

OVERVIEW

A Review and Identification of Fiscally Related Powers Conferred Upon or Assumed by the Executive Branch

Report No. 01-04, February 2001

Summary

Senate Concurrent Resolution No. 47 of the Regular Session of 2000 requested that the State Auditor review and identify fiscally related powers conferred upon or assumed by the executive branch since 1987 that may be reclaimed or reasserted by the Legislature. The resolution suggests that the Legislature's dominant role in fiscal affairs under the State Constitution has, over time, shifted inappropriately to the executive branch.

During our review, we heard a variety of conflicting opinions regarding the degree to which there exists a legislative-executive imbalance. We found few specific instances in which the executive branch's fiscal powers had increased since 1987. Indeed, since 1987, the Legislature appears to have reduced the executive branch's fiscal powers in certain respects.

We concluded that Hawaii's Legislature generally resembles other states in its exercise of fiscal powers, but does not play as formidable a role in the budget development and enactment processes as in some other states. As has been done elsewhere, Hawaii's Legislature could act to curtail executive branch flexibility and exercise considerably more control over the use of state resources. The Legislature could take steps to assert its will and improve its ability to review and monitor the State's economic condition and the actions of the executive branch.

Should the Legislature desire to do so, it could pursue options to enhance its fiscal powers. The Legislature could:

- Strengthen its technical capabilities;
- Exercise more of its existing powers over appropriations;
- Take on additional budgetary powers; and
- Tighten its control over executive branch spending.

The Legislature's technical capabilities are reflected in its ability to access revenue and expenditure data and in the functions of its committees and support agencies. The Legislature could take a series of steps to expand its technical resources to review and assess a variety of fiscal data. These include:

- Establishing on-line access by the Legislature to fiscal data of every state agency;
- Starting up the Joint Legislative Budget Committee and funding the Office of the Legislative Analyst;
- Expanding full-time staffing for the Legislature's "money committees"; and
- Determining whether responsibility for financial audits of executive branch agencies should be transferred to a legislative service agency.



Hawaii's Legislature could exert some existing powers to contest the executive branch. These powers include but may not be limited to overriding the governor's vetoes and deciding on the best use of "budget provisos."

The Legislature could assume additional budgetary powers exercised by some other state legislatures. The Legislature could:

- Prepare a budget bill separate from the executive branch's bill;
- Require the use of fiscal notes to assess the impact of proposed legislation; and
- Gain control over the volume and quality of budgetary information supplied to the Legislature.

Most of the options open to the Legislature revolve around mechanisms to tighten its control over executive branch spending:

- Modify Chapter 37, HRS, to clarify the parameters under which the governor and director of finance can reduce allotments;
- Require legislative approval for budget cuts;
- Modify Chapter 37, HRS, to remove all exemptions to the allotment requirements;
- Repeal special and revolving funds that fail to demonstrate the necessary linkages;
- Revisit the budget requirements for the Hawaii Health Systems Corporation;
- Review the impact of the autonomy given to the Department of Education and the University of Hawaii;
- Authorize only those capital improvement projects that the administration has demonstrated are within state capacities to build within a specified timeframe; and
- Capitalize on opportunities offered by new accounting standards.

Response

The Department of Budget and Finance responded that the governor's current level of fiscal powers is reasonable when considered within the context of his substantial statewide obligations and responsibilities as mandated by the State Constitution and statutes. The department asserts that removing all or part of such budget and fiscal discretionary authority would significantly impact the governor's ability to carry out his responsibilities. Finally, the department agrees that the Legislature should expand its own technical capabilities to review and assess state fiscal data, as was intended by the creation of the Joint Legislative Budget Committee and the Office of the Legislative Analyst in Act 347, Session Laws of Hawaii 1990.

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