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HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS

BILL #: HB 191

RELATING TO: School Districts

SPONSOR(S): Representative(s) Diaz de la Portilla

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:
(1) EDUCATION INNOVATION
(2) EDUCATION APPROPRIATIONS
(3) COUNCIL FOR LIFELONG LEARNING
(4)
(5)

I. SUMMARY:

Current law does not provide for an Office of Inspector General in each school district of the state. HB 191 establishes an Office of Inspector General in each school district of the state. The bill specifies that the Governor must appoint each Inspector General to a four-year term and may appoint an Inspector General to successive terms.

The bill specifies that the purpose of the Office of Inspector General is to promote accountability, efficiency, and effectiveness and to prevent and detect fraud and abuse within the school district. This bill requires that the Inspector General be independent of the superintendent of schools and the school board, but the Inspector General must cooperate with the school district's ethics commission, if such entity exists.

This bill authorizes the Inspector General to conduct investigations into allegations of waste, fraud, or financial mismanagement within the school district. The bill requires the Inspector General to:

- make recommendations to the superintendent and school board;
- have access to all information and personnel necessary to perform duties of the office;
- have the power to subpoena witnesses; and
- require the production of records.

According to the Department of Education, the average salary for an Inspector General is approximately $60,000 a year. The estimated benefits at the state average of 27.11% are $16,266 a year. Thus, the estimated average salary plus benefits per position totals approximately $76,266 a year.

3-Year Estimated Statewide Cost for Inspector General Positions

Year 1 Estimated Cost (Estimated Cost per position multiplied by 67 School Districts)	$5,109,822
Year 2 Estimated Cost (Year 1 Cost increased by 2.5% salary increase)	$5,237,567
Year 3 Estimated Cost	$5,368,506

(Year 2 Cost increased by 2.5% salary increase)	

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes [X]	No []	N/A []
5.	Family Empowerment	Yes []	No []	N/A [X]

This bill does not appear to support the principle of less government because it establishes an Office of Inspector General in each school district of the state.

Through the establishment of an Office of Inspector General in each school district, this bill appears to support the principle of personal responsibility by encouraging responsible behavior that promotes accountability, efficiency, and effectiveness and prevents and detects fraud and abuse within each school district.

B. PRESENT SITUATION:

Office of Chief Inspector General
Pursuant to s. 14.32, F.S., the Office of Chief Inspector General is created in the Executive Office of the Governor. The Chief Inspector General must be responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor.

Agency Inspectors General
According to s. 20.055(2), F.S., an Office of Inspector General is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. The duty and responsibility of each inspector general, with respect to the state agency is to:

- advise in the development of performance measures, standards, and procedures for the evaluation of the state agency programs;
- assess the reliability and validity of the information provided by the state agency on performance measures and standards, and make recommendations for improvement, if necessary, prior to submission of those measures and standards to the Executive Office of the Governor;
- review the actions taken by the state agency to improve program performance and meet program standards and make recommendations for improvement, if necessary;
- provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency;
- conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- keep the agency head informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend

corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action;

- ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication;
- review, as appropriate, rules relating to the programs and operations of the state agency and make recommendations concerning their impact; and
- ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

The Auditor General
Current law, s. 11.45(2)(d), F.S., requires the Auditor General to annually conduct financial audits of the accounts and records of all school boards in counties with populations of fewer than 125,000, according to the most recent federal decennial statewide census. In addition, s. 11.45(2)(i), F.S., requires the Auditor General, once every three years, to conduct financial audits of the accounts and records of all school boards in counties with populations of 125,000 or more, according to the most recent federal decennial statewide census.

The Legislative Auditing Committee
The 1967 Legislature established the Legislative Auditing Committee in Chapter 11 of the Florida Statutes. Provisions in s. 11.40(1), F.S., require that the Legislative Auditing Committee be composed of ten members as follows: five members of the Senate, appointed by the President of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives. The members serve two year terms from the organization of one Legislature to the organization of the next Legislature. The members of the committee elect a chair and a vice chair. During the two-year term, a member of each house must serve as chair for one year.

The Legislative Auditing Committee, pursuant to s. 11.40,(3), F.S., may direct the Auditor General or the Office of Program Policy Analysis and Government Accountability to conduct an audit, review, or examination of any school board. According to s. 22.40(4), F.S., the Legislative Auditing Committee may investigate any matter within the scope of an audit, review, or examination either completed or then being conducted by the Auditor General or the Office of Program Analysis and Government Accountability, and in connection with the investigation, may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

The Office of Program Policy Analysis and Government Accountability (OPPAGA)
In 1994, the Legislature created the Office of Program Policy Analysis and Government Accountability (OPPAGA) in s. 11.51, F.S., in an effort to improve the performance and accountability of state government. Pursuant to s. 11.51(1), F.S., OPPAGA serves as a research unit to perform independent examinations, program reviews, and other projects as provided by general law and concurrent resolution, or as directed by the Legislative Auditing Committee. Subsection 11.51(2), F.S., states that OPPAGA is independent of the Auditor General.

Provisions in s. 11.51(3), F.S., require OPPAGA to maintain a schedule of examination of state programs. As provided for in s. 11.51(6), F.S., OPPAGA produces policy analyses and performance reviews on state government programs. These studies assess the efficiency, effectiveness, and long-term implications of state policies and programs, and make recommendations to Florida government. OPPAGA also produces program evaluation and justification reviews of Florida agencies that are operating under performance-based program budgeting guidelines. In addition, OPPAGA performs the best financial management practices reviews. In Ch. 2001-86, L.O.F., the 2001 Legislature substantially revised the best financial management practices program and repealed the school district performance reviews. Some provisions from the school district performance reviews are included in the new best financial management practices reviews.

Best Financial Management Practices Reviews
According to s. 230.23025(1), F.S., the purpose of best financial management practices reviews is to improve Florida school district management and use of resources and to identify cost savings. OPPAGA and the Office of the Auditor General are directed to develop a system for reviewing the financial management practices of school districts. In this system, OPPAGA and the Auditor General must jointly examine district operations to determine whether they meet "best financial management practices."

Pursuant to s. 230.2305(2), F.S., the best financial management practices adopted by the Commissioner of Education may be updated periodically after consultation with the Legislature, the Governor, the SMART Schools Clearinghouse, the Department of Education, school districts, and the Auditor General. OPPAGA must submit the proposed revisions to the best financial management practices to the Commissioner of Education for review and adoption. The best financial management practices must instill public confidence by addressing the school districts' performance accountability systems, including public accountability. To achieve these objectives, best practices must be developed for the following areas:

- Management structures.
- Performance accountability.
- Efficient delivery of educational services, including instructional materials.
- Administrative and instructional technology.
- Personnel systems and benefits management.
- Facilities construction.
- Facilities maintenance.
- Student transportation.
- Food service operations.
- Cost control systems, including asset management, risk management, financial management, purchasing, internal auditing, and financial auditing.

According to s. 230.23025(5), F.S., the intent of the Legislature is that each school district must be subjected to a best financial management practices review. All school districts must be reviewed on a continuing five-year cycle, as follows, unless specified otherwise in the General Appropriations Act, or as provided here:

1. Year one: Hillsborough, Sarasota, Collier, Okaloosa, Alachua, St. Lucie, Santa Rosa, Hernando, Indian River, Monroe, Osceola, and Bradford.
2. Year two: Miami-Dade, Duval, Volusia, Bay, Columbia, Suwannee, Wakulla, Baker, Union, Hamilton, Jefferson, Gadsden, and Franklin.
3. Year three: Palm Beach, Orange, Seminole, Lee, Escambia, Leon, Levy, Taylor, Madison, Gilchrist, Gulf, Dixie, Liberty, and Lafayette.
4. Year four: Pinellas, Pasco, Marion, Manatee, Clay, Charlotte, Citrus, Highlands, Nassau, Hendry, Okeechobee, Hardee, DeSoto, and Glades.
5. Year five: Broward, Polk, Brevard, Lake, St. Johns, Martin, Putnam, Jackson, Flagler, Walton, Sumter, Holmes, Washington, and Calhoun.

Provisions in s. 230.2305(6)(a), F.S., specify that the Joint Legislative Auditing Committee may adjust the schedule of districts to be reviewed when unforeseen circumstances prevent initiation reviews scheduled in a given year. According to s. 230.2305(6)(b), F.S., once the five-year cycle has been completed, reviews must continue, beginning again with those districts included in year one of the cycle unless a district has requested and received a waiver.

Subsection 230.2305(7), F.S., provides that at the direction of the Joint Legislative Auditing Committee or the President of the Senate and the Speaker of the House of Representatives, and subject to funding by the Legislature, OPPAGA may conduct, or contract with a private firm to conduct, up to two additional best financial management practices reviews in districts not scheduled for review during that year if such review is necessary to address adverse financial conditions.

As part of the best financial management practices reviews, districts scheduled for review must complete a self-assessment instrument provided by OPPAGA that indicates the school district's evaluation of its performance on each best practice. The self-assessment must be completed no later than 60 days before OPPGA begins the review (s. 230.2305(9), F.S.). Provisions in s. 230.2305(10), F.S., require that OPPAGA and the consultant conducting the review, if any, must hold at least one advertised public forum as part of the review in order to explain the best financial management practices review process and obtain input from students, parents, the business community, and other district residents regarding their concerns about the operations and management of the school district.

Provisions in s. 230.2305(11), F.S., require that the district reviews must be completed within six months after commencement. OPPAGA must issue a final report to the President of the Senate, the Speaker of the House of Representatives, and the district regarding the district's use of best financial management practices and cost savings recommendations within 60 days after completing the reviews. Copies of the final report must also be provided to the Governor, the Commissioner of Education, and to the chairs of school advisory councils and district advisory councils. The school district must notify all members of the school advisory councils and district advisory councils by mail that the final report has been delivered to the school district and to the council chairs. The notification must also inform members of the OPPAGA website address at which an electronic copy of the report is available.

According to OPPAGA, the final report may include an action plan that outlines what the district must do step-by-step, who must complete the task, and when each part of the action plan must be completed. The action plan is developed with input from the school district during the best financial management practices review.

According to s. 230.2305(13), F.S., the school board for the district under review must decide, by majority plus one vote, within 90 days of receipt of the final report, whether or not to implement the action plan. If a district fails to vote on the action plan within 90 days, school board members may be required to appear and present testimony before a legislative committee.

Provisions in s. 230.2305(14) F.S., require the school board, no later than one year after receipt of the final report, to submit an initial status report on progress toward implementing the action plan and any changes bearing on compliance with the best financial management practices. A second status report must be made no later than one year after the initial report.

Subsection 230.2305(15) F.S., specifies that after receipt of each status report, OPPAGA must assess the district's implementation of the action plan. According to s. 230.2305(16), F.S., in order to be eligible to receive a "Seal of Best Financial Management" awarded by the State Board of Education, districts must successfully implement the best financial management practices within two years, or districts must be determined in the review to be using best practices. The "Seal of Best Financial Management" is effective for five years or until the next review is completed.

According to s. 230.23025(19), F.S., the unrestricted cost savings resulting from implementing the best financial management practices must be spent at the school and classroom levels for teacher salaries, teacher training, improved classroom facilities, student supplies, textbooks, classroom technology, and other direct student instruction activities. Cost savings identified for a program that has restrictive expenditure requirements must be used for the enhancement of the specific program.

C. EFFECT OF PROPOSED CHANGES:

HB 191 establishes an Office of Inspector General in each school district of the state. The bill specifies that the Governor must appoint each Inspector General to a four-year term and may appoint an Inspector General to successive terms.

The bill specifies that the purpose of the Office of Inspector General is to promote accountability, efficiency, and effectiveness and to prevent and detect fraud and abuse within the school district. This bill requires that the Inspector General be independent of the superintendent of schools and the school board but must cooperate with the school district's ethics commission, if such entity exists.

This bill authorizes the Inspector General to conduct investigations into allegations of waste, fraud, or financial mismanagement within the school district. The bill requires the Inspector General to:

- make recommendations to the superintendent and school board;
- have access to all information and personnel necessary to perform duties of the office;
- have the power to subpoena witnesses; and
- require the production of records.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Establishes an Office of Inspector General in each school district; provides for the appointment of the Inspector General; provides the purpose of the office, provides the authority of the Inspector General to conduct investigations and make recommendations; and provides powers of the Inspector General.

Section 2: Provides this bill will take effect on July 1, 2002.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

This bill does not appear to have a fiscal impact on state revenues.

2. <u>Expenditures</u>:

Please see Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. <u>Revenues</u>:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

   Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Please see Fiscal Comments.

D. FISCAL COMMENTS:

HB 191 requires that one Inspector General be appointed to each of the 67 school districts of the State. According to the Department of Education, the average salary for such a position is approximately $60,000 a year. The estimated benefits at the state average of 27.11% are $16,266 a year. Thus, the estimated salary plus benefits per position totals approximately $76,266 a year.

3-Year Estimated Statewide Cost for Inspector General Positions

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It should be noted that some of the 67 Inspectors General may need to hire additional staff members in order to fulfill the duties of their office.

The Department of Education further states, "It is not clear in the current proposal how this function would be funded. Funding could be provided directly to each office through the Department of Education or through each school district. The Department of Education recommends that funding of the positions should be further clarified."

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rulemaking authority.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

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