STORAGE NAME: h0191s1.ei.doc
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS

BILL #: CS/HB 191

RELATING TO: Office of Inspector General within the Office of the Commissioner of Education

SPONSOR(S): Committee on Education Innovation & Representative(s) Diaz de la Portilla

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) EDUCATION INNOVATION YEAS 13 NAYS 0
(2) EDUCATION APPROPRIATIONS
(3) COUNCIL FOR LIFELONG LEARNING
(4)
(5)

I. SUMMARY:

Current law establishes the Education Reorganization Workgroup to direct and provide oversight for the reorganization of Florida's K-20 Department of Education. Additionally, current law requires the reorganization of the Department of Education to include the establishment of the following offices within the Office of the Commissioner of Education:

- The Office of Technology and Information Services;
- The Office of Workforce and Economic Development;
- The Office of Educational Facilities and SMART School Clearinghouse; and
- The Office of Student Financial Assistance.

CS/HB 191 establishes the Office of Inspector General within the Office of the Commissioner of Education as part of the reorganization of Florida's K-20 Department of Education. The Office of Inspector General already exists and is to be organized using existing resources and funds. CS/HB 191 requires that the Inspector General be responsible for promoting accountability, efficiency, and effectiveness; and detecting fraud and abuse within school districts, public community colleges, and public universities in Florida.

The bill specifies that the Office of Inspector General must conduct, coordinate, or request investigations into substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within school districts, public community colleges, and public universities in Florida.

The bill further specifies that the Office of Inspector General must have access to all information and personnel necessary to perform its duties and must have all of its current powers, duties, and responsibilities authorized in current law.

By empowering the Office of Inspector General to conduct, coordinate, or request investigations into allegations relating to waste, fraud, or financial mismanagement, this office may, in the long run, become a tool that results in substantial savings for school districts, community colleges, and state universities.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [X]
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]

Through the establishment of the Office of Inspector General within the Office of the Commissioner of Education, 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, community college and state university.

Since the bill requires the Office of Inspector General to be organized using existing resources and funds, the bill does not appear to violate the principle of less government.

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.

According to ss. 20.55(3)(a) and 20.55(3)(b), F.S., the agency head must appoint the inspector general. Each inspector general must report to and be under the supervision of the agency head and must not be subject to supervision by any other employee of the state agency. Pursuant to s. 20.55(3)(d), F.S., the agency head must not prevent or prohibit the inspector general or director of auditing from initiating, carrying out, or completing any audit or investigation.

Provisions in s. 20.55(5)(d), F.S., require the inspector general, at the conclusion of an audit, to submit preliminary findings and recommendations to the person responsible for the supervision of the program function or operational unit who must respond to any adverse findings within 20 working days after receipt of the tentative findings. The response and the inspector general's rebuttal to the response must be included in the final audit report that is submitted to the agency head and to the Auditor General.

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 Ch. 11, F.S. 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 Policy 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.

Inspectors General at State Universities and Community Colleges
According to the Florida Department of Education, all of the state universities have Inspectors General that perform internal audits, reviews, and management advisory services based on annual work plans. Under the recently abolished Board of Regents, there was a central point of reporting for all of the university inspectors general. There was a Chief Inspector General that reported to the Chancellor that had oversight authority of all of the state university inspectors general. The Chief Inspector General facilitated continuous improvement within the State University System, with the objectives of reducing risk to the universities' resources and reputation, and to enhance its efficiency and effectiveness.

According to the Florida Department of Education, only Miami-Dade and Valencia Community Colleges have internal auditors/inspectors general. Any community college reviews of college operations or programs are normally contracted out to independent certified public accounting firms or conducted by college administrative staff.

Reorganization of the Department of Education
Section 229.0073, F. S., establishes the Education Reorganization Workgroup to direct and provide oversight for the reorganization of Florida's K-20 Department of Education. Pursuant to s. 229.0073(5), F. S., the reorganization must establish the following offices within the Office of the Commissioner of Education, which must coordinate their activities with all other divisions, and offices:

- The Office of Technology and Information Services;
- The Office of Workforce and Economic Development;
- The Office of Educational Facilities and SMART Schools Clearinghouse; and
- The Office of Student Financial Assistance.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 191 establishes the Office of Inspector General within the Office of the Commissioner of Education as part of the reorganization of Florida's K-20 Department of Education. The Office of Inspector General already exists and is to be organized using existing resources and funds. CS/HB 191 requires that the Inspector General be responsible for promoting accountability, efficiency, and effectiveness; and detecting fraud and abuse within school districts, public community colleges, and public universities in Florida.

The bill specifies that the Office of Inspector General must conduct, coordinate, or request investigations into substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within school districts, public community colleges, and public universities in Florida.

The bill further specifies that the Office of Inspector General must have access to all information and personnel necessary to perform its duties and must have all of its current powers, duties, and responsibilities authorized in current law.

By empowering the Office of Inspector General to conduct, coordinate, or request investigations into allegations relating to waste, fraud, or financial mismanagement, this office may, in the long run, become a tool that results in substantial savings for school districts, community colleges, and state universities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Establishes an Office of Inspector General within the Office of the Commissioner of Education; provides for the organization of the Office of Inspector General; provides responsibilities of the Office of Inspector General; requires the Office of Inspector General to conduct, coordinate, or request investigations; and provides the powers, duties, and responsibilities of the Office of Inspector General.

Section 2: Provides this bill will take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

By empowering the Office of Inspector General to conduct, coordinate, or request investigations into allegations relating to waste, fraud, or financial mismanagement, this office may, in the long run, become a tool that results in substantial savings for school districts, community colleges, and state universities.

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 provisions.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rulemaking authority.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On November 28, 2001, the Committee on Education Innovation adopted a “strike-all” amendment that primarily differs from the original bill in the following ways:

- The amendment no longer establishes an Office of Inspector General in each school district;
- The amendment establishes the existing Office of Inspector General within the Office of the Commissioner of Education as part of the reorganization of the Department of Education;
- The amendment requires the Office of Inspector General to be organized using existing resources and funds; and
- The amendment no longer authorizes the Inspector General to conduct investigations into allegations of waste, fraud, or financial mismanagement within the school district, but rather requires the Office of Inspector General to conduct, coordinate, or request investigations into substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within school districts, community colleges, and state universities.

The Committee on Education Innovation reported the bill favorably as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:	Staff Director:
Elsie J. Rogers	Daniel Furman