

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.; revising
18 provisions with respect to the designation of an employee
19 to receive specified information under the Whistle-
20 blower's Act; providing that an agency inspector general
21 rather than an agency head shall perform specified
22 functions relative to an investigation under the Whistle-
23 blower's Act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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

29 | 20.055 Agency inspectors general.--

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

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

41 | (b) To receive and consider the complaints which do not
 42 | meet the criteria for an investigation under the Whistle-
 43 | blower's Act and conduct, supervise, or coordinate such
 44 | inquiries, investigations, or reviews as the inspector general
 45 | deems appropriate.

46 | (c) To report expeditiously to the Department of Law
 47 | Enforcement or other law enforcement agencies, as appropriate,
 48 | whenever the inspector general has reasonable grounds to believe
 49 | there has been a violation of criminal law.

50 | (d) To conduct investigations and other inquiries free of
 51 | actual or perceived impairment to the independence of the
 52 | inspector general or the inspector general's office. This shall
 53 | include freedom from any interference with investigations and
 54 | timely access to records and other sources of information.

55 | (e) To access any records, data, and other information of
 56 | a state agency he or she deems necessary to carry out his or her

57 | duties and to request such information or assistance as may be
 58 | necessary from a state agency or from any federal, state, or
 59 | local governmental entity.

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

69 | (g)(e) To submit in a timely fashion final reports on
 70 | investigations conducted by the inspector general to the agency
 71 | head, except for whistle-blower's investigations, which shall be
 72 | conducted and reported pursuant to s. 112.3189.

73 | Section 2. Subsections (1), (6), (7), and (9) of section
 74 | 112.3189, Florida Statutes, are amended to read:

75 | 112.3189 Investigative procedures upon receipt of whistle-
 76 | blower information from certain state employees.--

77 | (1) This section only applies to the disclosure of
 78 | information as described in s. 112.3187(5) by an employee or
 79 | former employee of, or an applicant for employment with, a state
 80 | agency, as the term "state agency" is defined in s. 216.011, to
 81 | the Office of the Chief Inspector General of the Executive
 82 | Office of the Governor or to the agency inspector general. If an
 83 | agency does not have an inspector general, the head of the state
 84 | agency, as defined in s. 216.011, shall, in consultation with

85 | the chief inspector general, designate an employee to receive
86 | information described in s. 112.3187(5). For purposes of this
87 | section and s. 112.3188 only, the employee designated by the
88 | head of the state agency shall be deemed an agency inspector
89 | general.

90 | (6) The agency inspector general may conduct an
91 | investigation pursuant to paragraph (5)(a) only if the person
92 | transmitting information to the agency inspector general is an
93 | employee or former employee of, or an applicant for employment
94 | with, the agency inspector general's agency. The agency
95 | inspector general shall:

96 | (a) Conduct an investigation with respect to the
97 | information and any related matters.

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

109 | (7) If the Chief Inspector General decides an
110 | investigation should be conducted pursuant to paragraph (5)(a),
111 | the Chief Inspector General shall either:

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

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

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

131 (c) The Chief Inspector General may require an agency
132 inspector general ~~head~~ to conduct an investigation under
133 paragraph (a) only if the information was transmitted to the
134 Chief Inspector General by:

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

137 2. An employee who obtained the information in connection
138 with the performance of the employee's duties and
139 responsibilities.

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

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

157 (c) The Chief Inspector General shall transmit any final
158 report under this section, any comments provided by the
159 complainant, and any appropriate comments or recommendations by
160 the Chief Inspector General to the Governor, to the Joint
161 Legislative Auditing Committee, to the investigating agency, and
162 to the Chief Financial Officer.

163 (d) If the Chief Inspector General does not receive the
164 report of the agency inspector general ~~head~~ within the time
165 prescribed in paragraph (a), the Chief Inspector General may
166 conduct the investigation in accordance with paragraph (7)(b) or
167 request that another agency inspector general conduct the

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168 | investigation in accordance with subsection (6) and shall report
169 | the complaint to the Governor, to the Joint Legislative Auditing
170 | Committee, and to the investigating agency, together with a
171 | statement noting the failure of the agency inspector general
172 | ~~head~~ to file the required report.

173 | Section 3. This act shall take effect upon becoming a law.