THIRTEENTH KOSRAE STATE LEGISLATURE

TWENTY-FOURTH SPECIAL SESSION, APRIL 2026 L.B. No. 13-269

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A BILL FOR AN ACT

To amend the Kosrae State Code by amending Section 1, Section 2, Section 3, Section 5 and Section 6 of Chapter 4 of Title 10, and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

Section 1. Purpose. The purpose of this Act is to amend the Kosrae State Code by amending Section 1, Section 2, Section 3, Section 5 and Section 6 of Chapter 4 of Title 10 to delegate the administration of the biennial government expenditure audit to the Public Auditor; amend the length of term and salary of the Public Auditor; establish the requirement for the implementation of audit recommendations, clarify the investigative authority of the Public Auditor; and establish whistleblower protection, and for other purposes .

Section 2. Amendment. Title 10, Chapter 4 of the Kosrae State Code is hereby amended:

"Chapter 4. Required Audits – Office of the Public Auditor

Section 10.401. Annual/Biennial Audit. There is an audit of all expenditures of public funds at the end of each fiscal year. If the Legislature is satisfied that the objectives of the annual audit can be met by a biennial audit, then it may, by resolution, waive the requirement of an annual audit. The Legislature ~~cannot~~ may only waive the annual audit requirement ~~except~~ every other year.

Section 10.402. ~~Contracting for Annual/Biennial audit~~ Administration of Public Expenditure Audit Contract. ~~With the approval of the Legislature, the~~

~~Speaker designates and authorizes in writing a Senator who has not had direct responsibility for the disbursement of public funds to negotiate and contract with an auditor for the annual/biennial audit. For this annual/biennial audit, the Senator has full and final authority to obligate the Government by contract with an auditor, who must be a certified public accountant. An annual/biennial audit contract may not be executed until after the Legislature has appropriated funds for payment of the auditor. The Senator designated pursuant to this section secures by written contract the services of an auditor who in the member's best judgment can perform the required audit in a competent, timely and impartial manner with the least use of public funds.~~ The Public Auditor shall have primary responsibility for conducting the annual or biennial audit of public expenditures or the government financial statements. The Public Auditor may:

(1) Perform the audit directly using its own resources;

(2) Outsource the audit to an independent, qualified auditing firm through a competitive procurement process; or

(3) Collaborate with the National Government of the Federated States of Micronesia to administer and oversee the contract for an independent audit.

Any contract for an outsourced audit shall be executed only after the Legislature has appropriated funds for payment of the independent auditor. The Public Auditor shall retain oversight authority to ensure that the audit is performed competently, impartially, and in accordance with applicable auditing standards.

Section 10.403. Auditor access and reporting for the annual/biennial audit. An auditor engaged under Section 10.402 shall have full access to all documents of

the Government and of allottees of public funds which, in the auditor's judgment, are relevant to the audit, ~~pursuant to Section 10.401~~. All Government officials, ~~and~~ employees and all allottees of funds shall cooperate fully with the ~~annual/biennial~~ auditor upon ~~his~~ request.

The audit shall ~~pursuant to Section 10.401,~~ results in a full and detailed written report ~~by the auditor~~ submitted to the Public Auditor. The Public Auditor shall promptly transmit copies of the report to the Legislature, the Governor, the Attorney General, and the Clerk of the Courts, and shall ensure that the report is available for public access and inspection, including through the Broadcast Authority. ~~to the Speaker who promptly transmits a copy to the Governor, the Attorney General, and the Clerk of the Courts for inspection by the public and the Broadcast Authority.~~

Section 10.404. Definition of public funds. "Public funds" as used in this chapter, means all the resources, revenues, and grants, subsidies, contributions, or entitlements owned by, owed to, or held by the State, or held by any department, agency, or any other person for or on behalf of the Government, as well as all funds appropriated by the State in connection with State contracts, State obligations, or any State appropriation funding.

Section 10.405. Office of State Public Auditor. There is an Office of State Public Auditor for the State of Kosrae which is subject to the following:

(1) The Office of State Public Auditor is to be headed by a State Public Auditor, who may be a certified public accountant. If the State Public Auditor is not a certified public accountant, then at least one certified public accountant, certified in the United States or other jurisdiction

recognized by the Legislature, ~~who has been certified in the United States,~~ must be employed by the State Public Auditor. The Legislature may, by resolution, allow exceptions to this requirement when no certified public accountant certified in the United States is employed by the State Public Auditor, provided that the effect of such exception does not exceed two (2) years at any given time.

The ~~Office of~~ State Public Auditor shall have the ~~otherwise be staffed within the~~ discretion to appoint, assign, and manage the staff of the OPA, ~~of the State Public Auditor~~ subject to an approved budgetary appropriation.

(2) The State Public Auditor shall be appointed by the Governor, with the advice and consent of the Legislature. The Public Auditor shall serve for a term of ~~four (4)~~ seven (7) years and until a successor is confirmed. An individual may be reappointed for an additional term or terms with the advice and consent of the Legislature.

(3) The Legislature may remove the State Public Auditor from office for cause by a two-thirds vote. In the event of such removal, the Governor shall appoint an Acting Public Auditor until a successor is appointed and confirmed.

Section 10.406. Powers and Duties. The State Public Auditor shall:

(1) Inspect and audit personally, or by his duly authorized assistants, all accounts, books, and other financial records of the State Government, to include but not be limited to, every branch, department, office, political subdivision, board, commission, agency, other public legal entity (owned,

or partially owned, by the State), whether they receive public funds or not, and nonprofit organizations that receive public funds from the State Government;

(2) Inspect and audit personally, or by his duly authorized assistants, the fiscal books, records, and accounts of all allottees and other custodians of public funds, making independent verification of all assets, liabilities, revenues, expenditures, and obligations of the State Government, entities owned in whole or part by the State Government, and agencies of the State Government.

(3) Inspect and audit personally, or by his duly authorized assistants, the fiscal books, records, accounts, and other financial records associated with any project, program, and activity receiving funding in whole or in part from public funds of the State Government, including the records of any contractor performing public work on a cost-reimbursement-type contract in order to verify the cost charged to the public contractor;

(4) Inspect and audit personally or by his duly authorized assistants, the books, records, accounts, and other financial records associated with business sales that may be used for sales assessment for tax collection purposes;

(5) Prepare and file written audit reports of all inspections and audits completed;

(6) Have the exclusive audit jurisdiction over public funds of the State Government, except as set forth in Section 10.403, and except as he shall contract for independent auditing services to be performed under his

supervision in instances where specialized expertise is required, or where auditing requirements are beyond the capacity of the State Public Auditor's staff and where funding is available;

(7) Keep a complete and accurate record or file of all audit reports, inspections, investigations, releases, audit work papers, and other materials pertaining to the work of the Office of the State Public Auditor;

(8) Cooperate with State agencies by offering such advice and assistance as may be requested of the State Public Auditor for the establishment or improvement of the accounting system(s) used by the various State agencies and departments;

(9) Require the aid and assistance of all State officials and employees and any custodian of public funds at all times in the inspection, examination, investigation, and audit of any and all books, accounts, and records of the State Government; and

(10) Have access during regular business hours to all of the books and accounts, reports, vouchers, or other records of information in any branch, department, office, political subdivision, board, commission, agency and other public legal entity (owned, or partially owned, by the State). Nothing in this section shall be construed as authorizing or permitting the publication of information prohibited by law.

(11) Initiate, conduct, and conclude investigations into fraud, waste, abuse, corruption, or mismanagement of public resources; violations of financial management laws, procurement regulations, or other statutes relating to the use of public funds; and any matter necessary to ensure

accountability, transparency, and integrity in government operations. Findings may be referred to the Attorney General or other appropriate authorities for criminal, civil, or administrative action.

(12) Where the Attorney Geneal declines, delays, or is unable to pursue litigation arising from audit findings, the Public Auditor may, exercise one or more of the following courses of action:

a) Referral to the Legislature. Transmit reports to the Kosrae State Legislature, which holds oversight authority and may convene hearings, demand accountability, or compel prosecutorial action.

b) Referral to Law Enforcement or National Authorities. Escalate findings to the FSM National Public Auditor or national enforcement agencies when misuse of funds involves national programs or cross-state implications, ensuring action beyond state jurisdiction.

c) Civil Remedies via Legislature. While the Public Auditor cannot independently file suit, the Legislature may authorize civil recovery actions (e.g., restitution of misused funds) based on audit findings.

d) Administrative Sanctions. Audit reports may trigger disciplinary proceedings within the public service system which may result in suspension, dismissal, or other administrative penalties.

Section 10.407. Special audits. The Legislature, by resolution, or the Governor, by written request, may require an audit of a particular agency or entity, or may require an audit of the expenditure of public funds, or a portion thereof, at any other time. A special audit request may establish reasonable requirements for the timing of the special audit and the special audit reports. In addition, the State Public Auditor has the discretion, as well as the duty and power, to initiate an audit whenever and wherever the State Public Auditor determines that such an audit would be beneficial to the State. A special audit conforms to the requirements of this chapter.

Section 10.408. Audit Reports. All audit reports shall be in writing, and shall comply with the following:

(1) A copy of all audit reports of the State Public Auditor shall be provided to the Governor, the Speaker of the Legislature, the Attorney General, and shall be made available to the public by delivering a copy to the Broadcast Authority and the Clerk of the Kosrae State Court. If a State agency or publicly-owned corporation is the subject of an audit report, it shall also be provided a copy of the report.

(2) The State Public Auditor may file a report at such time as may be specifically required by statute or request or as he may determine if no time is specified in a request.

(3) Each audit report shall contain recommendations made in regard to the subject matter of the special audit. The branch, agency, or publicly-

owned entity shall respond to the auditor's recommendations and make any necessary corrections.

(4) Recommendations in all audit reports shall be confined to matters within the jurisdiction of the State Public Auditor, including compliance or noncompliance with laws governing the expenditure of public funds, and the need for amendments or new laws to secure the efficient expenditure of public funds.

Section 10.409. Verification of deposits. In verifying any audit, the State Public Auditor shall have the right to ascertain the amount of bank deposits belonging to the entity or agency required to be audited, and shall have the right to audit said account on the books of such bank. No bank shall be liable for making available to the State Public Auditor any of the information required under the provisions of this section.

Section 10.410. Payment of salaries and expenses.

(1) The salaries of the State Public Auditor, his staff, and employees shall be paid in the same manner and through the same procedure used for the payment of salaries of other State Government employees.

(2) The salary of the State Public Auditor shall not exceed the salary of the Lieutenant Governor or the Vice Speaker of the Legislature, whichever is greater ~~be seventeen thousand one hundred dollars ($17,100.00)~~, which salary shall not be reduced during his term in office, except by general law applying to all State Government employees.

(3) The State Public Auditor position shall be exempt from the Public Service System; however, members of his staff who would otherwise qualify for employment in the Public Service System may be included therein.

(4) The State Public Auditor shall submit a proposed budget to the Governor to be included in the annual budget for presentation to the Legislature at the times required by the Code.

Section 10.411. Contracting for special services. The State Public Auditor may contract with other persons or organizations of established competence for special services required by the State Public Auditor to carry out his powers and duties. Any such contracts however, shall be within the established budget of the Office or have specific separate funding. Any contracts for the services of a certified public accountant shall be awarded only to the person or organization who, in the best judgment of the State Public Auditor, can perform the required audit, or other duties and responsibilities in a competent, timely and impartial manner with the least use of public funds.

Section 10.412. Issuance of subpoenas.

(1) The State Public Auditor may, by subpoena, summon persons to appear at a reasonable time before him. He may administer oaths to such persons, and question them regarding receipts and expenditures of money and any other relevant matters necessary for the due execution of the duties vested in the State Public Auditor by this chapter.

(2) The State Public Auditor may issue subpoenas duces tecum requiring the production, within a reasonable time, of books, records, documents, or

other relevant financial papers or objects necessary for the performance of his duties.

(3) Any subpoena issued under the authority of the State Public Auditor shall be issued in the name of the State of Kosrae and shall be addressed to the person summoned, or to the person who is the custodian of the records requested. The subpoena shall be signed by the State Public Auditor and shall set forth, with reasonable certainty, the books, documents, or other papers required, the object of the inspection and audit, the time and place of the hearing and the consequences of failure to obey the subpoena or summons. The subpoena, or summons, shall be served by a police officer who is directed to serve the subpoena forthwith to the person to whom it was addressed.

(4) A person subpoenaed shall have only those privileges against producing books, documents, or other papers under subpoena duces tecum which are authorized by the Rules of Evidence of the State Court.

Section 10.413. Types of audits and audit standards. The types of audits and applicable audit standards shall be as follows:

(1) Three types of audits may be performed:

(a) Financial and compliance. This type of audit determines whether the financial statements of an audited entity present fairly the financial position and results of financial operations in accordance with generally accepted accounting principles and whether the entity

has complied with laws and regulations that may have a material effect upon the financial statements.

(b) Economy and efficiency. This type of audit determines whether an entity is managing and utilizing its resources economically and efficiently, the causes of inefficiencies or uneconomical practices, and whether the entity has complied with law and regulations concerning economy and efficiency.

(c) Program results. This type of audit determines whether the desired results or benefits established by the Legislature or other authorizing body are being achieved and whether the program administrators have considered alternatives that might yield desired results at a lower cost.

(2) Any given audit or review may include one or more of the objectives in Subsection (1) of this section in the reasonable exercise of the State Public Auditor's discretion.

(3) The State Public Auditor ~~shall~~ may perform audits in conformity with generally accepted audit standards as established by the American Institute of Certified Public Accountants or generally accepted government auditing standards issued by the Comptroller General of the United States.

Section 10.414. Oversight and Implementation of Audit Recommendations. All departments, agencies, offices and public entities of the State Government, including government component units, and non-government recipients of public resources, shall review audit findings and recommendations issued by Public Auditor and

implement corrective action plans to resolve audit recommendations, specifying responsible personnel and timelines.

The Public Auditor shall monitor the compliance with implementation plans and report semiannually to the Legislature on the status of corrective plans taken by audited entities. The Public Auditor may conduct follow-up reviews every six months on the status of the implementation of audit recommendations, with the results of such follow-up formally documented and incorporated into the semiannual reports to the Legislature.

Section 10.415. Whistleblower Protection. An individual, employee, agent or contractor employed by or affiliated with a department, agency and/or any public entity of the State who, in good faith, report information concerning fraud, waste, abuse, corruption, or violations of law involving monies and resources of the Kosrae State Government shall be protected under this section.

(1) Protected Disclosures. A disclosure is protected under this section if it is made:

(a) To the Office of the Public Auditor, the Attorney General, or any law enforcement authority;

(b) In good faith and with reasonable belief that the information evidences misconduct, mismanagement, or unlawful activity;

(c) Regardless of whether the disclosure is made internally within a government entity or externally to the Auditor or any law enforcement authority.

(2) Prohibition of Retaliation. No officer, employee, contractor, or agent of the State Government or any public entity shall:

(a) Discharge, demote, suspend, threaten, harass, or otherwise discriminate against a whistleblower;

(b) Take or fail to take any personnel action that adversely affects the whistleblower because of a protected disclosure.

(3) Remedies. A whistleblower subjected to retaliation shall be entitled to:

(a) Reinstatement to the same or equivalent position;

(b) Compensation for lost wages, benefits, and other damages;

(c) Reasonable attorney's fees and costs, if applicable;

(d) Any other relief deemed appropriate by the Court.

(4) Confidentiality. The identity of a whistleblower shall be kept confidential by the Office of the Public Auditor or appropriate law enforcement authorities unless:

(a) The whistleblower consents in writing to disclosure; or

(b) Disclosure is required by law or necessary to further an investigation, in which case reasonable steps shall be taken to protect the whistleblower from retaliation.

(5) False or Malicious Reports. This section does not protect disclosures made with knowledge of falsity or with reckless disregard for the truth. Individuals who knowingly make false or malicious reports may be subject to disciplinary action or prosecution under applicable law.

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(6) Enforcement. The Office of the Public Auditor shall have authority to investigate allegations of retaliation under this section and may refer matters to the Attorney General for prosecution or to the Court for enforcement."

Section 3. Effective Date. This act shall become law upon the approval by the Governor or its becoming law without such approval.

Date: 4/29/26

Introduced by: _____
By Request