

**"CHAPTER 40  
AUDIT AND ACCOUNTING**

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## **Cross References**

Prioritization of repair and maintenance projects at public schools, see §302A-1505.

### **"PART I. COMPTROLLER; POWERS AND DUTIES**

**§40-1 Comptroller to supervise accounts, etc.** (a) The comptroller shall be the general accountant of the State and shall cause to be recorded every receipt and disbursement of money made to, by, or through the treasury. The comptroller shall have the power to withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(b) With respect to the executive branch, except the University of Hawaii until June 30, 2016, and the department of education, the comptroller shall have complete supervision of all accounts. The comptroller shall preaudit all proposed payments of \$10,000 or more to determine the propriety of expenditures and compliance with executive orders and rules that may be in effect. When necessary, the comptroller shall withhold approval of any payment. Whenever approval is withheld, the department or agency concerned shall be promptly notified. With respect to the University of Hawaii and the department of education, the comptroller shall issue warrants for the release of funds for the operating costs of the university or the department of education, as applicable, in amounts and at times mutually agreed upon by the governor or director of finance and the university or department of education, as applicable; provided that:

- (1) The amounts released shall not exceed the allotment ceilings for the respective funding sources of the university's or the department of education's appropriations established by the governor for an allotment period pursuant to section 37-34; and
- (2) The comptroller may issue warrants as an advance from the state treasury to the University of Hawaii and the department of education to establish a checking account and provide working capital in amounts and at times mutually agreed upon by the governor or director of finance and the University of Hawaii and the department of education.

The University of Hawaii and the department of education shall preaudit all proposed payments of \$10,000 or more and shall preaudit samples of the population of proposed payments of less than \$10,000; provided that the sample size comprises at least five per cent of the population, and is of a size that the chief

financial officers of the University of Hawaii and the department of education, as applicable, determine appropriate, to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules. The University of Hawaii and the department of education shall make disbursements for operating expenses from the amounts released by the comptroller and maintain records and documents necessary to support those disbursements at times mutually agreed upon by the university president or the superintendent of education, as applicable, and the comptroller; provided that when requested by the university or department of education, the comptroller shall make all disbursements for the university or department of education, as applicable, subject to available allotment. Funds released pursuant to this section shall be deposited by the university or department of education, as applicable, in accordance with the provisions applicable to the director of finance by chapter 38. Any interest earned on the deposit of funds released pursuant to this section shall be deposited in the state treasury at the end of each fiscal year.

(c) With respect to the judiciary and the legislature, the comptroller shall make available to the judiciary and the legislature the total amount appropriated to each, except that the judiciary and the legislature may request the comptroller's services in maintaining custody of the amount appropriated to each and in making payments therefrom. When such services are requested, the comptroller shall make all disbursements requested by the judiciary or the legislature, but shall not make any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(d) Any financial transaction recorded may be inspected by the public. [L 1898, c 39, §9; RL 1925, §1435; RL 1935, §562; RL 1945, §1564; RL 1955, §34-13; am L 1957, c 152, §1; HRS §40-1; am L 1974, c 159, §4; am L 1986, c 321, §§4, 12; am L 1987, c 283, §69; am L 1989, c 371, §§4, 7; am L 1990, c 66, §1; am L 1991, c 163, §3; am L 1993, c 314, §§1, 2; am L Sp 1993, c 8, §22; am L 1996, c 231, §1; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2004, c 58, §§3, 14; am L 2005, c 22, §50 and c 137, §1; am L 2006, c 161, §§1, 7 and c 306, §1; am L 2008, c 37, §1; am L Sp 2009, c 5, §12; am L 2010, c 102, §5, c 124, §6 as superseded by c 124, §10, and c 161, §3 as superseded by c 161, §5; am L 2015, c 44, §§1, 7 to 9]

#### **Note**

In the first sentence of subsection (b), the brackets around the comma after "June 30, 2016" omitted to correct printing error in the 2015 Supplement.

## Cross References

Generally, see §26-6.

Services to judiciary and legislature, see §26-25.

" **§40-2 Accounting systems and internal control; enforcing the use of and inspection of the same.** (a) The accounting system installed by the commission on public accountancy under Act 181, Session Laws of Hawaii 1923, as amended by Act 220, Session Laws of Hawaii 1925, for use in the offices of the comptroller, director of finance, departmental and agency services of the State, and the auditors, treasurers, departmental and agency services of the several counties shall be the accounting and reporting systems of the State and counties; provided that the University of Hawaii, until June 30, 2016, may install a different accounting system that shall be in conformity with generally accepted accounting principles as applied to colleges and universities; and provided further that the department of education may install a different accounting system that shall be in conformity to generally accepted accounting principles. The comptroller shall make such changes and modifications in the accounting system as shall from time to time appear to be in the best interest of the State and counties.

(b) The departments and agencies of the executive branch are respectively charged with the responsibility to maintain an adequate system of internal control and with the further responsibility to see that the internal control system continues to function effectively as designed. The comptroller shall make such investigations and audits from time to time to enforce the use of the accounting system and internal control systems in the executive branch.

(c) The judiciary, the legislature, and each county shall be responsible for the establishment and maintenance of its respective internal control system. [L 1898, c 39, §10; RL 1925, §1437; am L 1927, c 219, §3; RL 1935, §564; RL 1945, §1568; RL 1955, §34-17; am L 1957, c 152, §1; am L 1959, c 151, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-2; am L 1974, c 159, §5; am L 1986, c 321, §§5, 12; am L 1987, c 283, §69; am L 1989, c 371, §7; am L 1991, c 163, §3; am L 1993, c 314, §2; am L Sp 1993, c 8, §22; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2005, c 137, §1; am L 2006, c 161, §§2, 7; am L 2010, c 124, §2; am L 2015, c 44, §2]

" **§40-3 Bookkeeping.** The comptroller shall keep a complete set of double entry books in which the comptroller shall open or cause to be opened all government accounts, and for the several amounts as shown by the appropriation bill, or any other appropriation that may be at any time made by the legislature, and the comptroller shall record the comptroller's daily business transactions in detail therein. The comptroller shall also keep ledgers in which the comptroller shall open, arrange, and keep in a methodical and systematic manner the various state accounts so that the status and condition of all funds and appropriations, of all assets and liabilities, and for all income and expenditures of the State may at any time be ascertained and known; and further, the comptroller shall keep books to be known as the warrant registers showing the warrants drawn. The warrants are to be numbered from one up to the number required for the current fiscal period, and in the form as shown in section 40-52, and all such other auxiliary books as the comptroller may deem necessary for a correct and proper administration of the comptroller's office. The comptroller shall also keep on file in a convenient form for easy reference all original warrant vouchers for which warrants have been drawn by the comptroller, and the original warrant vouchers shall have endorsed thereon the number of the warrant by which they were paid, the date of the warrant, the appropriation to which they were debited, and the amount. [L 1898, c 39, §12; RL 1925, §1456; am L 1927, c 219, §8; RL 1935, §583; RL 1945, §1587; RL 1955, §34-37; am L 1957, c 152, §1; am L Sp 1959 1st, c 13, §2; HRS §40-3; am L 1975, c 71, §2; gen ch 1985]

" **§40-4 Publication of statements.** The comptroller shall prepare and submit to the governor, immediately following the close of each fiscal year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a statement showing the balance in each fund at the beginning of the fiscal year, plus the receipts, minus the disbursements, and the balance on hand at the close of the fiscal year after deducting outstanding warrants and vouchers. The comptroller may request all agencies, the judiciary, the University of Hawaii until June 30, 2016, the department of education, and the legislature to provide such information as may be required for the preparation of statements. [L 1898, c 39, §19; RL 1925, §1431; am L 1927, c 219, §1; RL 1935, §556; RL 1945, §1558; RL 1955, §34-7; am L 1957, c 152, §1; HRS §40-4; am L 1974, c 159, §6; am L 1986, c 321, §§6, 12; am L 1987, c 283,

§69; am L 1989, c 371, §7; am L 1991, c 163, §3; am L 1993, c 314, §2; am L Sp 1993, c 8, §22; am L 1996, c 231, §2; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2004, c 58, §§4, 14; am L 2005, c 22, §50 and c 137, §1; am L 2006, c 161, §§3, 7 and c 306, §1; am L Sp 2009, c 5, §12; am L 2010, c 102, §5, and c 124, §7 as superseded by c 124, §11; am L 2015, c 44, §§3, 7, 8]

" **§40-5 Annual reports.** The comptroller shall make an annual report to the governor and to the legislature. The comptroller may, in the comptroller's yearly report, or in any special report which the comptroller may at any time think fit to make, recommend any plans and suggestions that the comptroller may think fit or worthy of adoption for the better collection, custody, and payment of the public moneys and the more economical auditing and examining of the public accounts, and any improvements in the mode of keeping these accounts that may at any time be brought to the comptroller's notice, and generally report upon all matters relating to public accounts. [L 1898, c 39, §20; RL 1925, §1432; RL 1935, §557; RL 1945, §1559; RL 1955, §34-8; am L 1957, c 152, §1; am L Sp 1959 1st, c 13, §2; HRS §40-5; gen ch 1985]

#### **Cross References**

Government records, see chapter 92F, part II.  
Reports, due date, see §93-12.

" **§40-6 Approval of business and accounting forms.** The comptroller shall determine the forms required to adequately supply accounting and statistical data for the state government. The comptroller shall require heads of departments and establishments of the state government to submit proposed new forms or proposed changes in current business and accounting forms for review and approval before ordering the same printed; except that the University of Hawaii until June 30, 2016, and the department of education shall be subject to this requirement only with respect to uniform business and accounting forms of statewide use in the State's accounting system. All standard state forms shall be classified, numbered, and standardized in design, dimensions, color, and grade of paper and recorded in a catalogue of accounting and statistical forms by the comptroller. [L 1927, c 219, §2; RL 1935, §559; RL 1945, §1561; RL 1955, §34-10; am L 1957, c 152, §1; am L 1959, c 145, §1; HRS §40-6; am L 1986, c 321, §§7, 12; am L 1987, c 283, §69; am L

1989, c 371, §7; am L 1991, c 163, §3; am L 1993, c 314, §2; am L Sp 1993, c 8, §22; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2004, c 58, §§5, 14; am L 2005, c 22, §50 and c 137, §1; am L 2006, c 161, §§4, 7 and c 306, §1; am L Sp 2009, c 5, §12; am L 2010, c 102, §5, and c 124, §8 as superseded by c 124, §12; am L 2015, c 44, §§4, 7, 8]

" **§40-7 Count of money and securities in treasury.** The comptroller with the aid of the staff of the director of taxation and the director of finance shall count the money and securities in the state treasury once in each fiscal year, or such other times as the comptroller may deem necessary, provided that the scope of the examination shall be determined by the comptroller who shall use such auditing procedures as the comptroller deems necessary.

The comptroller shall prepare, in triplicate, statements showing:

- (1) The amount of money actually in the treasury reconciled with the amount of money as shown by the comptroller's record.
- (2) The amount of securities owned by the State in the treasury reconciled with the amount of securities as shown by the comptroller's records.
- (3) The amount of the depository securities actually in the treasury as compared with the amount of cash deposited in the respective banks (depositories) provided that the sufficiency of these deposits shall not be made a part of the examination. [L 1927, c 219, pt of §16; RL 1935, §597; am L 1941, c 86, §1; RL 1945, §1601; RL 1955, §34-51; am L 1957, c 152, §1; am L 1959, c 145, §2; am L Sp 1959 2d, c 1, §§14, 16; am L 1963, c 114, §1; HRS §40-7; gen ch 1985]

#### **Case Notes**

Cited: 36 H. 369, 380.

" **§40-8 Statements of count to be filed.** The comptroller shall file the original copy of the statement with the governor, duplicate with the director of finance, and the comptroller shall post and maintain the triplicate copy in the comptroller's office for at least one month thereafter. [L 1927, c 219, pt of §16; RL 1935, §598; RL 1945, §1602; RL 1955, §34-52; am L 1957, c 152, §1; am L 1959, c 145, §3; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-8; gen ch 1985]



" **§40-9 Keeping of cash book.** The director of finance shall keep in the director's office a cash book in which shall be entered up all sums received and paid out of the treasury on account of the several departments and bureaus of the State. [L 1898, c 39, §25; RL 1925, §1461; RL 1935, §587; RL 1945, §1591; RL 1955, §34-41; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-9; gen ch 1985]

" **§40-10 Destruction of vouchers, etc.** At the end of each fiscal year, the comptroller, with the approval of the lieutenant governor and the attorney general of the State, may destroy all vouchers, documents, and other records or papers on file with the comptroller or kept in the comptroller's department for a period of more than six years (exclusive of permanent records) which in the comptroller's opinion are no longer of any use or value. [L 1937, c 113, §1; RL 1945, §1603; RL 1955, §34-53; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §9; HRS §40-10; am L 1970, c 44, §1; gen ch 1985]

" **§40-11 Destruction of warrants, bonds and interest coupons.** The director of finance and comptroller may destroy all warrants of the State which have been paid and bear any date three years prior to the date of destruction; provided that the warrants have been copied to an unalterable media or electronic storage form and the copies of the warrants are maintained for ten years from the date of the warrant. Otherwise, state warrants which have been paid cannot be destroyed until ten years from the date of the warrant. The director of finance and comptroller may destroy state bonds and interest coupons which have been paid and bear any date two years prior to the date of destruction. The director of finance and comptroller may appoint the fiscal agent for the bond issue to supervise and conduct the destruction of state bonds and interest coupons which have been paid and bear any date two years prior to the date of destruction. The fiscal agent so appointed shall submit reports as required by the director of finance and comptroller. State warrants, bonds, and interest coupons may be destroyed by burning, machine shredding, chemical disintegration, or any other method of disposal deemed acceptable to the director of finance and comptroller. [L 1947, c 147, §1; RL 1955, §34-54; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1961, c 38, §1; am L 1963, c 114, §1; HRS §40-11; am L 1972, c 5, §1; am L 1985, c 217, §1; am L 1998, c 54, §1]

" **§40-12 Examination before destruction.** Before the warrants, bonds, and interest coupons are destroyed, the comptroller or the fiscal agent appointed pursuant to section 40-11 shall conduct such examination and investigation as is necessary to determine that the warrants to be destroyed bear any date ten years prior to the date of destruction and that the bonds and interest coupons bear any date two years prior to the date of destruction. [L 1947, c 147, §2; RL 1955, §34-55; am L 1957, c 152, §1; am L 1961, c 38, §2; HRS §40-12; am L 1972, c 5, §2]

" **§40-13 Regulations.** In conformity with chapter 91, the comptroller may make such regulations not inconsistent with this chapter as may be found necessary to carry out the object and provisions of this chapter, and for the more effectual record, check, and audit of all receipts and disbursements of public moneys. These regulations shall have the force and effect of law. [L 1898, c 39, §33; RL 1925, §1433; RL 1935, §558; RL 1945, §1560; RL 1955, §34-9; am L 1957, c 152, §1; HRS §40-13]

## "PART II. PAYMENTS INTO TREASURY

**§40-31 Public accountants defined, duties.** All persons who, by any law, regulation, or appointment, are charged with the duty of collecting or receiving revenue or other moneys on account of the State, or with the duty of disbursing moneys on account of the public service shall be "public accountants", and shall perform all such duties and render such accounts as this chapter prescribes, and as the director of finance and comptroller shall from time to time direct. [L 1898, c 39, §29; RL 1925, §1436; RL 1935, §563; RL 1945, §1565; RL 1955, §34-14; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-31]

### Case Notes

Explicit appointment to receive public money not required by statute; sufficient if placed in charge by superior. 16 H. 123.

Clerk may be charged by regulation or appointment with the safe-keeping of money although by law the duty is charged to another. 16 H. 358.

Clerk receiving revenues not liable for loss when money disposed in accordance with departmental rules and regulations. 36 H. 369.

Cited: 17 H. 364, 368; 27 H. 143, 147.

" **§40-32 Payments by Honolulu accountants.** Every public accountant collecting or receiving revenue or other moneys in Honolulu shall pay weekly, or at such times as may be otherwise specially appointed, into the treasury all sums of money collected or received by the public accountant on account of the revenue or otherwise. [L 1898, c 39, §30; RL 1925, §1441; am L 1927, c 219, §4; RL 1935, §568; RL 1945, §1572; RL 1955, §34-21; am L 1957, c 152, §1; HRS §40-32; am L 1975, c 73, §1; gen ch 1985]

#### Case Notes

Failure to dispose of money as required, is a breach. 16 H. 123.

Includes money paid under protest pending litigation. 17 H. 364.

" **§40-33 By accountants out of Honolulu.** Every public accountant collecting or receiving revenue or other moneys out of Honolulu shall transmit or pay monthly, or at such times as may be otherwise specially appointed, into the treasury all sums of money collected or otherwise received by the public accountant on account of the revenue or otherwise. [L 1898, c 39, §31; RL 1925, §1442; am L 1927, c 219, §5; RL 1935, §569; RL 1945, §1573; RL 1955, §34-22; am L 1957, c 152, §1; HRS §40-33; am L 1975, c 73, §2; gen ch 1985]

" **§40-34 Accountants may deposit in bank, when.** Every public accountant other than the director of finance, receiving or disbursing money belonging to the State may deposit to the public accountant's official credit and keep all moneys received by the public accountant in such banks as may be designated therefor by the director with the approval of the governor until the moneys are remitted to the director as required by law, and the public accountant shall not be responsible for the moneys while so deposited. [L 1909, c 82, §1; RL 1925, §1443; RL 1935, §570; RL 1945, §1574; RL 1955, §34-23; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-34; gen ch 1985]

" **§40-35 Payment to State under protest.** (a) Any disputed portion of moneys representing a claim in favor of the State may be paid under protest to a public accountant of the department, board, bureau, commission, or other agency of the State with which the claimant has the dispute. The protest shall be in writing, signed by the person making the payment, or by the person's agent, and shall set forth the grounds of protest. If any payment, or any portion of any payment, is made under protest, the public accountant to whom the payment is made shall hold that portion of the moneys paid under protest in a trust account in the state treasury for a period of thirty days from the date of payment.

(b) Action to recover moneys paid under protest or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within thirty days from the date of payment. If no suit or proceeding is brought within the thirty-day period, the money paid under protest shall be deposited into the appropriate account in the treasury of the State by the accountant and the amount deposited shall thereupon become a government realization. Any action to recover payment of taxes under protest shall be commenced in the tax appeal court.

(c) If action to recover the money paid under protest or a proceeding to adjust the claim is commenced within the thirty-day period, the amount paid under protest shall, pending final decision of the cause, be deposited by the public accountant into the state treasury, in a fund to be known as the "litigated claims fund", together with subsequent payments or portions thereof, made to the accountant under the same protest. If judgment is rendered in favor of the claimant, the claimant shall be paid the amount of the judgment out of the litigated claims fund by warrants signed by the comptroller upon vouchers approved by the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute. If the amount of money in the litigated claims fund is insufficient to pay the judgment the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute shall include in their respective budget requests to the department of budget and finance an amount necessary to pay the judgment, plus interest, as provided herein. Interest at the rate of two per cent a year from the date of each payment under protest shall also be paid out of the amount appropriated for the judgment payable to the claimant; provided that if the claim is for the recovery of taxes paid under protest by the claimant, the rate of interest and the

overpayment of taxes shall be refunded in the manner provided in section 231-23(c) and (d). The amount of the judgment to be paid to the claimant shall be ascertained by the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute from a certified copy of the judgment, which shall be the authority for making payment to the claimant. If judgment is rendered against the claimant, the amount of money paid by the claimant under protest which is in the litigated claims fund shall be deposited into the appropriate account in the treasury of the State and the amount shall become a government realization. [L 1907, c 45, §1; RL 1925, §1444; RL 1935, §571; RL 1945, §1575; am L 1951, c 224, §1; RL 1955, §34-24; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; am L 1967, c 231, §7 and c 251, §1; HRS §40-35; am L 1978, c 174, §1; am L 1980, c 51, §1; am L 1981, c 169, §1; gen ch 1985]

#### **Revision Note**

Section 231-23(c) and (d) substituted for 231-23(d) and (e).

#### **Rules of Court**

Tax appeals, see RTAC rules 1, 2.

#### **Case Notes**

Provides avenue for a full and fair consideration of taxpayer's challenge to gross receipts tax. 742 F.2d 546.

Taxpayer's 42 U.S.C. §1983 claim against validity of Hawaii's general excise tax barred, where state remedies available to taxpayer were "plain, adequate, and complete". 940 F. Supp. 260.

Recovery of a license fee to exhibit "motion pictures". 18 H. 646. Recovery of conservation tax. 21 H. 571. Recovery of inheritance tax. 22 H. 742. Recovery of property tax. 29 H. 555. Recovery of interest earned on inheritance tax paid under protest and kept in special deposit, property of taxpayer. 32 H. 38. Recovery by charitable trust of excise tax on "doing business". 33 H. 371. Recovery of gross income tax by persons practicing a "profession". 34 H. 245. Recovery of aviation fuel tax asserted as burden on interstate commerce. 36 H. 170. Recovery of unemployment contributions. 38 H. 16. Recovery of gross income tax by radio station asserting interstate transmission. 40 H. 121, aff'd 216 F.2d 700.

Mentioned with respect to applicable statutory period for bringing action for refund of general excise taxes. 53 H. 1, 486 P.2d 396.

Section not applicable where taxpayer contests valuation placed on property for real property taxes; §246-46 applies. 54 H. 250, 505 P.2d 1179.

Not exclusive means of challenging validity of inheritance tax. 66 H. 276, 660 P.2d 30.

Absent a formal administrative decision by the tax director, taxpayer's payment under protest did not present an "actual dispute" over which the tax appeal court had subject matter jurisdiction. 92 H. 608, 994 P.2d 540.

As this section applied to plaintiff's ocean recreation management area permit fee dispute, all of plaintiff's tort claims were barred under §662-15(3), which unambiguously provides that chapter 662 is inapplicable to "any claim for which a remedy is provided elsewhere in the laws of the State"; trial court thus did not err in determining that §662-15(3) barred all of plaintiff's tort claims. 113 H. 184, 150 P.3d 833.

This section is the proper avenue for recovery of ocean recreation management area permit fees. 113 H. 184, 150 P.3d 833.

Where plaintiff's complaint was not filed until April 17, 2002, and the statute of limitations under this section had expired thirty days after the last ocean recreation management area permit fee payment sometime in September, 2001, plaintiff was time-barred from seeking relief pursuant to this section. 113 H. 184, 150 P.3d 833.

Section only allows recovery of money paid under protest; requires action to be commenced within thirty days of payment; requires action for recovery of taxes paid under protest to be commenced in tax appeal court. Prohibits original actions by insurers to recover moneys paid to State without protest under §431-318. 5 H. App. 122, 678 P.2d 1101.

Cited: 37 H. 475, 476, aff'd 174 F.2d 21.

" **§40-35.5 Assessment and collection of service charges for dishonored payments.** (a) Unless otherwise provided by law or rules, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of \$25 for any remittance for payment that the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the full amount of the dishonored payment, plus the service charge in cash, by certified or cashier's check, or by bank or postal

money order. The amount of the service charge shall be deposited with the director of finance as a realization of the general fund.

(b) The service charge shall be enforced as follows:

(1) For charges due on dishonored checks written or electronic funds transfers made for payment of any tax administered by the department of taxation under title 14, the charges shall be nonwaivable penalties and shall be made a part of the tax for which the payment was made in the same manner as penalties are made part of the tax under section 231-39; and

(2) For other dishonored payments, if payment of the full amount of the dishonored payment plus the service charge is not made, the public accountant shall refer the entire matter, including the service charge due on the dishonored payment, to the department of the attorney general or a collection agency bonded under chapter 443B for collection.

(c) All penalties for dishonored payments shall be debts due the State.

(d) Penalties collected for dishonored payments by the department of taxation pursuant to this section shall be collected in the same manner as are taxes under chapter 231. The penalty shall be a realization of the general fund in the same manner as other penalties collected by the department of taxation.

(e) No interest shall be charged on any penalty. [L 1981, c 45, §1; am L 1995, c 97, §1; am L 1997, c 177, §2; am L 2007, c 240, §1]

" **§40-36 Successor accountants; vesting of moneys.** On the death, resignation, or removal of any public accountant the balance of public moneys remaining in the public accountant's hands shall, upon the appointment of the public accountant's successor, unless otherwise directed by law, vest in the successor, and shall not in the event of death of any public accountant constitute assets of the deceased or be in any manner subject to the control of the public accountant's legal representative. [L 1898, c 39, §32; RL 1925, §1445; RL 1935, §572; RL 1945, §1576; RL 1955, §34-25; HRS §40-36; gen ch 1985]

" **§§40-37, 38 REPEALED.** L 1975, c 73, §§3, 4.

" **§40-39 Powers in examination.** In the examination of all state accounts and statements, and all other documents produced as vouchers, or as subordinate vouchers, the comptroller shall make such queries and observations addressed to public accountants, officers certifying accounts, or persons in any way concerned with the receipt or disbursement of the moneys or funds referred to in this chapter, and shall call for such further accounts, vouchers, statements, and explanations as the comptroller may think necessary, and after the queries and observations have been answered, and after further accounts and explanations have been rendered, the comptroller shall disallow and surcharge all sums not duly credited to the proper fund and paid into the treasury, and shall disallow and surcharge all sums disbursed in excess or not duly vouched and authorized, against the public accountant, officers certifying accounts, or other persons through whose default the surcharges have arisen, and until the failure shall have been made good to the satisfaction of the comptroller, all salary or other moneys that may be due and payable to the public accountant or other person shall be withheld. [L 1898, c 39, §15; RL 1925, §1447; RL 1935, §574; RL 1945, §1578; RL 1955, §34-27; am L 1957, c 152, §1; HRS §40-39; gen ch 1985]

" **§40-40 Receipts and payments.** For all moneys paid into the treasury there shall be prepared a treasury deposit receipt in the form and in the number of copies determined by the comptroller as provided in section 40-6. The receipt shall specify the information required by the comptroller and the director of finance for the proper accounting of the amount paid into the treasury. The receipt shall be countersigned by the director of finance, or the director's designee, after writing upon its face the day of its delivery to the director. The director, or the director's designee, shall deliver a copy of the receipt to the person or official paying the money into the treasury, and shall deliver a copy to the comptroller. The director shall retain the original receipt, charging the director with the amount specified therein, and crediting the fund or account named thereon. No receipt shall be considered valid or binding as against the State, unless so countersigned as in this chapter provided. [L 1898, c 39, §11; RL 1925, §1448; am L 1927, c 219, §7; RL 1935, §575; RL 1945, §1579; RL 1955, §34-28; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1961, c 63, §1; am L 1963, c 114, §1; HRS §40-40; am L 1975, c 72, §1; gen ch 1993]



**"PART III. WARRANTS; PAYMENTS OUT OF TREASURY**

**§40-51 Money drawn only on warrants.** Excepting moneys paid for the redemption of bonds of the state debt, and the interest coupons of the same, and for interest on overdue warrants, and drafts against special deposits and for the expenses of the legislature and the judiciary, and payment authorized by the comptroller by means of electronic funds transfers and through automated clearinghouses for the purposes of implementing an electronic benefits transfer system for the department of human services, no money shall be drawn from or out of the treasury except upon warrants, substantially in the form of section 40-52, issued from the comptroller's office; provided that upon request, the comptroller shall provide financial services involving the issuance of warrants on behalf of the legislature and the judiciary. Every warrant shall be signed by the comptroller or the comptroller's deputy or by means of any mechanical check signer that may be adopted by the comptroller, and shall be made payable upon such date as may be approved by the director of finance to the order of the person to whom the State is directly indebted. [L 1898, c 39, §11B; RL 1925, §1449; am L 1931, c 11, §1; RL 1935, §576; RL 1945, §1580; RL 1955, §34-29; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-51; am L 1974, c 159, §7; gen ch 1985; am L 1996, c 231, §3]

" **§40-51.5 Checks or electronic funds transfers in lieu of warrants.** With reference to warrants addressed under this part, the comptroller may, with the approval of the director of finance, issue checks drawn from, or make electronic funds transfers from, depositories of state treasury moneys in lieu of warrants drawn from the state treasury. [L 1993, c 46, §1; am L 1997, c 188, §3]

" **[§40-51.6] Electronic funds transfers in lieu of checks.** Any other law to the contrary notwithstanding, every public accountant who receives revenues or other moneys on account for the State and is authorized to accept remittances by check, draft, or similar paper instrument may accept the remittances by electronic funds transfer or credit or debit card pursuant to standards established by the director of finance. [L 1997, c 188, §2]

" **§40-52 Form of treasury warrant.**

No.....

Treasury Warrant.  
Honolulu, Hawaii, ..... 19 ....

Department or Establishment

The Director of Finance,  
State of Hawaii.

Pay to the order of.....  
for and charge same to .....

.....  
Comptroller, State of Hawaii

[L 1898, c 39, sch B; RL 1925, §1467; am L 1927, c 219, §13; RL 1935, §594; RL 1945, §1598; RL 1955, §34-48; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-52]

**Case Notes**

Cited: 33 H. 602, 605.

" **§40-53 Salary and pension payments.** (a) All payments for permanent settlements, specific and all other salaries, shall be drawn by the comptroller, payable to each individual to whom the State is directly indebted, except as provided for in section 40-58. No permanent settlements nor salary checks shall be paid by the director of finance until the person in whose favor the check is drawn shall have indorsed the person's signature thereon.

(b) All employees hired on or after July 1, 1998, shall designate a financial institution account into which the State is authorized to deposit the employee's pay. The comptroller may waive the requirements of this section for any state employee upon request by the head of the employing department under policies prescribed by the comptroller. The implementation of this section shall not be subject to negotiation under chapter 89. [L 1898, c 39, §11C; RL 1925, §1450; RL 1935, §577; RL 1945, §1581; RL 1955, §34-30; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-53; gen ch 1985; am L 1998, c 110, §2; am L 2007, c 28, §1]

" **§40-54 Payroll deductions authorized.** The comptroller of the State and the auditors of its political subdivisions shall, if so requested in writing by any employee or officer of the

State or of any county, deduct from the compensation to the employee or officer for the employee's or officer's state or county employment membership dues, group insurance premiums, and contributions for other group benefit plans to any union or organization representing teachers, state, or county employees. After making these deductions, the comptroller or auditor shall pay the money deducted to each organization for the account of the employee or officer. [L 1949, c 275, §1; RL 1955, §34-31; am L 1957, c 44, §1 and c 152, §1; HRS §40-54; am L 1970, c 66, §1; gen ch 1985]

" **[§40-54.5] Disclosure of information.** (a) The appropriate government agencies shall disclose to the recipient of payroll deductions information related to the administration of payroll deductions as follows: name, social security number, and amounts and dates of both voluntary and mandatory payroll deductions remitted to the recipient.

(b) An employee organization or other recipient receiving government records pursuant to this section shall be subject to the same restrictions on disclosure of the records as the originating agency. [L 1990, c 250, §3]

" **§40-55 Warrants for certain mechanics and laborers.** Warrants for payrolls of mechanics or laborers, or others temporarily employed, may be drawn in advance and before the wages as shown by the payrolls have been receipted for by the mechanics, laborers, and others, but in every case the payrolls shall have indorsed thereon the approval of the officer in whose department the liability, or expense, has been incurred, and also the appropriation to which it is chargeable, and it shall also be specially certified to by the officer directly incurring the expense, that the services charged for have been faithfully performed; and further, the comptroller shall take a receipt from the disbursing officer in whose favor the warrant for the payrolls has been drawn, and shall retain the receipt until the payrolls have been properly receipted and returned to the comptroller, and under no circumstances shall the comptroller hold more than one receipt from the same disbursing officer for payrolls under the same item of appropriation. [L 1898, c 39, §11D; RL 1925, §1451; RL 1935, §578; RL 1945, §1582; RL 1955, §34-32; am L 1957, c 152, §1; HRS §40-55; gen ch 1985]

" **§40-56 Warrants for supplies, incidentals.** Warrants for bills of materials, supplies, and incidentals of every kind and

character, shall be made payable to the order of each individual person to whom the State is indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller or, in the case of the University of Hawaii and the department of education, to their respective chief financial officers accompanied by all original bills and any other supporting document as may be required by the comptroller or the respective chief financial officers of the University of Hawaii and the department of education. The comptroller or the respective chief financial officers of the University of Hawaii and department of education may accept an electronically-mailed warrant voucher or other bill or supporting document as an original warrant voucher, bill, or supporting document. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the liability or expense has been incurred, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified by the subordinate officer of the State directly incurring the liability or expense that all the materials, supplies, and incidentals have been received in good order and condition, unless the bill is for an advance payment or a deposit to be paid as specified in the department's purchase order, in which case the certification of the original bill by the subordinate officer is not required. Any advance payment made under this section must conform to the common business practice for making such payment as determined by the comptroller or the respective chief financial officers of the University of Hawaii and the department of education. [L 1898, c 39, §11E; RL 1925, §1452; RL 1935, §579; RL 1945, §1583; RL 1955, §34-33; am L 1957, c 152, §1; HRS §40-56; am L 1975, c 71, §3; am L 1986, c 3, §1 and c 94, §1; am L 2010, c 111, §2]

" **§40-57 Warrants on account of contracts.** All warrants for bills on account of state contracts shall be made payable to the order of the person to whom the State is directly indebted, except as provided in section 40-58, and only after an original warrant voucher shall have been presented to the comptroller accompanied by all original bills and any other supporting document as may be required by the comptroller. The original warrant voucher shall have indorsed thereon the approval of the officer in whose department the contracts have been made, and the appropriation to which it is chargeable; and further, each original bill shall be specially certified to by the subordinate officer of the State supervising the work performed, or receiving the materials and supplies as specified in the contracts, that the work has been faithfully performed and that

the materials and supplies were in a good and merchantable condition when received, unless the bill is for an advance payment or a deposit to be paid as specified in the department's contract, in which case the certification of the original bill by the subordinate officer is not required. No warrant shall be issued unless a copy of the contract or bid shall have been filed with the comptroller, together with a statement by the head of the department or agency that made the contract or accepted the bid, naming the appropriation to which the contract or bid is to be chargeable. [L 1898, c 39, §11F; RL 1925, §1453; RL 1935, §580; RL 1945, §1584; RL 1955, §34-34; am L 1957, c 152, §1; HRS §40-57; am L 1975, c 71, §4; am L 1986, c 3, §2 and c 94, §2]

" **§40-57.5 Comptroller's acceptance of vouchers for the Hawaii state medicaid program.** The requirements of section 40-56 and section 40-57 to the contrary notwithstanding, the comptroller may, if satisfied as to the adequacy of related internal controls and audit trails, issue warrants for original warrant vouchers without accompanying original bills for payments to vendors of the Hawaii state medicaid program. Whenever the comptroller has given the comptroller's approval for the issuance of warrants under this section without accompanying original bills, the original bills shall be retained by the expending agency vouchering the payment, and shall be made available for authorized referencing, for the period prescribed by section 40-10 for the retention of vouchers, documents and other records or papers before destruction. For purposes of this section, the definition of original bills shall also include computer magnetic tape, computer listings, computer output microfilm, microfiche, and manually produced microfilm. [L 1976, c 174, §1; am L 1979, c 49, §1; gen ch 1985]

" **[\$40-57.6] Duplicate bills accompanying vouchers.** Notwithstanding the requirement in sections 40-56 and 40-57 that an original warrant voucher be accompanied by all original bills, original warrant vouchers of any expending agency which fully utilizes the encumbrance segment of the comptroller's accounting system referred to in section 40-2 for obligations incurred for the purchase of materials, supplies, and incidentals, and on account of state contracts may be accompanied by duplicates of bills produced by the same impression as the original bills, or by means of photography, or by other equivalent techniques which accurately reproduce the

original bills. The comptroller shall determine the acceptability of any document submitted in lieu of an original bill, and the comptroller's determination shall be final. [L 1984, c 129, §1; gen ch 1985]

" **§40-58 In favor of assignees.** No assignment of moneys by a person to whom the State is directly indebted shall be effective unless the assignment is first approved by the comptroller or, in the case of the University of Hawaii until June 30, 2016, and the department of education, by their respective chief financial officers. The comptroller or the chief financial officers of the University of Hawaii and the department of education may prescribe the form for an assignment, and may approve the assignment within a reasonable time period if, in their respective discretion, the rights or obligations of the State, the University of Hawaii, or the department of education under any contract or other undertaking or under any law, rule, or order by a competent authority will not be prejudiced thereby. Upon approval of the assignment, the comptroller or the respective chief financial officers of the University of Hawaii and the department of education shall draw a warrant payable to the assignee. Except as to contracts encumbered by the comptroller, the University of Hawaii, or the department of education, each expending agency, upon notification of the comptroller's approval of an assignment, shall prepare a claim for payment in accordance with the terms of the assignment. [L 1898, c 39, §11G; RL 1925, §1454; RL 1935, §581; RL 1945, §1585; RL 1955, §34-35; am L 1957, c 152, §1; HRS §40-58; am L 1973, c 16, §1; gen ch 1985; am L 1991, c 163, §§1, 3; am L 1993, c 314, §2; am L Sp 1993, c 8, §22; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2005, c 137, §1; am L 2006, c 161, §§5, 7; am L 2010, c 124, §3; am L 2015, c 44, §5]

#### Case Notes

Cited: 33 H. 602, 605.

" **§40-59 Comptroller to keep list of salaries, contracts, bids, etc.** The comptroller shall keep in the comptroller's office in a convenient form for easy reference a correct list of all state permanent settlements, specific salaries, payrolls, subsidies, rents, contracts, and all bids for materials and supplies; and in auditing all bills for service rendered or merchandise supplied, or other bills against the State, the comptroller shall compare all rates and prices charged with the

list, and disallow all amounts in excess of the current rates and prices, as shown by the list, or that in the comptroller's judgment are excessive. [L 1898, c 39, §23; RL 1925, §1455; RL 1935, §582; RL 1945, §1586; RL 1955, §34-36; am L 1957, c 152, §1; HRS §40-59; am L 1975, c 78, §1; gen ch 1985]

" **§40-60 Vouchers required; procedure if not obtainable.** The comptroller shall not recognize any claim of whatsoever nature unless an original warrant voucher is presented for the same. No warrant shall be issued in payment for any claim except upon proper indorsement of the warrant voucher, notwithstanding any allegation of papers having been lost or destroyed, or of the impossibility of obtaining the prescribed original warrant voucher, so that it could not reasonably be obtained, except on application to one of the justices of the supreme court at chambers, who, after summoning the comptroller, and other persons the justice may think fit, may, upon evidence satisfactory to the justice that the requisite papers have been lost or destroyed, or that it is impossible or impracticable to procure them, prescribe a form of warrant voucher, which, bearing the approval of the justice, shall then be received by the comptroller and filed as in this chapter provided. All substitute warrant vouchers shall be considered binding on the State and all other parties. [L 1898, c 39, §17; RL 1925, §1459; RL 1935, §585; RL 1945, §1589; RL 1955, §34-39; am L 1957, c 152, §1; HRS §40-60; am L 1975, c 71, §5; gen ch 1985]

#### Case Notes

Cited: 14 H. 393, 395; 38 H. 310, 326.

" **§40-61 Procedure when voucher defective.** When an original warrant voucher produced for a claim is defective from the want of any certificate or other document which ought to have accompanied it, the comptroller may, upon proof being made to the comptroller's satisfaction that the public accountant did not wilfully neglect to procure the certificate, or document, and that the sum specified in the warrant voucher has been actually and properly incurred as a state liability, admit the warrant voucher as sufficient evidence of liability, and allow the amount to be paid. [L 1898, c 39, §18; RL 1925, §1460; RL 1935, §586; RL 1945, §1590; RL 1955, §34-40; am L 1957, c 152, §1; HRS §40-61; am L 1975, c 71, §6; gen ch 1985]

" **§40-62 Payment of warrants.** Every lawful demand upon the treasury, duly audited as in this chapter provided, shall in all cases be paid by the director of finance on the date authorized and enfacd thereon or as soon thereafter as presented if there are sufficient funds at that time in the treasury applicable to the payment of the demand; and upon payment all warrants shall be canceled and proper entry made thereof. [L 1898, c 39, pt of §26; RL 1925, pt of §1462; am L 1927, c 219, pt of §9; RL 1935, pt of §588; RL 1945, pt of §1592; RL 1955, pt of §34-42; am L Sp 1959 2d, c 1, §14; am 1963, c 114, §1; HRS §40-62]

**Case Notes**

A "demand" is one for the payment of money. 27 H. 143.

" **§40-63 Director's warrant notes.** If there are not sufficient moneys applicable to the payment of the demands, the director of finance shall issue, in lieu thereof, a director's warrant note or notes, equal in amount to the face value of the warrant or warrants so presented for payment, note to be substantially in the following form:

Countersigned ..... Comptroller	.....Director of Finance Warrant Note
	No. ....
	.....Honolulu, Hawaii,
	.....19.....
	....On demand after date the Director of Finance of the
	State of Hawaii will pay to the order of .....
	..... Dollars (\$.....) with interest at
	.....%
	a year, from date of issue to date of redemption.
	.....
Director of Finance	
On redemption this warrant note will be charged to.....	
.....fund.	

The governor and director shall determine the rate of interest each director's warrant note shall pay, which interest shall not be in excess of five per cent a year.

The director's warrant notes may be issued for the combined face value of any number of warrants or director's warrant notes previously issued against the same fund. Except for those notes issued to redeem director's warrant notes previously issued, no warrant note shall be issued except in payment of a warrant or warrants presented for payment as in this section provided. The



director shall cancel every warrant or warrant note presented as hereinbefore mentioned.

All the director's warrant notes shall be issued upon the credit of the State, and the interest thereof shall be exempt from taxation. [L 1898, c 39, pt of §26; RL 1925, pt of §1462; am L 1927, c 219, pt of §9; am L 1931, c 7, §1; RL 1935, pt of §588; am L 1935, c 57, pt of §1; RL 1945, pt of §1592; RL 1955, pt of §34-42; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-63]

" **§40-64 Interest designated on warrant note.** When the director of finance pays any note upon which interest is due, the director shall designate on the warrant note the amount of interest paid thereon, and enter on the director's account the amount of the interest distinct from the principal. [L 1927, c 219, §10; RL 1935, §589; RL 1945, §1593; RL 1955, §34-43; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-64; gen ch 1985]

" **§40-65 Notice of payment of warrant notes.** When there are sufficient moneys in the treasury to pay warrant notes, the director of finance shall give public notice for one week stating therein that the warrant notes whose numbers appear in the notice are payable, and that interest shall cease upon all the called warrant notes ten days after the first notice. [L 1898, c 39, §27; RL 1925, §1463; am L 1927, c 219, §11; RL 1935, §590; RL 1945, §1594; RL 1955, §34-44; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §40-65; am L 1998, c 2, §13]

" **§40-66 Appropriations lapse when.** Unless otherwise provided by law all sums of money which are appropriated to the public service for any fiscal period, and which are not expended during the period, shall lapse, and shall not be issued or applied in any future fiscal period to the particular service for which the appropriation has been so made, unless a contract of engagement has been made and entered into before the expiration of the fiscal period by which a liability so to issue or apply the same has been incurred, and a certified copy of which contract or engagement has been deposited with the comptroller. [L 1898, c 39, §28; RL 1925, §1464; RL 1935, §591; RL 1945, §1595; RL 1955, §34-45; am L 1957, c 152, §1; am L Sp 1959 1st, c 13, §2; HRS §40-66]

Cited: 16 H. 638, 642.

" **§40-67 Closing out appropriation accounts.** In all cases where an appropriation of public money is made, and an unexpended balance remains to the credit of the appropriation on the books of the comptroller after the purposes of the appropriation have been accomplished, or after the time has expired within which those purposes may be accomplished, or after a time when the reasons for the appropriation have ceased to exist, the comptroller, upon the receipt of a certificate from the head of the department or other public officer who is charged with the duty of expending the appropriation, stating that all outstanding accounts against the appropriation have been fully paid and satisfied, may, with the written approval of the governor, close out the appropriation account and transfer the unexpended balance to the credit of the unappropriated surplus of the fund from which the appropriation was made. [L 1921, c 230, §1; RL 1925, §1465; am L 1927, c 219, §12; RL 1935, §592; RL 1945, §1596; RL 1955, §34-46; am L 1957, c 152, §1; HRS §40-67]

" **§40-68 Nonpresentment of warrants and checks.** Any warrant drawn upon the state treasury shall be presented at the treasury for payment before the close of the fiscal year next after the fiscal period in which it has been issued. Any check drawn from depositories of state treasury moneys shall be presented at such depositories for payment before the close of the fiscal year next after the fiscal period in which it has been issued. The director of finance shall pay out moneys for the payment, redemption, or purchase of state bonds and for the payment of interest thereon pursuant to chapter 39. All warrants or checks not so presented within that time shall be deemed to have been paid, and any money held at the expiration of that time in a special fund or account for the payment of the warrants or checks shall thereupon be transferred to a trust fund established and known as the nonpresentment of warrants and checks trust fund; provided that the fund balance in the trust fund shall not exceed \$500,000 and any excess of that amount shall be transferred to the general fund; provided further that within the period of four fiscal years immediately following the year in which an amount of money was so transferred to the trust fund, the payee or assignee of the warrant or check, or, if the payee is deceased, the personal representative of the estate of the payee, or if the estate of the payee is closed, to any

person lawfully entitled to the undisposed property of the deceased payee, upon filing with the comptroller a claim for recovery and any supportive evidence required by the comptroller, shall be paid the amount of the warrant or check out of the trust fund upon a warrant or check newly drawn by the comptroller. [L 1911, c 15, §1; RL 1925, §1466; RL 1935, §593; RL 1945, §1597; RL 1955, §34-47; am L Sp 1959 1st, c 13, §2; HRS §40-68; am L 1969, c 75, §1; am L 1974, c 30, §1; am L 1976, c 200, pt of §1; am L 1980, c 51, §2; am L 1994, c 221, §§1, 4; am L 1995, c 60, §2; am L 1996, c 112, §§1, 2 and c 180, §§1, 2]

#### "PART IV. MISCELLANEOUS PROVISIONS

**§40-81 Report by agencies receiving special moneys.** All state officers, departments, boards, bureaus, commissions, or agencies collecting or receiving any moneys not required by law to be deposited in the state treasury shall report to the comptroller all receipts and disbursements on account thereof for each quarterly period of the calendar year not later than the fifteenth day following the end of each quarterly period on such forms and under such rules as may be prescribed by the comptroller; provided that with respect to all moneys held outside the state treasury by the University of Hawaii until June 30, 2016, or the department of education pursuant to the authority granted to the university and the department of education by this chapter, the University of Hawaii and the department of education shall report to the comptroller all transactions for each quarterly period not later than the fifteenth day following the end of each quarterly period on such forms and under such rules as may be prescribed by the comptroller. [L 1941, c 224, §1; RL 1945, §1566; RL 1955, §34-15; am L 1957, c 152, §1; HRS §40-81; am L 1978, c 71, §1; am L 1986, c 321, §§8, 12; am L 1987, c 283, §69; am L 1989, c 371, §7; am L 1991, c 163, §3; am L 1993, c 314, §2; am L Sp 1993, c 8, §22; am L 1997, c 180, §1; am L 1998, c 115, §24; am L 2005, c 137, §1; am L 2006, c 161, §§6, 7; am L 2010, c 124, §4; am L 2015, c 44, §6]

" **§40-82 Uncollectible accounts.** (a) The directors, boards, or executive heads of executive departments, from time to time, may prepare and submit for the review of the attorney general a list of all uncollectible accounts in their departments. Such accounts as the attorney general finds to be uncollectible shall be entered in a special record and be deleted from the accounts receivable records of the departments,

which shall thereupon be relieved from any further accountability for their collection; provided that no account shall be so deleted until it shall have been delinquent for at least two consecutive years. Any account entered in the special record shall be transferred back to the current accounts receivable if the attorney general finds that the facts as alleged and presented to the attorney general were not true, or that the account has become collectible.

As used in this section, "uncollectible account" means an account with regard to which:

- (1) The debtor or party causing damage to property belonging to the State is no longer within the jurisdiction of the State;
- (2) The debtor or party causing damage to property belonging to the State cannot be located;
- (3) The party causing damage to property belonging to the State is unknown or cannot be identified;
- (4) The debtor has filed for bankruptcy and has listed the State as a creditor; or
- (5) Any other account as may be deemed by the attorney general to be uneconomical or impractical to collect.

(b) The judiciary, from time to time, may prepare lists of all delinquent receivables that in its judgment are uncollectible. The delinquent receivables that the judiciary finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the judiciary, and the judiciary shall thereupon be released from any further accountability for their collection; provided that no account shall be so deleted until it has been delinquent for at least two years. Any delinquent receivables so written off may be transferred back to the judiciary's accounts receivable if the judiciary finds that the facts as alleged and previously presented to it were not true, or that the delinquent receivables are in fact collectible, or that the delinquent receivables have become collectible. Nothing in this subsection shall preclude a person to whom restitution is owed from pursuing collection of the debt.

As used in this section, "delinquent receivables" means fines, restitution, monetary assessments, fees, surcharges, penalties, sanctions, court costs, and other payment that is past due.

(c) The University of Hawaii, from time to time, may prepare for the review of the university general counsel a list of all uncollectible accounts. Such accounts as the university general counsel finds to be uncollectible shall be entered into a special record and be deleted from the accounts receivable records of the university, which shall thereupon be relieved

from any further accountability for their collection; provided that no account shall be so deleted until it shall have been delinquent for at least two consecutive years. Any account entered in the special record shall be transferred back to the current accounts receivable if the university general counsel finds that the account has become collectible.

(d) The university shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, that shall summarize the types and amounts of uncollectible delinquent accounts that either were:

- (1) Entered in a special record and deleted from the university's other books; or
- (2) Transferred back to the university's accounts receivable. [L 1965, c 63, §1; Supp, §34-15.5; HRS §40-82; gen ch 1985; am L 1998, c 264, §1; am L 2001, c 243, §4; am L 2005, c 102, §1 and c 154, §2; am L 2006, c 38, §2]

" **§40-82.5 Delinquent accounts, collection.** Any state agency having an account due which is delinquent, may contract with a collection agency bonded under chapter 443B for collection of the delinquent account. The chairperson or director of the agency may make an agreement with the agency regarding the amount to be retained by it for services. [L 1982, c 88, §1; am L 1990, c 34, §2]

" **§40-83 Audit of public school accounts.** The comptroller shall cause to be examined and audited books of account kept by any public school in connection with school fees and all other moneys collected by these schools. All books of account shall be kept in such manner as shall be prescribed by the comptroller. [L 1932 2d, c 27, §1; RL 1935, §560; RL 1945, §1562; RL 1955, §34-11; am L 1957, c 152, §1; HRS §40-83]

" **§40-84 Petty cash funds; regulations.** Whenever the head of any state department, board, bureau, commission, or other agency deems it necessary to have a petty cash fund for the proper transaction of the business of the agency, a written application therefor shall be made to the comptroller setting forth the details covering the purposes and uses of and for the fund. The comptroller, before issuing a state warrant for that purpose, shall determine whether or not the business of the agency warrants the establishment of such a fund, and if the comptroller is satisfied that such a fund is necessary, the

comptroller shall issue a state warrant to such agency for an amount as the comptroller shall determine, not to exceed the sum of \$100,000, except that this limitation of \$100,000 shall not apply to the University of Hawaii and the stadium authority.

The comptroller may prescribe such rules as the comptroller may deem necessary for the proper administration and accountability of these funds. [L 1941, c 137, §1; am L 1943, c 106, §1; RL 1945, §1567; RL 1955, §34-16; am L 1957, c 152, §1; HRS §40-84; am L 1969, c 100, §1; am L 1976, c 117, §1; am L 1981, c 70, §1; am L 1988, c 227, §1]

" **§40-85 Imprest fund for immediate welfare payments, emergency assistance, and work-related expenses.** (a) In addition to the petty cash funds authorized by section 40-84, emergency assistance funds under subsection (b), work-related expenses under subsection (c), and, upon approval by the comptroller, the amount necessary and sufficient to enable the department of human services to make immediate welfare money payments to eligible recipients shall be advanced from the general fund of the State to be used by the department of human services on an imprest basis in those cases only which require more immediate payment than that possible under the usual procedure for disbursing state funds provided in section 40-51.

(b) Amounts necessary and sufficient to enable the department of human services to make immediate emergency assistance grants shall be advanced from the general fund of the State to be used by the department as provided under section 346-65.

(c) Amounts necessary and sufficient to enable the department of human services to provide cash assistance to eligible applicants and recipients of education, training, and employment programs, shall be advanced from the general fund of the State to be used by the department as provided under section 346-270.

The imprest fund for work-related expenses shall be used to assist applicants and recipients enrolled in employment training programs with extraordinary work-related expenses related to education, training, and employment activities or with emergency cash assistance during family crises.

(d) In granting approval, the comptroller may impose such conditions as the comptroller may deem necessary for the proper administration and accountability of the fund and of the funds advanced.

(e) The imprest fund shall be replenished at the end of each quarter and may be replenished at other times as required by the usage of the fund. In no case, however, may

disbursements, from the imprest fund and under the usual procedure for disbursing state funds, exceed the amounts appropriated and allotted for a fiscal period. [L 1971, c 36, §1; gen ch 1985; am L 1986, c 160, §2; am L 1987, c 339, §4; am L 1993, c 138, §1]

**Note**

Section 346-270 referred to in text is repealed.

" **[\$40-86] Lapse of University of Hawaii appropriations.** Upon the lapse of an appropriation to the University of Hawaii, moneys which remain unencumbered shall be returned to the state treasury within ninety days. [L 1986, c 321, §2]

**Note**

Repeal of section by L 1986, c 321, §12 as amended by L 1987, c 283, §69; L 1989, c 371, §7; L 1991, c 163, §3; L 1993, c 314, §2; L Sp 1993, c 8, §22; L 1997, c 180, §1; L 1998, c 115, §24; and L 2005, c 137, §1 deleted by L 2006, c 161, §7.

" **[\$40-87] Lapse of department of education appropriations.** Upon the lapse of an appropriation to the department of education, moneys which remain unencumbered shall be returned to the state treasury within ninety days. [L 1986, c 321, §3]

**Note**

Repeal of section by L 1986, c 321, §12 as amended by L 1987, c 283, §69; L 1989, c 371, §7; L 1991, c 163, §3; L 1993, c 314, §2; L Sp 1993, c 8, §22; L 1997, c 180, §1; L 1998, c 115, §24; and L 2005, c 137, §1 deleted by L 2006, c 161, §7.

" **§40-88 State of Hawaii endowment fund created.** (a) There shall be established as a separate fund of the Honolulu symphony trust created by the trust agreement dated December 5, 1986, a fund to be known as the State of Hawaii endowment fund. The income and capital gains from the \$2,000,000 contributed by the State of Hawaii shall be transferred on a quarterly basis to the state foundation on culture and the arts, performing and visual arts events private contribution account to be used for the production of music by an Oahu-based symphony orchestra as determined by the state foundation on culture and the arts. The

State of Hawaii endowment fund shall be subject to the restrictions that:

- (1) No part of the principal amount contributed to the fund by the State or by matching grants shall be used for operations of the Honolulu symphony;
- (2) Income and capital gains from the fund shall not be distributed for use in the operations of the Honolulu symphony during any period that the value of the fund shall be less than the principal amounts contributed to the fund; and
- (3) The amounts contributed to the fund by the State shall revert to the State to the extent that matching or other conditions to the grant of the funds are not met, and the fund also shall be subject to additional restrictions as may be imposed with respect to transfers of funds in future legislation appropriating sums to be contributed to the fund.

(b) Matching conditions set forth in legislation appropriating funds to be contributed to the State of Hawaii endowment fund, including conditions in previous legislation appropriating sums for the fund, shall be satisfied to the extent that any of the following shall be received prior to the date by which the funds are to be matched:

- (1) Cash, including the United States dollar equivalent of foreign currency, on the date of its contribution to the fund;
- (2) Personal property, including securities and cash value of life insurance policies, and real property transferred to the symphony, valued by appraisal, market quotations or other generally accepted valuation methods as of a date on or about the date of contribution of the property to the fund; and
- (3) All portions of pledges that are payable not later than five full years following the date by which the funds contributed by the State are to be matched; provided that any sums appropriated by the State and matched by such pledges within the matching period shall revert to the general fund to the extent the sums appropriated by the State are not matched by actual payment of such pledges within the five-year period.

(c) In the event that any funds contributed by the State are to revert to the general fund of the State, pursuant to subsection (a)(3) or (b)(3), the amount of the reversion shall be equal to the principal amount of the funds contributed by the State that have not been matched, and no part of any interest,



gains, or other earnings on said principal amount shall revert to the State.

(d) The aggregate principal sum in the fund shall be invested in accordance with the provisions of the Honolulu symphony trust in a manner intended to maximize the rate of return on investment of the fund consistent with the objective of preserving the principal amounts contributed to the fund. In the event of the termination of the Honolulu symphony trust, the principal amount of all contributions made by the State to the State of Hawaii endowment fund shall be distributed to the general fund of the State and any other amounts remaining in the State of Hawaii endowment fund shall be distributed in accordance with the provisions of the Honolulu symphony trust. An annual audit by an independent auditor covering the State of Hawaii endowment fund shall be submitted to the department of accounting and general services by the Honolulu symphony. [L 1987, c 382, §1; am L 1988, c 258, §1; am L 1989, c 227, §1; am L 1995, c 175, §2]

#### **Cross References**

Uniform prudent management of institutional funds act, see chapter 517E.

" **[\$40-89] Prior year accounts.** The comptroller shall establish new accounts for all special and revolving funds on July 1 of each fiscal year. All unencumbered cash balances for special and revolving funds established in previous years shall be deposited in the appropriate account for the current fiscal year unless otherwise provided by law; provided that this section shall not apply to those funds which are designated by either the legislature or the director of finance for transfer to the general fund. [L 1996, c 40, pt of §1]

" **[\$40-90] Encumbrances, when void.** (a) All encumbrances for claims which the comptroller has determined to be inactive shall become void six months from the end of the fiscal year of the original encumbrance, or within a period of time less than six months as designated by the comptroller.

(b) All encumbrances for contracts shall become void after five years from the end of the fiscal year of the original encumbrance; provided that the comptroller may grant an exemption from this subsection if the comptroller finds that there is sufficient justification to extend a contract encumbrance. [L 1996, c 40, pt of §1]

## **"PART V. APPEAL; ENFORCEMENT; PENALTIES**

**§40-91 Appeal from comptroller.** [2004 amendment repealed June 30, 2010. L 2006, c 94, §1.] In case of any question or difference of opinion arising between the comptroller and any officer of the State regarding the proper appropriation to which any item or amount of expense is charged, or any other matter regarding the construction of this chapter or the authority vested in either of them by this chapter, and in all cases where a claim is disallowed by the comptroller in consequence of the absence of an original warrant voucher, or upon an imperfect warrant voucher or an incorrect certificate, or if any person feels aggrieved by any decision of the comptroller, in the rejection or the surcharge of the returns or refusal to approve or allow any demand presented by the person, any of the persons concerned may appeal from the decision to the intermediate appellate court, subject to chapter 602. After such investigation as the appellate court considers equitable, it may make such order directing the relief of the appellant in whole or in part as appears to the court to be just and reasonable. If the demand of the officer, bill, claim of any person, or the return of any public accountant is approved, in whole or in part by the court, the court shall so indorse its findings on the same and it shall thereafter be presented to the comptroller, who shall enter it in the proper book in like manner as other demands and indorsement shall be made by the comptroller of its having been so entered before it can be paid. [L 1898, c 39, §16; RL 1925, §1458; RL 1935, §584; RL 1945, §1588; RL 1955, §34-38; am L 1957, c 152, §1; HRS §40-91; am L 1975, c 71, §7; am L 1979, c 111, §26; am L 2004, c 202, §5]

### **Note**

L 2004, c 202, §82 provides:

"SECTION 82. Appeals pending in the supreme court as of the effective date of this Act [July 1, 2006] may be transferred to the intermediate appellate court or retained at the supreme court as the chief justice, in the chief justice's sole discretion, directs."

The source note to this section is supplemented by "am L 2006, c 94, §1; am L 2010, c 109, §1".

### **Rules of Court**

Appeal to appellate courts, see Hawaii Rules of Appellate Procedure.

### Case Notes

Formerly "reasonable time" allowed for taking appeal. 33 H. 795.

Appeal should not be hampered by technicalities. 15 H. 9, 11.

Comptroller may refuse payment on ground of invalidity of appropriation and comptroller's decision then be tested by appeal under the statute, with parties in same positions as in mandamus. 20 H. 518.

Refusal to pay appropriation as being illegal and invalid and beyond legislative powers. 25 H. 406.

Appeal lies from refusal to endorse certificate of available funds, under §103-39. 27 H. 143.

Refusal to indorse certificate of availability of unexpended appropriation on public contract. 27 H. 221.

Appropriation by legislature on moral and honorable obligation. 29 H. 343.

Refusal to endorse contract as not satisfying call for tenders publication. 30 H. 94.

Refusal to pay person holding a county and a territory office at same time. 31 H. 792.

Refusal to pay commissioner's salary in excess of temporary appointment. 34 H. 12.

Refusal to issue warrant as Act providing for expenditure of appropriation invalid. 35 H. 203.

Appeal from comptroller's refusal to pay salary authorized by board of education. 53 H. 492, 497 P.2d 562.

Cited: 15 H. 726.

" **§40-92 Examining persons, books.** The comptroller may, by precept under the comptroller's hand in the form contained in section 40-93, require all such persons as the comptroller may think fit to appear personally before the comptroller at any time and place to be named in the precept, and to produce to the comptroller all such accounts, books, and papers in the possession or control of these persons as shall appear to be necessary for the purpose of their examination. The comptroller may when the comptroller shall so have occasion, cause search to be made and extracts to be taken from any book, paper, or record in the custody of any public officer without paying any fee for the same; and every officer having the custody of any book, paper, or record shall make such search and furnish such extracts as thereto requested. [L 1898, c 39, §21; RL 1925,

§1438; RL 1935, §565; RL 1945, §1569; RL 1955, §34-18; am L 1957, c 152, §1; HRS §40-92; gen ch 1985]

" **§40-93 Form of notice to appear for examination.**

To.....

By virtue of the authority vested in me by chapter 40 of the Hawaii Revised Statutes, you are hereby required to appear before me

at.....on.....and to bring with you for the purpose of examination a certain book (or as the case may be) and to be examined by and before me touching and concerning matters required to be investigated by me pursuant to the provisions of the chapter.

Witness my hand this ..... day of ....., 19.....

.....

Comptroller.

[L 1898, c 39, sch D; RL 1925, §1469; RL 1935, §595; RL 1945, §1599; RL 1955, §34-49; am L 1957, c 152, §1; HRS §40-93]

" **§40-94 Examination under oath.** The comptroller shall examine upon oath, which oath the comptroller may administer, all persons whom the comptroller thinks fit to examine touching the receipts and expenditures of money, and touching all other things and matters necessary for the due execution of the powers vested in the comptroller by this chapter. [L 1898, c 39, §22; RL 1925, §1439; RL 1935, §566; RL 1945, §1570; RL 1955, §34-19; am L 1957, c 152, §1; HRS §40-94; gen ch 1985]

" **§40-95 Penalty for false evidence.** If any person, in the course of the person's examination before the comptroller, wilfully and corruptly gives false evidence, the person so offending shall incur the same penalties as are or may be provided against persons convicted of perjury. [L 1898, c 39, §35; RL 1925, §1440; RL 1935, §567; RL 1945, §1571; RL 1955, §34-20; am L 1957, c 152, §1; HRS §40-95; gen ch 1985]

**Cross References**

Perjury, see §710-1060.

" **§40-96 Penalty for violating.** Any public accountant or person who fails or neglects to conform to any of the regulations contained in this chapter, or to attend the

comptroller 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 so to do by the comptroller, shall be liable to a penalty of not less than \$25, nor more than \$100, on conviction. [L 1898, c 39, §34; am L 1903, c 8, §2; RL 1925, §1434; RL 1935, §561; RL 1945, §1563; RL 1955, §34-12; am L 1957, c 152, §1; HRS §40-96]