

By Senator Atwater

25-1657A-04

See HB 1681

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

1 Human Relations must review specified  
2 information and make a determination with  
3 respect to temporary reinstatement of an  
4 employee under the Whistle-blower's Act;  
5 providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

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

11 20.055 Agency inspectors general.--

12 (6) In carrying out the investigative duties and  
13 responsibilities specified in this section, each inspector  
14 general shall initiate, conduct, supervise, and coordinate  
15 investigations designed to detect, deter, prevent, and  
16 eradicate fraud, waste, mismanagement, misconduct, and other  
17 abuses in state government. For these purposes, each inspector  
18 general ~~state agency~~ shall have the following functions,  
19 powers, and duties:

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

23 (b) To receive and consider the complaints which do  
24 not meet the criteria for an investigation under the  
25 Whistle-blower's Act and conduct, supervise, or coordinate  
26 such inquiries, investigations, or reviews as the inspector  
27 general deems appropriate.

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

1           (d) To conduct investigations and other inquiries free  
2 of actual or perceived impairment to the independence of the  
3 inspector general or the inspector general's office. This  
4 shall include freedom from any interference with  
5 investigations and timely access to records and other sources  
6 of information.

7           (e) To access any records, data, and other information  
8 of a state agency he or she deems necessary to carry out his  
9 or her duties and to request such information or assistance as  
10 may be necessary from a state agency or from any federal,  
11 state, or local governmental entity.

12           (f) May compel by subpoena the production of all  
13 information, documents, reports, answers, records, accounts,  
14 papers, and other data and documentary evidence necessary in  
15 the performance of the functions assigned by this section,  
16 which subpoena, in the case of contumacy or refusal to obey,  
17 shall be enforceable by order of any appropriate state court  
18 of competent jurisdiction. Provided, that procedures other  
19 than subpoenas shall be used by the inspectors general to  
20 obtain documents and information from state agencies.

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

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

27           112.3189 Investigative procedures upon receipt of  
28 whistle-blower information from certain state employees.--

29           (1) This section only applies to the disclosure of  
30 information as described in s. 112.3187(5) by an employee or  
31 former employee of, or an applicant for employment with, a

1 state agency, as the term "state agency" is defined in s.  
2 216.011, to the Office of the Chief Inspector General of the  
3 Executive Office of the Governor or to the agency inspector  
4 general. If an agency does not have an inspector general, the  
5 head of the state agency, as defined in s. 216.011, shall  
6 designate an employee who meets the requirements provided in  
7 s. 20.055(4) to receive information described in s.  
8 112.3187(5). For purposes of this section and s. 112.3188  
9 only, the employee designated by the head of the state agency  
10 shall be deemed an agency inspector general.

11 (6) The agency inspector general may conduct an  
12 investigation pursuant to paragraph (5)(a) only if the person  
13 transmitting information to the agency inspector general is an  
14 employee or former employee of, or an applicant for employment  
15 with, the agency inspector general's agency. The agency  
16 inspector general shall:

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

19 (b) Submit to the complainant and the Chief Inspector  
20 General, within 60 days after the date on which a  
21 determination to conduct an investigation is made under  
22 paragraph (5)(a), a final written report that sets forth the  
23 agency inspector general's findings, conclusions, and  
24 recommendations, except as provided under subsection (11). The  
25 complainant shall be advised in writing by the agency  
26 inspector general ~~head~~ that the complainant may submit to the  
27 Chief Inspector General and agency inspector general comments  
28 on the final report within 20 days of the date of the report  
29 and that such comments will be attached to the final report.

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1           (7) If the Chief Inspector General decides an  
2 investigation should be conducted pursuant to paragraph  
3 (5)(a), the Chief Inspector General shall either:

4           (a) Promptly transmit to the appropriate ~~head of the~~  
5 ~~state~~ agency inspector general the information with respect to  
6 which the determination to conduct an investigation was made,  
7 and such agency inspector general ~~head~~ shall conduct an  
8 investigation and submit to the Chief Inspector General a  
9 final written report that sets forth the ~~agency head's~~  
10 findings, conclusions, and recommendations of the agency  
11 inspector general; or

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

14           2. Submit to the complainant within 60 days after the  
15 date on which a determination to conduct an investigation is  
16 made under paragraph (5)(a), a final written report that sets  
17 forth the Chief Inspector General's findings, conclusions, and  
18 recommendations, except as provided under subsection (11). The  
19 complainant shall be advised in writing by the Chief Inspector  
20 General that the complainant may submit to the Chief Inspector  
21 General comments on the final report within 20 days of the  
22 date of the report and that such comments will be attached to  
23 the final report.

24           (c) The Chief Inspector General may require an agency  
25 inspector general ~~head~~ to conduct an investigation under  
26 paragraph (a) only if the information was transmitted to the  
27 Chief Inspector General by:

28           1. An employee or former employee of, or an applicant  
29 for employment with, the agency that the information concerns;  
30 or

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1           2. An employee who obtained the information in  
2 connection with the performance of the employee's duties and  
3 responsibilities.

4           (9)(a) A report required of the agency inspector  
5 general ~~head~~ under paragraph (7)(a) shall be submitted to the  
6 Chief Inspector General and the complainant within 60 days  
7 after the agency inspector general ~~head~~ receives the complaint  
8 from the Chief Inspector General, except as provided under  
9 subsection (11). The complainant shall be advised in writing  
10 by the agency inspector general ~~head~~ that the complainant may  
11 submit to the Chief Inspector General comments on the report  
12 within 20 days of the date of the report and that such  
13 comments will be attached to the final report.

14           (b) Upon receiving a final report required under this  
15 section, the Chief Inspector General shall review the report  
16 and determine whether the report contains the information  
17 required by subsection (8). If the report does not contain the  
18 information required by subsection (8), the Chief Inspector  
19 General shall determine why and note the reasons on an  
20 addendum to the final report.

21           (c) The Chief Inspector General shall transmit any  
22 final report under this section, any comments provided by the  
23 complainant, and any appropriate comments or recommendations  
24 by the Chief Inspector General to the Governor, to the Joint  
25 Legislative Auditing Committee, to the investigating agency,  
26 and to the Chief Financial Officer.

27           (d) If the Chief Inspector General does not receive  
28 the report of the agency inspector general ~~head~~ within the  
29 time prescribed in paragraph (a), the Chief Inspector General  
30 may conduct the investigation in accordance with paragraph  
31 (7)(b) or request that another agency inspector general

1 conduct the investigation in accordance with subsection (6)  
2 and shall report the complaint to the Governor, to the Joint  
3 Legislative Auditing Committee, and to the investigating  
4 agency, together with a statement noting the failure of the  
5 agency inspector general ~~head~~ to file the required report.

6 Section 3. Paragraph (b) of subsection (3) of section  
7 112.31895, Florida Statutes, is amended to read:

8 112.31895 Investigative procedures in response to  
9 prohibited personnel actions.--

10 (3) CORRECTIVE ACTION AND TERMINATION OF  
11 INVESTIGATION.--

12 (b) Within 30 ~~15~~ days after receiving a complaint that  
13 a person has been discharged from employment allegedly for  
14 disclosing protected information under s. 112.3187, the  
15 Florida Commission on Human Relations shall review the  
16 information and determine whether temporary reinstatement is  
17 appropriate under s. 112.3187(9)(f). If the Florida Commission  
18 on Human Relations so determines, it shall apply for an  
19 expedited order from the appropriate agency or circuit court  
20 for the immediate reinstatement of the employee who has been  
21 discharged subsequent to the disclosure made under s.  
22 112.3187, pending the issuance of the final order on the  
23 complaint.

24 Section 4. This act shall take effect upon becoming a  
25 law.