

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 comply with certain principles and  
 5       standards; requiring an inspector general to submit  
 6       findings of an audit to specified persons or entities;  
 7       requiring agencies under the Governor to notify the Chief  
 8       Inspector General of inspector general appointments and  
 9       terminations; prohibiting agency staff from preventing or  
 10      prohibiting the inspector general from initiating,  
 11      carrying out, or completing any audit or investigation;  
 12      requiring audits to be conducted in accordance with the  
 13      current International Standards for the Professional  
 14      Practice of Internal Auditing; requiring the inspector  
 15      general of each state agency to report certain written  
 16      complaints to the Chief Inspector General; requiring the  
 17      Chief Inspector General to fulfill certain duties and  
 18      responsibilities; requiring a state agency to reimburse  
 19      legal fees and costs that are incurred by certain  
 20      individuals and entities under certain conditions;  
 21      providing an effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:

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 25           Section 1.   Section 20.055, Florida Statutes, is amended to  
 26   read:

27           20.055   Agency inspectors general.--  
 28           (1)   For the purposes of this section:

29 (a) "State agency" means each department created pursuant  
30 to this chapter, and also includes the Executive Office of the  
31 Governor, the Department of Military Affairs, the Fish and  
32 Wildlife Conservation Commission, the Office of Insurance  
33 Regulation of the Financial Services Commission, the Office of  
34 Financial Regulation of the Financial Services Commission, the  
35 Public Service Commission, and the state courts system.

36 (b) "Agency head" means a public official such as the  
37 Governor, a Cabinet officer, a secretary as defined in s.  
38 20.03(5), or an executive director as defined in s. 20.03(6). It  
39 also includes the chair of the Public Service Commission, the  
40 Director of the Office of Insurance Regulation of the Financial  
41 Services Commission, the Director of the Office of Financial  
42 Regulation of the Financial Services Commission, and the Chief  
43 Justice of the State Supreme Court. The term does not include  
44 the head of, or an officer of, a private entity operating as a  
45 for-profit or not-for-profit entity.

46 (c) "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, who are the subject of the audit or investigation, and  
51 who do not have or are not currently afforded an existing right  
52 to an independent review process. Employees of the state,  
53 including career service, probationary, other personal service,  
54 Selected Exempt Service, and Senior Management Service  
55 employees, are not covered by this definition. This definition  
56 also does not cover former employees of the state if the final

57 report of the state agency inspector general relates to matters  
58 arising during the former employee's term of state employment.

59 (d) "Entities contracting with the state" means for-profit  
60 and not-for-profit organizations or businesses having a legal  
61 existence, such as corporations or partnerships, as opposed to  
62 natural persons, that have entered into a relationship with a  
63 state agency as defined in paragraph (a) to provide for  
64 consideration certain goods or services to the state agency or  
65 on behalf of the state agency. The relationship may be evidenced  
66 by payment by warrant or purchasing card, contract, purchase  
67 order, provider agreement, or other such mutually agreed upon  
68 relationship.

69 (e) "Additional material relevant" means evidence  
70 submitted to the state agency inspector general prior to release  
71 of the final report that likely would have affected the  
72 investigative findings. Such evidence is not merely cumulative  
73 of evidence considered by the state agency inspector general  
74 and, to be relevant, must tend to prove or disprove the matters  
75 at issue in the investigation. Newly discovered evidence may be  
76 considered if it was discovered subsequent to the agency  
77 inspector general's final report, and the agency inspector  
78 general has affirmatively refused to reopen the investigation  
79 despite such evidence. Such evidence shall not have been  
80 withheld from the state agency inspector general during the  
81 original investigation.

82 (f) "Original investigation" means an official  
83 investigative review by a state agency inspector general of

84 information relative to suspected violations of any law, rule,  
85 or agency policy resulting in written findings.

86 (2) The Office of Inspector General is hereby established  
87 in each state agency to provide a central point for coordination  
88 of and responsibility for activities that promote  
89 accountability, integrity, and efficiency in government. It  
90 shall be the duty and responsibility of each inspector general,  
91 with respect to the state agency in which the office is  
92 established, to:

93 (a) Advise in the development of performance measures,  
94 standards, and procedures for the evaluation of state agency  
95 programs.

96 (b) Assess the reliability and validity of the information  
97 provided by the state agency on performance measures and  
98 standards, and make recommendations for improvement, if  
99 necessary, prior to submission of those measures and standards  
100 to the Executive Office of the Governor pursuant to s.  
101 216.0166(1).

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

105 (d) Provide direction for, supervise, and coordinate  
106 audits, investigations, and management reviews relating to the  
107 programs and operations of the state agency, except that when  
108 the inspector general does not possess the qualifications  
109 specified in subsection (4), the director of auditing shall  
110 conduct such audits.

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111 (e) Conduct, supervise, or coordinate other activities  
112 carried out or financed by that state agency for the purpose of  
113 promoting economy and efficiency in the administration of, or  
114 preventing and detecting fraud and abuse in, its programs and  
115 operations.

116 (f) Keep such agency head informed concerning fraud,  
117 abuses, and deficiencies relating to programs and operations  
118 administered or financed by the state agency, recommend  
119 corrective action concerning fraud, abuses, and deficiencies,  
120 and report on the progress made in implementing corrective  
121 action.

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

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

128 (i) Ensure that an appropriate balance is maintained  
129 between audit, investigative, and other accountability  
130 activities.

131 (j) Comply with the General Principles and Standards for  
132 Offices of Inspector General as published and revised by the  
133 Association of Inspectors General.

134 (3) (a) The inspector general shall be appointed by the  
135 agency head. For agencies under the direction of the Governor,  
136 the appointment shall be made after notifying the Governor and  
137 the Chief Inspector General in writing, at least 7 days prior to

138 an offer of employment, of the agency head's intention to hire  
139 the inspector general.

140 (b) Each inspector general shall report to and be under  
141 the general supervision of the agency head and shall not be  
142 subject to supervision by any other employee of the state  
143 agency. The inspector general shall be appointed without regard  
144 to political affiliation.

145 (c) An inspector general may be removed from office by the  
146 agency head. For agencies under the direction of the Governor,  
147 the agency head shall notify the Governor and the Chief  
148 Inspector General, in writing, of the intention to terminate the  
149 inspector general at least 7 days prior to the removal. For  
150 state agencies under the direction of the Governor and Cabinet,  
151 the agency head shall notify the Governor and Cabinet in writing  
152 of the intention to terminate the inspector general at least 7  
153 days prior to the removal.

154 (d) The agency head or agency staff shall not prevent or  
155 prohibit the inspector general ~~or director of auditing~~ from  
156 initiating, carrying out, or completing any audit or  
157 investigation.

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

162 (a) A bachelor's degree from an accredited college or  
163 university with a major in accounting, or with a major in  
164 business which includes five courses in accounting, and 5 years  
165 of experience as an internal auditor or independent postauditor,

166 | electronic data processing auditor, accountant, or any  
167 | combination thereof. The experience shall at a minimum consist  
168 | of audits of units of government or private business  
169 | enterprises, operating for profit or not for profit; or

170 |       (b) A master's degree in accounting, business  
171 | administration, or public administration from an accredited  
172 | college or university and 4 years of experience as required in  
173 | paragraph (a); or

174 |       (c) A certified public accountant license issued pursuant  
175 | to chapter 473 or a certified internal audit certificate issued  
176 | by the Institute of Internal Auditors or earned by examination,  
177 | and 4 years of experience as required in paragraph (a).

178 |       (5) In carrying out the auditing duties and  
179 | responsibilities of this act, each inspector general shall  
180 | review and evaluate internal controls necessary to ensure the  
181 | fiscal accountability of the state agency. The inspector general  
182 | shall conduct financial, compliance, electronic data processing,  
183 | and performance audits of the agency and prepare audit reports  
184 | of his or her findings. The scope and assignment of the audits  
185 | shall be determined by the inspector general; however, the  
186 | agency head may at any time direct the inspector general to  
187 | perform an audit of a special program, function, or  
188 | organizational unit. The performance of the audit shall be under  
189 | the direction of the inspector general, except that if the  
190 | inspector general does not possess the qualifications specified  
191 | in subsection (4), the director of auditing shall perform the  
192 | functions listed in this subsection.

193 (a) Such audits shall be conducted in accordance with the  
 194 current International Standards for the Professional Practice of  
 195 Internal Auditing ~~as and subsequent Internal Auditing Standards~~  
 196 ~~or Statements on Internal Auditing Standards~~ published by the  
 197 Institute of Internal Auditors, Inc., or, where appropriate, in  
 198 accordance with generally accepted governmental auditing  
 199 standards. All audit reports issued by internal audit staff  
 200 shall include a statement that the audit was conducted pursuant  
 201 to the appropriate standards.

202 (b) Audit workpapers and reports shall be public records  
 203 to the extent that they do not include information which has  
 204 been made confidential and exempt from the provisions of s.  
 205 119.07(1) pursuant to law. However, when the inspector general  
 206 or a member of the staff receives from an individual a complaint  
 207 or information that falls within the definition provided in s.  
 208 112.3187(5), the name or identity of the individual shall not be  
 209 disclosed to anyone else without the written consent of the  
 210 individual, unless the inspector general determines that such  
 211 disclosure is unavoidable during the course of the audit or  
 212 investigation.

213 (c) The inspector general and the staff shall have access  
 214 to any records, data, and other information of the state agency  
 215 he or she deems necessary to carry out his or her duties. The  
 216 inspector general is also authorized to request such information  
 217 or assistance as may be necessary from the state agency or from  
 218 any federal, state, or local government entity.

219 (d) At the conclusion of each audit, the inspector general  
 220 shall submit preliminary findings and recommendations to the



221 person responsible for supervision of the program function or  
222 operational unit who shall respond to any adverse findings  
223 within 20 working days after receipt of the tentative findings.  
224 Such response and the inspector general's rebuttal to the  
225 response shall be included in the final audit report.

226 (e) At the conclusion of an audit in which the results of  
227 the audit are published and disbursed and the subject of the  
228 audit is a specific, singular entity contracting with the state,  
229 the inspector general shall submit findings to the subject who  
230 shall respond to any adverse findings within 20 working days.  
231 Such response and the inspector general's rebuttal to the  
232 response, if any, shall be included in the final audit report.

233 (f)~~(e)~~ The inspector general shall submit the final report  
234 to the agency head and to the Auditor General.

235 (g)~~(f)~~ The Auditor General, in connection with the  
236 independent postaudit of the same agency pursuant to s. 11.45,  
237 shall give appropriate consideration to internal audit reports  
238 and the resolution of findings therein. The Legislative Auditing  
239 Committee may inquire into the reasons or justifications for  
240 failure of the agency head to correct the deficiencies reported  
241 in internal audits that are also reported by the Auditor General  
242 and shall take appropriate action.

243 (h)~~(g)~~ The inspector general shall monitor the  
244 implementation of the state agency's response to any report on  
245 the state agency issued by the Auditor General or by the Office  
246 of Program Policy Analysis and Government Accountability. No  
247 later than 6 months after the Auditor General or the Office of  
248 Program Policy Analysis and Government Accountability publishes

249 a report on the state agency, the inspector general shall  
250 provide a written response to the agency head on the status of  
251 corrective actions taken. The Inspector General shall file a  
252 copy of such response with the Legislative Auditing Committee.

253 (i)~~(h)~~ The inspector general shall develop long-term and  
254 annual audit plans based on the findings of periodic risk  
255 assessments. The plan, where appropriate, should include  
256 postaudit samplings of payments and accounts. The plan shall  
257 show the individual audits to be conducted during each year and  
258 related resources to be devoted to the respective audits. The  
259 Chief Financial Officer, to assist in fulfilling the  
260 responsibilities for examining, auditing, and settling accounts,  
261 claims, and demands pursuant to s. 17.03(1), and examining,  
262 auditing, adjusting, and settling accounts pursuant to s. 17.04,  
263 may utilize audits performed by the inspectors general and  
264 internal auditors. For state agencies under the Governor, the  
265 audit plans shall be submitted to the Governor's Chief Inspector  
266 General. The plan shall be submitted to the agency head for  
267 approval. A copy of the approved plan shall be submitted to the  
268 Auditor General.

269 (6) In carrying out the investigative duties and  
270 responsibilities specified in this section, each inspector  
271 general shall initiate, conduct, supervise, and coordinate  
272 investigations designed to detect, deter, prevent, and eradicate  
273 fraud, waste, mismanagement, misconduct, and other abuses in  
274 state government. For these purposes, each inspector general  
275 ~~state agency~~ shall:

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

279 (b) Receive and consider the complaints which do not meet  
280 the criteria for an investigation under the Whistle-blower's Act  
281 and conduct, supervise, or coordinate such inquiries,  
282 investigations, or reviews as the inspector general deems  
283 appropriate.

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

288 (d) Conduct investigations and other inquiries free of  
289 actual or perceived impairment to the independence of the  
290 inspector general or the inspector general's office. This shall  
291 include freedom from any interference with investigations and  
292 timely access to records and other sources of information.

293 (e) At the conclusion of each investigation in which the  
294 subject of the investigation is a specific entity contracting  
295 with the state or an individual substantially affected by the  
296 findings, conclusions, and recommendations, consistent with  
297 chapter 119, submit findings to the subject who shall respond to  
298 any adverse findings within 10 days. Such response and the  
299 inspector general's rebuttal to the response, if any, shall be  
300 included in the final investigative report.

301 (f)~~(e)~~ Submit in a timely fashion final reports on  
302 investigations conducted by the inspector general to the agency

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

305 (7) Each inspector general shall, not later than September  
 306 30 of each year, prepare an annual report summarizing the  
 307 activities of the office during the immediately preceding state  
 308 fiscal year. The final report shall be furnished to the agency  
 309 head. Such report shall include, but need not be limited to:

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

312 (b) A description of significant abuses and deficiencies  
 313 relating to the administration of programs and operations of the  
 314 agency disclosed by investigations, audits, reviews, or other  
 315 activities during the reporting period.

316 (c) A description of the recommendations for corrective  
 317 action made by the inspector general during the reporting period  
 318 with respect to significant problems, abuses, or deficiencies  
 319 identified.

320 (d) The identification of each significant recommendation  
 321 described in previous annual reports on which corrective action  
 322 has not been completed.

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

325 (8) The inspector general in each agency under the  
 326 Governor's jurisdiction shall timely report to the Chief  
 327 Inspector General all written complaints received concerning the  
 328 duties and responsibilities outlined in this section or any  
 329 misconduct alleged related to the office of the inspector  
 330 general or its employees.

331 (9) For agencies under the Governor's jurisdiction, the  
332 Chief Inspector General in the Executive Office of the Governor,  
333 as defined in s. 14.32, shall:

334 (a) Receive and consider all complaints against offices of  
335 inspectors general or their employees and conduct, supervise, or  
336 coordinate such inquiries, investigations, or reviews as the  
337 Chief Inspector General considers appropriate.

338 (b) Develop policies and procedures for reviewing  
339 complaints against a state agency office of inspector general or  
340 its employees, including, but not limited to, complaints  
341 regarding misconduct, failure to properly follow professional  
342 standards, or any other violation of agency policy, rule, or law  
343 that is consistent with the definitions in this section and s.  
344 14.32. The policies and procedures must identify exemptions from  
345 this process, including, but not limited to, whistle-blower  
346 investigations conducted in accordance with ss. 112.3187-  
347 112.31895. These policies and procedures must afford entities  
348 contracting with state agencies, and individuals substantially  
349 affected by the findings, conclusions, and recommendations, a  
350 meaningful opportunity to express their complaint and present  
351 additional material relevant to the original investigation.  
352 Policies and procedures specified herein shall not be subject to  
353 rulemaking under chapter 120.

354 (c) Distribute the report of any investigation conducted  
355 or supervised by the Chief Inspector General to the office of  
356 the inspector general of the state agency, the agency head of  
357 the subject's employing agency, and the person that filed the  
358 complaint against the office of inspector general of the state

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359 agency or its employees.

360 (10) If a state agency inspector general's reported  
361 adverse findings regarding entities contracting with state  
362 agencies and individuals substantially affected by the findings,  
363 conclusions, and recommendations are determined to be not  
364 substantially justified by the Chief Inspector General, the  
365 agency shall reimburse reasonable legal fees and costs not to  
366 exceed \$50,000 specifically associated with filing and pursuing  
367 the complaints, which are incurred by the entities contracting  
368 with state agencies and individuals substantially affected by  
369 the findings, conclusions, and recommendations.

370 (11)-(8) Each agency inspector general shall, to the extent  
371 both necessary and practicable, include on his or her staff  
372 individuals with electronic data processing auditing experience.

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