

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2900

SPONSOR: Senator Atwater

SUBJECT: Agency Inspectors General

DATE: March 28, 2004 REVISED: 03/30/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/3 amendments</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill shifts certain internal investigative responsibilities from agency heads to their agency inspectors general and alters the time frame for the completion of investigations.

This bill substantially amends the following sections of the Florida Statutes: ss. 20.055, 112.3189, and 112.31895.

II. Present Situation:

Section 20.055, F.S., requires that each agency created in the organizational structure of state government have contained within an inspector general office. The office is created to provide a focal point of accountability efforts within the agency. Each office is given nine enumerated statements of expectation that include:

1. The development of performance standards, their validation, and the compliance of agency activities with them;
2. Improving agency performance;
3. Providing central coordination of efforts to identify and remedy waste, fraud, and abuse.
4. Coordinating agency-specific activities with those of peer federal and state agencies;
5. Maintaining a balance among audit, investigative, and other accounting activities of the agency.

Inspectors General are appointed by the agency head and, while representatives of management, they may be removed only by the agency head after seven days' prior notification of the singular or collegial executive.

Inspectors general must possess minimum educational and experience qualifications and the investigations they conduct must adhere to specific internal auditing standards. Final reports are submitted to the agency head and the Auditor General whose office is directed to give official recognition to their findings and recommendations as part of its post-audit responsibilities.

A statutory responsibility of the Inspector General is the receipt and investigation of complaints filed under the Whistleblower's Act, ss. 112.3185-112.21895, F.S. That act permits eligible employees of a state agency or a contract vendor to file complaints about agency mismanagement without fear of retaliation or adverse personnel action.

III. Effect of Proposed Changes:

Section 1. The bill amends s. 20.05(6), F.S., to shift from the state agency to the Inspector General of each state agency, the investigation of complaints filed under the Whistleblower's Act. The Inspector General is authorized to access all records needed to carry out those duties and may compel their production by legal process.

Section 2. Section 112.3185, F.S., is amended to provide that persons appointed to act as inspectors-general-in-fact must meet the requirements of s. 20.055(4), F.S. The Inspector General is substituted for the agency head as the designated recipient of comments by complainants on final reports issued by that office. The Chief Inspector General may also require its agency peer to conduct an investigation or to assume the responsibility for one if it so determines.

Section 3. Section 112.31895, F.S., is amended to increase from 15 to 30 days the time for an investigation of a Whistleblower's Act complaint where the complaining employee party has been discharged from employment.

Section 4. The act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Only one state agency has submitted an estimated of fiscal impact. On March 15, 2004, the Agency for Health Care Administration issued an impact statement suggesting a fiscal impact of \$24,069. The agency indicated the expenses were for the purchase of one laptop computer and associated support staff costs. No further justification of the request was provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Human Relations Commission acts as an investigative arm in cases involving employee discipline where the complaining party alleges that the actions were grounded in specific statutory prohibitions. The director of the commission has identified only 4 cases in which its investigation exceeded the 15 days in current law. The changes contemplated in the bill provide an additional 15 days for the employing agency to respond to the complaint but continue the employee in his or her discharged status during that time.

Use of the Whistleblower's Act is not an entitlement. Affected employees must prove the acts to which they were subject to retaliation were the direct result of mismanagement, malfeasance, misfeasance, or gross waste of public funds and that they constituted a substantial danger to the public health and welfare. Of the some 650 applications made for that status during the prior fiscal year, the Chief Inspector General reported only about two dozen cases met the statutory qualifications.

VIII. Amendments:

#1 by Governmental Oversight and Productivity:

Returns the bill to current law by eliminating the expanded subpoena powers gives the Inspectors General.

#2 by Governmental Oversight and Productivity:

Corrects incorrect punctuation.

#3 by Governmental Oversight and Productivity:

Eliminates the extension of complaint response time from 15 to 30 days and returns the bill to the provisions of current law.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
