

HB 1691

2004

A bill to be entitled

An act relating to public records exemptions; amending s. 20.055, F.S.; creating a public records exemption for audit workpapers and reports of an agency inspector general; providing for expiration of the exemption; providing for future review and repeal; creating a public records exemption for investigative workpapers and reports of an agency inspector general; providing for expiration of the exemption; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) and subsection (6) of section 20.055, Florida Statutes, are amended to read:

20.055 Agency inspectors general.--

(5) In carrying out the auditing duties and responsibilities of this act, each inspector general shall review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency. The inspector general shall conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his or her findings. The scope and assignment of the audits shall be determined by the inspector general; however, the agency head may at any time direct the inspector general to perform an audit of a special program, function, or organizational unit. The performance of the audit shall be under the direction of the inspector general, except that if the

HB 1691

2004

30 inspector general does not possess the qualifications specified  
 31 in subsection (4), the director of auditing shall perform the  
 32 functions listed in this subsection.

33 (b)1. Audit workpapers and reports are exempt from s.  
 34 119.07(1) and s. 24(a), Art. I of the State Constitution, until  
 35 the audit is complete and the report becomes final, to the  
 36 extent that such workpapers and reports do not include  
 37 information which has otherwise been made confidential and  
 38 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 39 Constitution shall be public records to the extent that they do  
 40 not include information which has been made confidential and  
 41 exempt from the provisions of s. 119.07(1) pursuant to law.

42 However, when the inspector general or a member of the staff  
 43 receives from an individual a complaint or information that  
 44 falls within the definition provided in s. 112.3187(5), the name  
 45 or identity of the individual shall not be disclosed to anyone  
 46 else without the written consent of the individual, unless the  
 47 inspector general determines that such disclosure is unavoidable  
 48 during the course of the audit or investigation.

49 2. Subparagraph 1. is subject to the Open Government  
 50 Sunset Review Act of 1995 in accordance with s. 119.15 and shall  
 51 stand repealed on October 2, 2009, unless reviewed and saved  
 52 from repeal through reenactment by the Legislature.

53 (6) In carrying out the investigative duties and  
 54 responsibilities specified in this section, each inspector  
 55 general shall initiate, conduct, supervise, and coordinate  
 56 investigations designed to detect, deter, prevent, and eradicate  
 57 fraud, waste, mismanagement, misconduct, and other abuses in

HB 1691

2004

58 state government. For these purposes, each inspector general  
 59 ~~state agency~~ shall:

60 (a) Receive complaints and coordinate all activities of  
 61 the agency as required by the Whistle-blower's Act pursuant to  
 62 ss. 112.3187-112.31895.

63 (b) Receive and consider the complaints which do not meet  
 64 the criteria for an investigation under the Whistle-blower's Act  
 65 and conduct, supervise, or coordinate such inquiries,  
 66 investigations, or reviews as the inspector general deems  
 67 appropriate.

68 (c) Report expeditiously to the Department of Law  
 69 Enforcement or other law enforcement agencies, as appropriate,  
 70 whenever the inspector general has reasonable grounds to believe  
 71 there has been a violation of criminal law.

72 (d) Conduct investigations and other inquiries free of  
 73 actual or perceived impairment to the independence of the  
 74 inspector general or the inspector general's office. This shall  
 75 include freedom from any interference with investigations and  
 76 timely access to records and other sources of information.

77 (e) Submit in a timely fashion final reports on  
 78 investigations conducted by the inspector general to the agency  
 79 head, except for whistle-blower's investigations, which shall be  
 80 conducted and reported pursuant to s. 112.3189.

81 (f)1. Have his or her investigative workpapers and reports  
 82 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 83 Constitution, until the investigation is complete and the report  
 84 becomes final, to the extent that such workpapers and reports do  
 85 not include information which has otherwise been made  
 86 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

HB 1691

2004

87 of the State Constitution. However, when the inspector general  
88 or a member of the staff receives from an individual a complaint  
89 or information that falls within the definition provided in s.  
90 112.3187(5), the name or identity of the individual shall not be  
91 disclosed to anyone else without the written consent of the  
92 individual, unless the inspector general determines that such  
93 disclosure is unavoidable during the course of the  
94 investigation.

95 2. Subparagraph 1. is subject to the Open Government  
96 Sunset Review Act of 1995 in accordance with s. 119.15 and shall  
97 stand repealed on October 2, 2009, unless reviewed and saved  
98 from repeal through reenactment by the Legislature.

99 Section 2. The Legislature finds that it is a public  
100 necessity to exempt audit and investigative workpapers and  
101 reports of agency inspectors general until an audit or  
102 investigation is complete and the report final. Such exempt  
103 information is, by its nature, incomplete and could be  
104 misleading. Release of inaccurate or incomplete information  
105 could be detrimental to the agencies audited or investigated.  
106 Inspectors general need privacy of work product until the audit  
107 or investigation is complete and the report is final. Premature  
108 release of such information could pose a high risk of misleading  
109 information being made public. Such release could unduly damage  
110 the reputations of individuals and organizations identified as  
111 the subjects of the audit or investigation. The audit and  
112 investigative work process should be protected until completed  
113 in order to include all relevant information upon which sound  
114 decisions can be made. Furthermore, disclosure of such  
115 information would impair the ability of an inspector general to

HB 1691

2004

116 gather information he or she needs to complete audits and  
117 investigations because persons who would otherwise provide  
118 confidential information could be unwilling to do so, thereby  
119 hindering the effective and efficient administration of a  
120 government program.

121 Section 3. This act shall take effect on the same date  
122 that HB 1681 or similar legislation takes effect, if such  
123 legislation is adopted in the same legislative session or an  
124 extension thereof and becomes law.