

1 A bill to be entitled
 2 An act relating to agency inspectors general; amending s.
 3 20.055, F.S.; providing definitions; requiring agency
 4 inspectors general to adopt certain principles and
 5 standards; requiring agencies under the Governor to notify
 6 the Chief Inspector General of inspector general
 7 appointments and terminations; prohibiting agency staff
 8 from preventing or prohibiting the inspector general or
 9 director of auditing from initiating, carrying out, or
 10 completing any audit or investigation; requiring audits to
 11 be conducted in accordance with the current International
 12 Standards for the Professional Practice of Internal
 13 Auditing; requiring the Chief Inspector General to adopt
 14 certain policies and procedures; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Section 20.055, Florida Statutes, is amended to
 20 read:

21 20.055 Agency inspectors general.--

22 (1) For the purposes of this section:

23 (a) "State agency" means each department created pursuant
 24 to this chapter, and also includes the Executive Office of the
 25 Governor, the Department of Military Affairs, the Fish and
 26 Wildlife Conservation Commission, the Office of Insurance
 27 Regulation of the Financial Services Commission, the Office of

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28 Financial Regulation of the Financial Services Commission, the
29 Public Service Commission, and the state courts system.

30 (b) "Agency head" means the Governor, a Cabinet officer, a
31 secretary as defined in s. 20.03(5), or an executive director as
32 defined in s. 20.03(6). It also includes the chair of the Public
33 Service Commission, the Director of the Office of Insurance
34 Regulation of the Financial Services Commission, the Director of
35 the Office of Financial Regulation of the Financial Services
36 Commission, and the Chief Justice of the State Supreme Court.

37 (c) "Entities contracting with the state" means
38 organizations or businesses having a legal existence, such as
39 corporations or partnerships, as opposed to natural persons,
40 that have entered into a relationship with a state agency as
41 defined in paragraph (a) to provide for consideration certain
42 goods or services to the state agency or on behalf of the state
43 agency. The relationship may be evidenced by payment by warrant
44 or purchasing card, contract, purchase order, provider
45 agreement, or other such mutually agreed upon relationship.

46 (d) "Individuals substantially affected" means natural
47 persons who have established a real and sufficiently immediate
48 injury in fact due to the findings, conclusions, or
49 recommendations of a final report of a state agency inspector
50 general and who do not have or are not currently afforded an
51 existing right to an independent review process. Employees of
52 the state, including career service, probationary, other
53 personal service, Selected Exempt Service, and Senior Management
54 Service employees, are not covered by this definition.

55 (e) "Additional material relevant" means evidence
56 submitted to the state agency inspector general prior to release
57 of the final report that likely would have affected the
58 investigative findings. Such evidence is not merely cumulative
59 of evidence considered by the state agency inspector general
60 and, to be relevant, must tend to prove or disprove the matters
61 at issue in the investigation. Newly discovered evidence may be
62 considered if it was discovered subsequent to the agency
63 inspector general's final report and the agency inspector
64 general has affirmatively refused to reopen the investigation
65 despite such evidence. Such evidence shall not have been
66 withheld from the state agency inspector general during the
67 original investigation.

68 (f) "Original investigation" means an official
69 investigative review by a state agency inspector general of
70 information relative to suspected violations of any law, rule,
71 or agency policy resulting in written findings.

72 (2) The Office of Inspector General is hereby established
73 in each state agency to provide a central point for coordination
74 of and responsibility for activities that promote
75 accountability, integrity, and efficiency in government. It
76 shall be the duty and responsibility of each inspector general,
77 with respect to the state agency in which the office is
78 established, to:

79 (a) Advise in the development of performance measures,
80 standards, and procedures for the evaluation of state agency
81 programs.

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82 (b) Assess the reliability and validity of the information
83 provided by the state agency on performance measures and
84 standards, and make recommendations for improvement, if
85 necessary, prior to submission of those measures and standards
86 to the Executive Office of the Governor pursuant to s.
87 216.0166(1).

88 (c) Review the actions taken by the state agency to
89 improve program performance and meet program standards and make
90 recommendations for improvement, if necessary.

91 (d) Provide direction for, supervise, and coordinate
92 audits, investigations, and management reviews relating to the
93 programs and operations of the state agency, except that when
94 the inspector general does not possess the qualifications
95 specified in subsection (4), the director of auditing shall
96 conduct such audits.

97 (e) Conduct, supervise, or coordinate other activities
98 carried out or financed by that state agency for the purpose of
99 promoting economy and efficiency in the administration of, or
100 preventing and detecting fraud and abuse in, its programs and
101 operations.

102 (f) Keep such agency head informed concerning fraud,
103 abuses, and deficiencies relating to programs and operations
104 administered or financed by the state agency, recommend
105 corrective action concerning fraud, abuses, and deficiencies,
106 and report on the progress made in implementing corrective
107 action.

108 (g) Ensure effective coordination and cooperation between
109 the Auditor General, federal auditors, and other governmental
110 bodies with a view toward avoiding duplication.

111 (h) Review, as appropriate, rules relating to the programs
112 and operations of such state agency and make recommendations
113 concerning their impact.

114 (i) Ensure that an appropriate balance is maintained
115 between audit, investigative, and other accountability
116 activities.

117 (j) Adopt the current Association of Inspectors General
118 Principles and Standards for Offices of Inspector General for
119 meeting the duties and responsibilities pursuant to this
120 section.

121 (3) (a) The inspector general shall be appointed by the
122 agency head. For agencies under the direction of the Governor,
123 the appointment shall be made after notifying the Governor and
124 the Chief Inspector General in writing, at least 7 days prior to
125 an offer of employment, of the agency head's intention to hire
126 the inspector general.

127 (b) Each inspector general shall report to and be under
128 the general supervision of the agency head and shall not be
129 subject to supervision by any other employee of the state
130 agency. The inspector general shall be appointed without regard
131 to political affiliation.

132 (c) An inspector general may be removed from office by the
133 agency head. For agencies under the direction of the Governor,
134 the agency head shall notify the Governor and the Chief
135 Inspector General, in writing, of the intention to terminate the

136 inspector general at least 7 days prior to the removal. For
137 state agencies under the direction of the Governor and Cabinet,
138 the agency head shall notify the Governor and Cabinet in writing
139 of the intention to terminate the inspector general at least 7
140 days prior to the removal.

141 (d) The agency head or agency staff shall not prevent or
142 prohibit the inspector general ~~or director of auditing~~ from
143 initiating, carrying out, or completing any audit or
144 investigation.

145 (4) To ensure that state agency audits are performed in
146 accordance with applicable auditing standards, the inspector
147 general or the director of auditing within the inspector
148 general's office shall possess the following qualifications:

149 (a) A bachelor's degree from an accredited college or
150 university with a major in accounting, or with a major in
151 business which includes five courses in accounting, and 5 years
152 of experience as an internal auditor or independent postauditor,
153 electronic data processing auditor, accountant, or any
154 combination thereof. The experience shall at a minimum consist
155 of audits of units of government or private business
156 enterprises, operating for profit or not for profit; or

157 (b) A master's degree in accounting, business
158 administration, or public administration from an accredited
159 college or university and 4 years of experience as required in
160 paragraph (a); or

161 (c) A certified public accountant license issued pursuant
162 to chapter 473 or a certified internal audit certificate issued

163 by the Institute of Internal Auditors or earned by examination,
 164 and 4 years of experience as required in paragraph (a).

165 (5) In carrying out the auditing duties and
 166 responsibilities of this act, each inspector general shall
 167 review and evaluate internal controls necessary to ensure the
 168 fiscal accountability of the state agency. The inspector general
 169 shall conduct financial, compliance, electronic data processing,
 170 and performance audits of the agency and prepare audit reports
 171 of his or her findings. The scope and assignment of the audits
 172 shall be determined by the inspector general; however, the
 173 agency head may at any time direct the inspector general to
 174 perform an audit of a special program, function, or
 175 organizational unit. The performance of the audit shall be under
 176 the direction of the inspector general, except that if the
 177 inspector general does not possess the qualifications specified
 178 in subsection (4), the director of auditing shall perform the
 179 functions listed in this subsection.

180 (a) Such audits shall be conducted in accordance with the
 181 current International Standards for the Professional Practice of
 182 Internal Auditing ~~as and subsequent Internal Auditing Standards~~
 183 ~~or Statements on Internal Auditing Standards~~ published by the
 184 Institute of Internal Auditors, Inc., or, where appropriate, in
 185 accordance with generally accepted governmental auditing
 186 standards. All audit reports issued by internal audit staff
 187 shall include a statement that the audit was conducted pursuant
 188 to the appropriate standards.

189 (b) Audit workpapers and reports shall be public records
 190 to the extent that they do not include information which has

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191 | been made confidential and exempt from the provisions of s.
192 | 119.07(1) pursuant to law. However, when the inspector general
193 | or a member of the staff receives from an individual a complaint
194 | or information that falls within the definition provided in s.
195 | 112.3187(5), the name or identity of the individual shall not be
196 | disclosed to anyone else without the written consent of the
197 | individual, unless the inspector general determines that such
198 | disclosure is unavoidable during the course of the audit or
199 | investigation.

200 | (c) The inspector general and the staff shall have access
201 | to any records, data, and other information of the state agency
202 | he or she deems necessary to carry out his or her duties. The
203 | inspector general is also authorized to request such information
204 | or assistance as may be necessary from the state agency or from
205 | any federal, state, or local government entity.

206 | (d) At the conclusion of each audit, the inspector general
207 | shall submit preliminary findings and recommendations to the
208 | person responsible for supervision of the program function or
209 | operational unit who shall respond to any adverse findings
210 | within 20 working days after receipt of the tentative findings.
211 | Such response and the inspector general's rebuttal to the
212 | response shall be included in the final audit report.

213 | (e) The inspector general shall submit the final report to
214 | the agency head and to the Auditor General.

215 | (f) The Auditor General, in connection with the
216 | independent postaudit of the same agency pursuant to s. 11.45,
217 | shall give appropriate consideration to internal audit reports
218 | and the resolution of findings therein. The Legislative Auditing

219 Committee may inquire into the reasons or justifications for
220 failure of the agency head to correct the deficiencies reported
221 in internal audits that are also reported by the Auditor General
222 and shall take appropriate action.

223 (g) The inspector general shall monitor the implementation
224 of the state agency's response to any report on the state agency
225 issued by the Auditor General or by the Office of Program Policy
226 Analysis and Government Accountability. No later than 6 months
227 after the Auditor General or the Office of Program Policy
228 Analysis and Government Accountability publishes a report on the
229 state agency, the inspector general shall provide a written
230 response to the agency head on the status of corrective actions
231 taken. The Inspector General shall file a copy of such response
232 with the Legislative Auditing Committee.

233 (h) The inspector general shall develop long-term and
234 annual audit plans based on the findings of periodic risk
235 assessments. The plan, where appropriate, should include
236 postaudit samplings of payments and accounts. The plan shall
237 show the individual audits to be conducted during each year and
238 related resources to be devoted to the respective audits. The
239 Chief Financial Officer, to assist in fulfilling the
240 responsibilities for examining, auditing, and settling accounts,
241 claims, and demands pursuant to s. 17.03(1), and examining,
242 auditing, adjusting, and settling accounts pursuant to s. 17.04,
243 may utilize audits performed by the inspectors general and
244 internal auditors. For state agencies under the Governor, the
245 audit plans shall be submitted to the Governor's Chief Inspector
246 General. The plan shall be submitted to the agency head for

247 approval. A copy of the approved plan shall be submitted to the
 248 Auditor General.

249 (6) In carrying out the investigative duties and
 250 responsibilities specified in this section, each inspector
 251 general shall initiate, conduct, supervise, and coordinate
 252 investigations designed to detect, deter, prevent, and eradicate
 253 fraud, waste, mismanagement, misconduct, and other abuses in
 254 state government. For these purposes, each inspector general
 255 ~~state agency~~ shall:

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

259 (b) Receive and consider the complaints which do not meet
 260 the criteria for an investigation under the Whistle-blower's Act
 261 and conduct, supervise, or coordinate such inquiries,
 262 investigations, or reviews as the inspector general deems
 263 appropriate.

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

268 (d) Conduct investigations and other inquiries free of
 269 actual or perceived impairment to the independence of the
 270 inspector general or the inspector general's office. This shall
 271 include freedom from any interference with investigations and
 272 timely access to records and other sources of information.

273 (e) Submit in a timely fashion final reports on
 274 investigations conducted by the inspector general to the agency

275 head, except for whistle-blower's investigations, which shall be
 276 conducted and reported pursuant to s. 112.3189.

277 (7) Each inspector general shall, not later than September
 278 30 of each year, prepare an annual report summarizing the
 279 activities of the office during the immediately preceding state
 280 fiscal year. The final report shall be furnished to the agency
 281 head. Such report shall include, but need not be limited to:

282 (a) A description of activities relating to the
 283 development, assessment, and validation of performance measures.

284 (b) A description of significant abuses and deficiencies
 285 relating to the administration of programs and operations of the
 286 agency disclosed by investigations, audits, reviews, or other
 287 activities during the reporting period.

288 (c) A description of the recommendations for corrective
 289 action made by the inspector general during the reporting period
 290 with respect to significant problems, abuses, or deficiencies
 291 identified.

292 (d) The identification of each significant recommendation
 293 described in previous annual reports on which corrective action
 294 has not been completed.

295 (e) A summary of each audit and investigation completed
 296 during the reporting period.

297 (8) The Chief Inspector General in the Executive Office of
 298 the Governor, as defined in s. 14.32, shall:

299 (a) Adopt policies and procedures to specify the
 300 conditions and procedures for reviewing an agency inspector
 301 general final investigative report. The policies and procedures
 302 must include provisions related to:

303 1. Offering entities contracting with state agencies and
304 individuals substantially affected by the findings, conclusions,
305 and recommendations a meaningful opportunity to challenge in
306 writing the findings, conclusions, and recommendations contained
307 in an agency inspector general's final investigative report or
308 to seek review by the Chief Inspector General under the process
309 described in this subsection.

310 2. Identifying the entities and individuals allowed to
311 submit a written response.

312 3. Identifying the circumstances under which the entity's
313 or individual's response must be attached to the agency
314 inspector general's final report.

315 4. Providing a review process that allows entities and
316 individuals substantially affected by the findings, conclusions,
317 and recommendations of an agency inspector general final
318 investigative report to present to the Chief Inspector General,
319 or a designee, any additional material relevant to the final
320 investigative report.

321 5. Allowing the Chief Inspector General to independently
322 investigate the agency inspector general's final report and the
323 original investigation.

324 6. Special conditions for whistle-blower investigations in
325 accordance with ss. 112.3187-112.31895.

326 7. Exemptions from the review process for specific
327 categories of investigations.

328 8. Definitions of terms related to the review process.

329 (b) Ensure that policies and procedures adopted pursuant
330 to this subsection are consistent with the recommendations

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331 contained in the report of the Council on State Agency

332 Inspectors General dated December 19, 2006.

333 (9)~~(8)~~ Each agency inspector general shall, to the extent
334 both necessary and practicable, include on his or her staff
335 individuals with electronic data processing auditing experience.

336 Section 2. This act shall take effect July 1, 2007.