

**ACT 231**

H.B. NO. 3340

A Bill for an Act Relating to the Powers and Duties of the Comptroller.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) With respect to the executive branch, except the University of Hawaii 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 the]:

- (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[; provided further that the]; 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 to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules as may be in effect. 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."

SECTION 2. Section 40-4, Hawaii Revised Statutes, is amended to read as follows:

**"§40-4 Publication of statements.** The comptroller shall prepare and submit to the governor, [and publish in a newspaper of general circulation in the State,] 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, the department of education, and the legislature to provide such information as may be required for the preparation of statements."

SECTION 3. Section 40-51, Hawaii Revised Statutes, is amended to read as follows:

**"§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 [such] 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."

SECTION 4. Section 78-12, Hawaii Revised Statutes, is amended to read as follows:

**"§78-12 Salary withheld for indebtedness to the government. (a)** In case any officer, agent, employee or other person in the service of the State, any county, or any independent board or commission, is indebted to the State, any county, or to any independent board or commission, and [such] the indebtedness has been determined by a hearing pursuant to chapter 91, upon demand of the officer charged with the duty of collecting the indebtedness, the comptroller or other officer charged with the duty of paying the indebted officer, agent, employee, or other person, after notice to [him] the indebted person, shall withhold one-quarter of the salary, wages, or compensation due [him] the indebted person and pay the same, from time to time as the same shall become due, to the officer charged with the duty of collecting the indebtedness, until the full amount of the indebtedness, together with penalties and interest thereon, is paid.

(b) If the indebtedness has arisen or been incurred by reason of the indebted officer, agent, employee, or other person having embezzled, stolen, or otherwise unlawfully acquired any moneys or other property of the State, any county, or any independent board or commission, the whole amount of the salary, wages, or compensation, or so much thereof as may be required to pay the indebtedness in full, shall be withheld and paid over to the officer charged with the duty of collecting the indebtedness.

(c) The officer, agent, employee or other person in the service of the State, any county, or any independent board or commission alleged to be indebted to the State, any county, or to any independent board or commission may waive [his] the right to a hearing to determine the indebtedness and instead assign by contract to the officer charged with the duty of collecting debts:

- (1) [the] The priority right to payment of the total amount of the alleged indebtedness[.]; and
- (2) [the] The right of [such] the officer to deduct from each and every periodic payment normally due the assignor an amount equal to the maximum legally permissible amount deductible under garnishment law until [such time that] the total amount owing is paid in full.

For purposes of this section, a person shall be deemed to waive the hearing if the person fails to request a hearing within fifteen days from the date the person was notified of the indebtedness and the opportunity to request a hearing.

(d) The operation of all garnishment process served upon the comptroller or other paying officer shall be stayed until the indebtedness has been fully paid.

(e) If the indebtedness has occurred as a result of salary or wage overpayment, the comptroller or other officer shall determine the amount of indebtedness and notify the employee in writing of the indebtedness. If the employee contests the comptroller or other officer's determination of indebtedness, the employee may request a hearing pursuant to chapter 91, and upon conclusion of the hearing or if the employee waives the hearing, if the indebtedness is equal to or less than \$1,000, the

comptroller or other officer shall immediately deduct from any subsequent periodic payment normally due the employee any amount up to the total amount of indebtedness. For indebtedness greater than \$1,000, the comptroller or other officer shall deduct:

- (1) An amount agreed to by the employee and employer, but not less than \$100 per pay period; or
- (2) One-quarter of the salary, wages, or compensation due the employee until the indebtedness is repaid in full.’’

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 18, 1996.)