

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

April 14, 2023

FIRST

Special Session, 2023

H. B. 23-44

A BILL FOR AN ACT

To improve criminal investigations by the Public Auditor of fraud, waste and abuse in the collection and expenditure of public funds and cooperation with the Attorney General.

BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

- 1 **Section 1. Purpose.** The Public Auditor is established under the CNMI
2 Constitution and has the primary duty of auditing the flow of public money in all
3 three branches of government. However, the Public Auditor also “shall perform
4 other duties provided by law.” CNMI Const. art. III, § 12.
- 5 The Legislature has already expanded the duties of the Public Auditor to
6 include investigating fraud, waste or abuse in the collection and expenditure of
7 public funds and informing the Attorney General of criminal violations. This Act
8 expands on that duty by requiring the Public Auditor to track those investigations,
9 promptly notify the Attorney General and cooperate in conducting timely
10 investigations that can result in successful prosecutions with less delay. This change
11 is designed to improve investigations and reduce delay.

1 **Section 2. Amendment.** 1 CMC § 7847 of the Commonwealth Code is
2 hereby amended to read as follows:

3 § 7847. Referrals: Criminal Action.

4 (a) ~~In carrying out his or her duties, the~~ The Public Auditor shall promptly
5 notify report to the Attorney General in writing whenever the Public
6 Auditor has reasonable grounds to believe there has been violations of
7 either federal or Commonwealth criminal law involving fraud, waste or
8 abuse in the collection and expenditure of public funds. ~~The Attorney~~
9 ~~General may institute further proceedings.~~ The Public Auditor shall
10 create and share with the Attorney General a list of pending criminal
11 investigations, including the date an investigation was initiated, the date
12 the Attorney General was notified of any criminal law violation and the
13 date an investigation was closed or referred for prosecution. The list also
14 shall include a statement of the general subject matter of the
15 investigation and the name of any individuals who are the subject of the
16 investigation.

17 (b) If the Public Auditor has reasonable grounds to believe the ~~Governor or~~
18 Attorney General has violated ~~federal or~~ Commonwealth criminal law,
19 the Public Auditor shall petition the superior court to disqualify the
20 Attorney General and appoint a special prosecutor to handle the specific
21 criminal matter identified by the Public Auditor for prosecution. ~~may~~

1 ~~use the legal counsel for the office of the Public Auditor or retain special~~
2 ~~counsel who shall serve as an assistant attorney general for purposes of~~
3 ~~investigating and prosecuting, if necessary, the criminal law violations.~~

4 (c) The Public Auditor and Attorney General shall meet monthly to review
5 the status of pending criminal investigations and shall cooperate in the
6 investigation and prosecution of such matters. The Public Auditor shall
7 share with the Attorney General, upon request, any reports, documents
8 and statements arising from an investigation in the list required by
9 subsection (a).

10 **Section 3. Severability.** If any provisions of this Act or the application of
11 any such provision to any person or circumstance should be held invalid by a court
12 of competent jurisdiction, the remainder of this Act or the application of its
13 provisions to persons or circumstances other than those to which it is held invalid
14 shall not be affected thereby.

15 **Section 4. Savings Clause.** This Act and any repealer contained herein
16 shall not be construed as affecting any existing right acquired under contract or
17 acquired under statutes repealed or under any rule, regulation, or order adopted
18 under the statutes. Repealers contained in this Act shall not affect any proceeding
19 instituted under or pursuant to prior law. The enactment of the Act shall not have
20 the effect of terminating, or in any way modifying, any liability, civil or criminal,
21 which shall already be in existence on the date this Act becomes effective.

1 **Section 5. Effective Date.** This Act shall take effect upon its approval by
2 the Governor, or its becoming law without such approval.

Intro
~~Filed:~~ *4/14/2023*

Date:

Introduced by:

Reviewed for Legal Sufficiency by:

Amey 4-12-23
House Legal Counsel

[Handwritten signatures and initials]