect and copy any books,  
16 records, or papers in the possession of the state agency or  
17 quasi-public agency. The inspector general shall preserve the  
18 confidentiality of any complainant or information obtained from  
19 a state agency or quasi-public agency during the course of an  
20 investigation in accordance with applicable state and federal  
21 law.



1           **§ -5 Office of state inspector general; summons or**  
2 **citation; failure to obey a summons.** (a) The office shall  
3 cooperate and coordinate with law enforcement authorities and  
4 agencies in the development of programs and mutual aid  
5 agreements to set forth the respective roles and  
6 responsibilities of each agency, including but not limited to  
7 the categories of investigations that will be overseen by each  
8 agency and how to avoid redundancy or operation conflicts.

9           (b) Any investigator authorized by the inspector general  
10 to conduct any investigation shall have the power to administer  
11 oaths for the purposes of receiving complaints and conducting  
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.

16           **§ -6 Subpoena powers.** (a) The inspector general or the  
17 inspector general's designee, when conducting an investigation  
18 under this chapter, may, subject to the privileges enjoyed by  
19 all witnesses in this State, subpoena witnesses, examine them  
20 under oath, and require the production of any books, papers,  
21 documents, or other objects designated therein or any other



1 record however maintained, including those electronically  
2 stored, which are relevant or material to the investigation  
3 being conducted under this chapter.

4 (b) The books, papers, documents, or other objects may be  
5 retained by the inspector general for a reasonable period of  
6 time for examination, audit, copying, testing, and  
7 photographing.

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

10 (d) Upon application of the inspector general, compliance  
11 with the subpoena shall be enforced by the circuit court in the  
12 county in which the person subpoenaed resides or is found, in  
13 the same manner as a subpoena issued by a circuit court.

14 **§ -7 Reports.** (a) The inspector general shall report  
15 to the legislature, no later than twenty days prior to the  
16 convening of each regular legislative session, on the office's  
17 activities for the immediately preceding fiscal year.

18 (b) The report shall include:

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



- 1           (2) A description of the recommendations for any
- 2           corrective actions made by the office with respect to
- 3           significant problems, abuses, or deficiencies
- 4           identified by the office;
- 5           (3) A summary of matters referred to the attorney general
- 6           and appropriate law enforcement agencies and actions
- 7           taken on those matters;
- 8           (4) Information concerning the number of complaints
- 9           received and types of investigations completed by the
- 10          office;
- 11          (5) The development and maintenance of any internal audit
- 12          programs in state agencies and quasi-public agencies;
- 13          and
- 14          (6) The results of any state agency or quasi-public agency
- 15          performance reviews, including a summary of any
- 16          findings or recommendations for improving the
- 17          efficiency of state agencies or quasi-public agencies.
- 18          (c) The inspector general shall notify the president of
- 19          the senate, the speaker of the house of representatives, and the
- 20          governor of any problems, abuses, or deficiencies relating to



1 the management or operation of a state agency or quasi-public  
2 agency.

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

7 (e) The inspector general may conduct additional  
8 investigations and make reports relating to the management and  
9 operations of state agencies or quasi-public agencies, as  
10 needed.

11 (f) The reports, information, or documents required under  
12 this section shall be transmitted directly to the governor and  
13 the legislature.

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

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

19 **"§378-62 Discharge of, threats to, or discrimination**  
20 **against employee for reporting violations of law.** An employer  
21 shall not discharge, threaten, or otherwise discriminate against



1 an employee regarding the employee's compensation, terms,  
2 conditions, location, or privileges of employment because:

3 (1) The employee, or a person acting on behalf of the  
4 employee, reports or is about to report to the  
5 employer, or reports or is about to report to a public  
6 body, verbally or in writing, a violation or a  
7 suspected violation of:

8 (A) A law, rule, ordinance, or regulation, adopted  
9 pursuant to law of this State, a political  
10 subdivision of this State, or the United States;  
11 or

12 (B) A contract executed by the State, a political  
13 subdivision of the State, or the United States,  
14 unless the employee knows that the report is false;  
15 [~~or~~]

16 (2) The employee, or a person acting on behalf of the  
17 employee, reports or is about to report to the state  
18 inspector general, verbally or in writing, an  
19 allegation of fraud, waste, abuse, or corruption by an  
20 employer or by an officer or employee of the employer;  
21 or



1        [~~2~~] (3) An employee is requested by a public body to  
2                    participate in an investigation, hearing, or inquiry  
3                    held by that public body, or a court action."

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

6        "**§846-10 Dissemination.** Criminal history record  
7 information may be disseminated to:

8        (1) The governor in individual cases or situations wherein  
9                    the governor elects to become actively involved in the  
10                   investigation of criminal activity or the  
11                   administration of criminal justice in accordance with  
12                   the governor's constitutional duty to insure that the  
13                   laws be faithfully executed;

14        (2) The attorney general in connection with the attorney  
15                   general's statutory authority and duties in the  
16                   administration and enforcement of the criminal laws  
17                   and for the purpose of administering and insuring  
18                   compliance with the provisions of this chapter;

19        (3) The state inspector general, or investigation and  
20                   enforcement officers authorized by the inspector  
21                   general, in connection with the state inspector





1           general's statutory authority and duties in the  
2           administration and enforcement of laws pursuant to  
3           chapter           ; and

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

7           SECTION 5. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$           or so much  
9 thereof as may be necessary for fiscal year 2015-2016 and the  
10 same sum or so much thereof as may be necessary for fiscal year  
11 2016-2017 for administrative costs associated with the  
12 establishment of the office of the state inspector general  
13 within the department of accounting and general services,  
14 including the hiring of necessary staff.

15           The sums appropriated shall be expended by the department  
16 of accounting and general services for the purposes of this Act.

17           SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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



**Report Title:**

Office of the State Inspector General; Appropriation

**Description:**

Establishes the Office of the State Inspector General, to be headed by the State Inspector General to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or quasi-public agency, or by the officers or employees of a state agency or quasi-public agency. Appropriation. (SB286 HD1)

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