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1 A bill to be entitled

2 An act relating to duties of agency inspectors general;
3 amending s. 20.055, F.S.; providing that agency inspectors
4 general rather than state agencies shall have certain
5 powers and perform certain functions and duties relative
6 to specified investigations; providing that agency
7 inspectors general may access specified records, data, and
8 information of a state agency and request information or
9 assistance from a state agency or any federal, state, or
10 local governmental entity; providing that agency
11 inspectors general may compel the production by subpoena
12 of specified information, data, and documentary evidence
13 necessary in the performance of their functions; providing
14 for the enforcement of specified subpoenas; providing that
15 procedures other than subpoenas shall be used by agency
16 inspectors general to obtain documents and information
17 from state agencies; amending s. 112.3189, F.S.; providing
18 requirements with respect to an employee designated by the
19 head of a state agency to receive specified information
20 under the Whistle-blower's Act; providing that an agency
21 inspector general rather than an agency head shall perform
22 specified functions relative to an investigation under the
23 Whistle-blower's Act; amending s. 112.31895, F.S. ;
24 revising the time period during which the Florida
25 Commission on Human Relations must review specified
26 information and make a determination with respect to
27 temporary reinstatement of an employee under the Whistle-
28 blower's Act; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:

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 32 Section 1. Subsection (6) of section 20.055, Florida
 33 Statutes, is amended to read:

34 20.055 Agency inspectors general.--

35 (6) In carrying out the investigative duties and
 36 responsibilities specified in this section, each inspector
 37 general shall initiate, conduct, supervise, and coordinate
 38 investigations designed to detect, deter, prevent, and eradicate
 39 fraud, waste, mismanagement, misconduct, and other abuses in
 40 state government. For these purposes, each inspector general
 41 ~~state agency~~ shall have the following functions, powers, and
 42 duties:

43 (a) To receive complaints and coordinate all activities of
 44 the agency as required by the Whistle-blower's Act pursuant to
 45 ss. 112.3187-112.31895.

46 (b) To receive and consider the complaints which do not
 47 meet the criteria for an investigation under the Whistle-
 48 blower's Act and conduct, supervise, or coordinate such
 49 inquiries, investigations, or reviews as the inspector general
 50 deems appropriate.

51 (c) To report expeditiously to the Department of Law
 52 Enforcement or other law enforcement agencies, as appropriate,
 53 whenever the inspector general has reasonable grounds to believe
 54 there has been a violation of criminal law.

55 (d) To conduct investigations and other inquiries free of
 56 actual or perceived impairment to the independence of the
 57 inspector general or the inspector general's office. This shall

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58 include freedom from any interference with investigations and
 59 timely access to records and other sources of information.

60 (e) To access any records, data, and other information of
 61 a state agency he or she deems necessary to carry out his or her
 62 duties and to request such information or assistance as may be
 63 necessary from a state agency or from any federal, state, or
 64 local governmental entity.

65 (f) May compel by subpoena the production of all
 66 information, documents, reports, answers, records, accounts,
 67 papers, and other data and documentary evidence necessary in the
 68 performance of the functions assigned by this section, which
 69 subpoena, in the case of contumacy or refusal to obey, shall be
 70 enforceable by order of any appropriate state court of competent
 71 jurisdiction. Provided, that procedures other than subpoenas
 72 shall be used by the inspectors general to obtain documents and
 73 information from state agencies.

74 (g)~~(e)~~ To submit in a timely fashion final reports on
 75 investigations conducted by the inspector general to the agency
 76 head, except for whistle-blower's investigations, which shall be
 77 conducted and reported pursuant to s. 112.3189.

78 Section 2. Subsections (1), (6), (7), and (9) of section
 79 112.3189, Florida Statutes, are amended to read:

80 112.3189 Investigative procedures upon receipt of whistle-
 81 blower information from certain state employees.--

82 (1) This section only applies to the disclosure of
 83 information as described in s. 112.3187(5) by an employee or
 84 former employee of, or an applicant for employment with, a state
 85 agency, as the term "state agency" is defined in s. 216.011, to
 86 the Office of the Chief Inspector General of the Executive

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87 Office of the Governor or to the agency inspector general. If an
 88 agency does not have an inspector general, the head of the state
 89 agency, as defined in s. 216.011, shall designate an employee
 90 who meets the requirements provided in s. 20.055(4) to receive
 91 information described in s. 112.3187(5). For purposes of this
 92 section and s. 112.3188 only, the employee designated by the
 93 head of the state agency shall be deemed an agency inspector
 94 general.

95 (6) The agency inspector general may conduct an
 96 investigation pursuant to paragraph (5)(a) only if the person
 97 transmitting information to the agency inspector general is an
 98 employee or former employee of, or an applicant for employment
 99 with, the agency inspector general's agency. The agency
 100 inspector general shall:

101 (a) Conduct an investigation with respect to the
 102 information and any related matters.

103 (b) Submit to the complainant and the Chief Inspector
 104 General, within 60 days after the date on which a determination
 105 to conduct an investigation is made under paragraph (5)(a), a
 106 final written report that sets forth the agency inspector
 107 general's findings, conclusions, and recommendations, except as
 108 provided under subsection (11). The complainant shall be advised
 109 in writing by the agency inspector general ~~head~~ that the
 110 complainant may submit to the Chief Inspector General and agency
 111 inspector general comments on the final report within 20 days of
 112 the date of the report and that such comments will be attached
 113 to the final report.

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114 (7) If the Chief Inspector General decides an
 115 investigation should be conducted pursuant to paragraph (5)(a),
 116 the Chief Inspector General shall either:

117 (a) Promptly transmit to the appropriate ~~head of the state~~
 118 agency inspector general the information with respect to which
 119 the determination to conduct an investigation was made, and such
 120 agency inspector general ~~head~~ shall conduct an investigation and
 121 submit to the Chief Inspector General a final written report
 122 that sets forth the ~~agency head's~~ findings, conclusions, and
 123 recommendations of the agency inspector general; or

124 (b)1. Conduct an investigation with respect to the
 125 information and any related matters; and

126 2. Submit to the complainant within 60 days after the date
 127 on which a determination to conduct an investigation is made
 128 under paragraph (5)(a), a final written report that sets forth
 129 the Chief Inspector General's findings, conclusions, and
 130 recommendations, except as provided under subsection (11). The
 131 complainant shall be advised in writing by the Chief Inspector
 132 General that the complainant may submit to the Chief Inspector
 133 General comments on the final report within 20 days of the date
 134 of the report and that such comments will be attached to the
 135 final report.

136 (c) The Chief Inspector General may require an agency
 137 inspector general ~~head~~ to conduct an investigation under
 138 paragraph (a) only if the information was transmitted to the
 139 Chief Inspector General by:

140 1. An employee or former employee of, or an applicant for
 141 employment with, the agency that the information concerns; or

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142 2. An employee who obtained the information in connection
 143 with the performance of the employee's duties and
 144 responsibilities.

145 (9)(a) A report required of the agency inspector general
 146 ~~head~~ under paragraph (7)(a) shall be submitted to the Chief
 147 Inspector General and the complainant within 60 days after the
 148 agency inspector general ~~head~~ receives the complaint from the
 149 Chief Inspector General, except as provided under subsection
 150 (11). The complainant shall be advised in writing by the agency
 151 inspector general ~~head~~ that the complainant may submit to the
 152 Chief Inspector General comments on the report within 20 days of
 153 the date of the report and that such comments will be attached
 154 to the final report.

155 (b) Upon receiving a final report required under this
 156 section, the Chief Inspector General shall review the report and
 157 determine whether the report contains the information required
 158 by subsection (8). If the report does not contain the
 159 information required by subsection (8), the Chief Inspector
 160 General shall determine why and note the reasons on an addendum
 161 to the final report.

162 (c) The Chief Inspector General shall transmit any final
 163 report under this section, any comments provided by the
 164 complainant, and any appropriate comments or recommendations by
 165 the Chief Inspector General to the Governor, to the Joint
 166 Legislative Auditing Committee, to the investigating agency, and
 167 to the Chief Financial Officer.

168 (d) If the Chief Inspector General does not receive the
 169 report of the agency inspector general ~~head~~ within the time
 170 prescribed in paragraph (a), the Chief Inspector General may

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171 | conduct the investigation in accordance with paragraph (7)(b) or
 172 | request that another agency inspector general conduct the
 173 | investigation in accordance with subsection (6) and shall report
 174 | the complaint to the Governor, to the Joint Legislative Auditing
 175 | Committee, and to the investigating agency, together with a
 176 | statement noting the failure of the agency inspector general
 177 | ~~head~~ to file the required report.

178 | Section 3. Paragraph (b) of subsection (3) of section
 179 | 112.31895, Florida Statutes, is amended to read:

180 | 112.31895 Investigative procedures in response to
 181 | prohibited personnel actions.--

182 | (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.--

183 | (b) Within 30 ~~45~~ days after receiving a complaint that a
 184 | person has been discharged from employment allegedly for
 185 | disclosing protected information under s. 112.3187, the Florida
 186 | Commission on Human Relations shall review the information and
 187 | determine whether temporary reinstatement is appropriate under
 188 | s. 112.3187(9)(f). If the Florida Commission on Human Relations
 189 | so determines, it shall apply for an expedited order from the
 190 | appropriate agency or circuit court for the immediate
 191 | reinstatement of the employee who has been discharged subsequent
 192 | to the disclosure made under s. 112.3187, pending the issuance
 193 | of the final order on the complaint.

194 | Section 4. This act shall take effect upon becoming a law.