

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1681 Duties of Agency Inspectors General
SPONSOR(S): Rivera
TIED BILLS: HB 1691 **IDEN./SIM. BILLS:** SB 2900

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>5 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
2) <u>Judiciary</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill designates the inspector general of each agency as the investigator for whistle-blower investigations, and removes that responsibility from the agency head. It also increases from 15 to 30 the number of days allotted the Florida Commission on Human Relations to determine whether it is appropriate to temporarily reinstate an employee discharged for disclosing protected information received pursuant to the Whistle-blower's Act. The bill also authorizes the agency inspector general to access any records, data, or other information of an agency he or she deems necessary to carry out his or her duties, and to compel by subpoena production of such records, data, or other information as necessary to complete an investigation of a private entity.

This bill does not create, modify, or eliminate a state revenue source, and does not have a negative fiscal impact on state revenue. This bill does not have a fiscal impact on local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1681a.sa.doc
DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law establishes an Office of Inspector General in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government.¹ Each inspector general, in carrying out his or her investigate duties and responsibilities, must initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses.²

Each inspector general is also responsible for receiving “whistle-blower information”.³ The law governing whistle-blower investigations, however, is inconsistent with regards to receipt of such information and conducting investigations regarding such information. Inspectors general are designated as the recipients of such information; however, the agency head is given the responsibility of conducting the investigation.

Effect of Bill

This bill designates the inspector general of each agency as the investigator for whistle-blower investigations, and removes that responsibility from the agency head. It also makes the necessary conforming changes regarding such designation.

This bill increases from 15 to 30 the number of days allotted the Florida Commission on Human Relations to determine whether it is appropriate to temporarily reinstate an employee discharged for disclosing protected information received pursuant to the Whistle-blower’s Act.

Finally, this bill authorizes each agency inspector general, as part of his or her duties, to access any records, data, or other information of an agency he or she deems necessary to carry out his or her duties, and to request information or assistance as may be necessary from a state agency or from any federal, state or local governmental entity. In addition, the inspector general may compel by subpoena private entities to produce all “information, documents, reports, answers, records, accounts, papers, and other date and documentary evidence necessary in the performance” of his or her functions. The subpoena is enforceable by order of a state court of competent jurisdiction. Subpoenas may not be used to obtain documents and information from state agencies.

¹ Section 20.055(2), F.S.

² Section 20.055(6), F.S.

³ Section 112.3189, F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 20.055(6), F.S., creating functions, powers, and duties for the inspector general of each agency.

Section 2 amends s. 112.3189, F.S., making clarifying and conforming changes.

Section 3 amends s. 112.31895(3), F.S., increasing the number of days allotted the Florida Commission on Human Relations to review and determine whether temporary reinstatement of a discharged employee is appropriate.

Section 4 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, or eliminate a state revenue source.

2. Expenditures:

None. This bill does not have a negative impact on state revenue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not affect local governments.

2. Expenditures:

None. This bill does not affect local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. This bill does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.