

ACT 14

An Act Relating to the Auditor, Providing for His Duties and Functions, Repealing Section 77A of the Hawaiian Organic Act and Chapter 136 of the Revised Laws of Hawaii 1955.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. A new part is hereby added to chapter 2, Revised Laws of Hawaii 1955, to be numbered and to read as follows:

"PART III. AUDITOR AND POST-AUDIT

Sec. 2-30. Definition. As used in this part, 'departments, offices and agencies' shall mean and include all executive departments, boards, commissions, bureaus, offices, agencies and all independent commissions and other establishments of the state government (excepting the legislature) and all quasi-public institutions and all courts which are supported in whole or in part by, or which handle state or public funds; and 'political subdivision' shall mean and include all counties and municipalities of the state insofar as they are supported by or handle state or public funds.

Sec. 2-31. Auditor; appointment, tenure, removal, salary, qualifications. The auditor shall be appointed, hold office for such term and be subject to removal in the manner prescribed in section 8, Article VI, of the constitution. The salary of the auditor shall be fixed by the legislature and shall not be diminished during the auditor's term of office. The auditor, prior to his appointment, shall possess the following minimum qualifications: (1) He shall be in possession of a certificate issued by the Hawaii State Board of Accountancy to practice as a certified public accountant or a public accountant. (2) He shall have had at least five years of responsible experience in auditing. (3) Or he shall have any combination of experience which in the opinion of the legislature is the equivalent of (1) and (2).

Sec. 2-32. Duties. The auditor shall conduct post-audits of all transactions and of all books and accounts kept by or for all departments, offices and agencies of the state, and its political subdivisions. Such post-audits and all examinations to discover evidence of any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of state funds, or other improper practice of financial administration shall be conducted at least once in every two years after the close of a fiscal year, and at such other time or times during the fiscal year as he shall deem necessary or as may be required by the legislature for the purpose of certifying to the accuracy of all financial statements issued by the respective accounting officers and of determining the validity of expenditures of state or public funds.

Sec. 2-33. Auditor; powers. The auditor may examine and inspect all books, records, files, papers and documents and all financial affairs of every department, office and agency and political subdivision, and may, by precept under his hand in the form contained in section 34-49, require all such persons as he may think fit to appear personally before him at any time and place to be named in such precept, and to produce to him all such accounts, books, records, files, papers and documents in the possession or control of such persons as shall appear to be necessary

for the purpose of examination. The auditor may 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 such book, records, files, papers and documents shall make such search and furnish such extracts as thereto requested.

Sec. 2-34. Examination under oath. The auditor shall have power to administer oaths to persons summoned to appear before him and may question such persons, under oath, concerning receipts and expenditures of money and concerning all other things and matters necessary for the due execution of the duties vested in him by this part.

Sec. 2-35. Penalty for violation and false evidence. Any person, who, having been summoned as in section 2-33 provided, to give testimony or to produce any books, papers or other documents relating to any matter under inquiry, wilfully makes default, or who, having appeared, refuses to answer any question pertaining to the matter under inquiry, shall be fined not less than \$100 nor more than \$1,000, or imprisoned not less than one month nor more than twelve months, or both. If any person, in the course of his examination before the auditor, wilfully gives false evidence, such person so offending shall incur the same penalties as are or may be provided against persons convicted of perjury.

Sec. 2-36. Discovery of irregularities. In case the auditor at any time discovers evidence of any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of state funds, or other improper practice of financial administration or if at any time it comes to his knowledge that any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of state funds or other improper practice of financial administration is contemplated but not consummated, in either case, he shall forthwith transmit the facts to the legislature or any legislative interim committee then in existence, and the governor of the state, and the city council or board of supervisors of the political subdivision concerned. The auditor shall in his annual report to the legislature make specific recommendations for the avoidance of the same in the future.

Sec. 2-37. Assistants and staff. In the performance of his duties, the auditor may employ the services of one or more certified public accountants or accounting firms, and such other assistants and clerical workers as may be necessary, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office and provided further, that such accountants, firms, assistants are entirely independent of the departments, offices, and agencies of the state and its political subdivisions whose affairs are subject to audit by the auditor. All employees shall be subject to the provisions of chapters 3 and 4 of the Revised Laws of Hawaii, 1955, as amended, except the following: (a) Certified public accountants and employees of accounting firms on temporary contracts. (b) One first deputy or first assistant who may be appointed and removed by the auditor; but such position shall be subject to the civil service position classification plan.

Sec. 2-38. Reports. The auditor shall, at each regular session, submit a report to the legislature of the audits and examinations conducted by

him for the immediately preceding fiscal year and all other audits and examinations conducted by him during the current fiscal year, together with findings and recommendations relative to the expenditures made and financial transactions had by the departments, offices and agencies of the state and its political subdivisions. Reports may also be submitted to the legislative council or any legislative interim committee then in existence. Certified copies of all audits and examinations made by the auditor shall be sent to the governor and the director of budget. All such reports shall be available for public inspection. A certified copy of that portion of any report which consists of audits and examinations of departments, offices, or agencies of a political subdivision shall be sent to the city council or board of supervisors of the political subdivision concerned.”

SECTION 2. (a) Section 77A of the Hawaiian Organic Act is hereby repealed in its entirety. (b) Chapter 136 of the Revised Laws of Hawaii, 1955, is hereby repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved November 13, 1959.) **S.B. 29.**
