

## TITLE 5 PUBLIC AUDITOR

### CHAPTER 1 OFFICE OF THE AUDITOR 2 AUDITOR'S FINANCES

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#### CHAPTER 1 OFFICE OF THE AUDITOR

##### Section

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##### **§1-101. Definitions.** — As used in this chapter:

(1) "Departments, offices, and agencies" means and includes all legislative and executive departments, boards, commissions, bureaus, offices, agencies, and all independent commissions and other establishments of the state government, all quasi-public institutions, and all courts, which are supported in whole or in part by, or which handle, state or public funds.

(2) "Political subdivision" means and includes all local jurisdictions of the state insofar as they are supported by or handle state or public funds.

(3) "State or public funds" means and includes all monies from whatever source used for the support of the activities, projects or programs of the state government or any political subdivision thereof, or the monies of any nonprofit organization within the state whose funding comes primarily from Pohnpei State or United States of America appropriations or grants.

Source: S.L. No. 1L-10-79 §1, 11/1/79

**§1-102. Auditor: appointment; tenure; removal.** — The Pohnpei Public Auditor, hereinafter referred to as "Auditor," shall be appointed, hold office for such term, and be subject to removal, in the manner prescribed in Article 11 §8 of the Pohnpei Constitution.

Source: S.L. No. 1L-10-79 §2, 11/1/79

Note: This section has been changed to reflect the Pohnpei Constitution.

**§1-103. Auditor: salary.** — The salary of the Auditor shall be fixed by the Governor within the range established by the Government Officers' Salary Act, Title 9 Subchapter I, as amended or superseded.

Source: S.L. No. 1L-10-79 §3, 11/1/79; S.L. No. 1L-71-86 §4-12, 4/1/86; S.L. No. 4L-25-96 §8, 7/1/97

**§1-104. Auditor: 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 and all projects, programs, activities or organizations within the state receiving public

funds. The 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 the Auditor shall deem necessary or as may be required by the Legislature or Governor in accordance with generally accepted auditing standards for the purpose of rendering an opinion as to the fairness of the financial statements presented by the respective accounting officers and of determining the validity of expenditures of state or public funds.

Source: S.L. No. 1L-10-79 §4, 11/1/79; S.L. No. 5L-08-00 §1, 7/19/00

**§1-105. Auditor: powers.** — The Auditor may examine and inspect all books, records, files, papers, and documents, and all financial affairs of every department, office, agency, political subdivision, non-profit organization specified in §1-101(3), and may by precept under his hand require all such persons as he may think fit to appear personally before him at any time and place to be named in the 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 the books, records, files, papers, and documents shall make such search and furnish such extracts as thereto requested.

Source: S.L. No. 1L-10-79 §5, 11/1/79; S.L. No. 5L-08-00 §2, 7/19/00

**§1-106. Examination under oath.** — The Auditor may 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 chapter.

Source: S.L. No. 1L-10-79 §6, 11/1/79

**§1-107. Discovery of irregularities.** —

(1) In case the Auditor at any time discovers evidence of any unauthorized, illegal, irregular, improper or unsafe handling or expenditure of Pohnpei funds, or other improper practice of financial administration is contemplated but not consummated, in either case, he shall forthwith transmit the facts to the office being audited, the Speaker of the Legislature, the Governor, the Attorney General, the chief executive of the local government, and the presiding officer of the local council of the political subdivision concerned.

(2) Upon receipt of the examination report, the office being audited shall respond to said report in writing, to the Auditor and each of the officials listed in Subsection (1) of this section, by indicating the action or actions immediately taken to correct such deficiencies cited as well as stated action or actions to be taken on deficiencies not immediately resolved. Thereafter, the office shall file a monthly report with the Auditor indicating its progress in clearing deficiencies until such time as it can report that all deficiencies have been cleared, which period shall not exceed six months.

(3) The Auditor shall in his annual report to the Legislature make specific recommendations for the avoidance of audit irregularities in the future.

Source: S.L. No. 1L-10-79 §7, 11/1/79; S.L. No. 1L-34-85 §1, 10/2/85; S.L. No. 5L-08-00 §3, 7/19/00

**§1-108. Appropriate prosecution.** — After receiving the final report of the Auditor, of any audit, including the responses of the entity audited, the Attorney General may initiate an investigation and, if appropriate, prosecute any violation of law.

Source: S.L. No. 1L-10-79 §7D, 11/1/79

Note: §7D was inserted by S.L. No. 5L-08-00 §4, 7/19/00.

**§1-109. Employees and independent contractors.** — 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, and 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. In the establishment of the salary of each employee, the Auditor shall consult with the Division of Personnel, Labor and Manpower Development and shall follow as closely as possible the recommendations of the division. The Auditor and his full-time staff shall be entitled to participate in state government employee benefit program privileges.

Source: S.L. No. 1L-10-79 §8, 11/1/79

**§1-110. Required reports.** — The Auditor shall submit a report to the Legislature in January each year of the audits and examinations conducted by him for the immediately preceding fiscal year, and at such other times as may be requested by the Legislature or Governor, 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 and audited nonprofit organizations. Certified copies of all such audits and examinations made by the Auditor shall be sent to the Legislature, the Governor, and the Director of the Pohnpei Department of Treasury and Administration. All reports thereon 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 local council of the political subdivision concerned.

Source: S.L. No. 1L-10-79 §9, 11/1/79

**§1-111. Penalty for violation and false evidence.** — In addition to all other criminal and civil penalties, any person summoned as provided in §1-105 to give testimony or to produce any books, papers or other documents relating to any matter under inquiry, who willfully refuses to appear or produce such materials, 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 12 months, or both such fine and imprisonment. If any person, in the course of his examination before the Auditor, willfully gives false evidence, the person so offending shall incur the same penalties as are or may be provided against persons convicted of perjury.

Source: S.L. No. 1L-10-79 §10, 11/1/79