

Bill No. SB 2078

Barcode 903008

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Comm: WD
04/20/2007 04:54 PM

.
. .
. .
. .
. .
. .

The Committee on Governmental Operations (Posey) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

20.055 Agency inspectors general.--

(1) For the purposes of this section:

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

(b) "Agency head" means a public official such as the
Governor, a Cabinet officer, a secretary as defined in s.

Bill No. SB 2078

Barcode 903008

1 20.03(5), or an executive director as defined in s. 20.03(6).
 2 It also includes the chair of the Public Service Commission,
 3 the Director of the Office of Insurance Regulation of the
 4 Financial Services Commission, the Director of the Office of
 5 Financial Regulation of the Financial Services Commission, and
 6 the Chief Justice of the State Supreme Court. The term does
 7 not include the head of, or an officer of, a private entity
 8 operating as a for-profit or not-for-profit entity.

9 (c) "Individuals substantially affected" means natural
 10 persons who have established a real and sufficiently immediate
 11 injury in fact due to the findings, conclusions, or
 12 recommendations of a final report of a state agency inspector
 13 general, who are the subject of the audit or investigation,
 14 and who do not have or are not currently afforded an existing
 15 right to an independent review process. Employees of the
 16 state, including career service, probationary, other personal
 17 service, Selected Exempt Service, and Senior Management
 18 Service employees, are not covered by this definition. This
 19 definition also does not cover former employees of the state
 20 if the final report of the state agency inspector general
 21 relates to matters arising during a former employee's term of
 22 state employment.

23 (d) "Entities contracting with the state" means
 24 for-profit and not-for-profit organizations or businesses
 25 having a legal existence, such as corporations or
 26 partnerships, as opposed to natural persons, that have entered
 27 into a relationship with a state agency as defined in
 28 paragraph (a) to provide for consideration certain goods or
 29 services to the state agency or on behalf of the state agency.
 30 The relationship may be evidenced by payment by warrant or
 31 purchasing card, contract, purchase order, provider agreement,

Bill No. SB 2078

Barcode 903008

1 or other such mutually agreed upon relationship.

2 (e) "Additional material relevant" means evidence
3 submitted to the state agency inspector general prior to
4 release of the final report that likely would have affected
5 the investigative findings. Such evidence is not merely
6 cumulative of evidence considered by the state agency
7 inspector general and, to be relevant, must tend to prove or
8 disprove the matters at issue in the investigation. Newly
9 discovered evidence may be considered if it was discovered
10 subsequent to the agency inspector general's final report and
11 the agency inspector general has affirmatively refused to
12 reopen the investigation despite such evidence. Such evidence
13 shall not have been withheld from the state agency inspector
14 general during the original investigation.

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

19 (2) The Office of Inspector General is hereby
20 established in each state agency to provide a central point
21 for coordination of and responsibility for activities that
22 promote accountability, integrity, and efficiency in
23 government. It shall be the duty and responsibility of each
24 inspector general, with respect to the state agency in which
25 the office is established, to:

26 (a) Advise in the development of performance measures,
27 standards, and procedures for the evaluation of state agency
28 programs.

29 (b) Assess the reliability and validity of the
30 information provided by the state agency on performance
31 measures and standards, and make recommendations for

Bill No. SB 2078

Barcode 903008

1 improvement, if necessary, prior to submission of those
2 measures and standards to the Executive Office of the Governor
3 pursuant to s. 216.0166(1).

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

7 (d) Provide direction for, supervise, and coordinate
8 audits, investigations, and management reviews relating to the
9 programs and operations of the state agency, except that when
10 the inspector general does not possess the qualifications
11 specified in subsection (4), the director of auditing shall
12 conduct such audits.

13 (e) Conduct, supervise, or coordinate other activities
14 carried out or financed by that state agency for the purpose
15 of promoting economy and efficiency in the administration of,
16 or preventing and detecting fraud and abuse in, its programs
17 and operations.

18 (f) Keep such agency head informed concerning fraud,
19 abuses, and deficiencies relating to programs and operations
20 administered or financed by the state agency, recommend
21 corrective action concerning fraud, abuses, and deficiencies,
22 and report on the progress made in implementing corrective
23 action.

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

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

30 (i) Ensure that an appropriate balance is maintained
31 between audit, investigative, and other accountability

1 activities.

2 (j) Adopt the General Principles and Standards for
3 Offices of Inspector General as published and revised by the
4 Association of Inspectors General.

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

11 (b) Each inspector general shall report to and be
12 under the general supervision of the agency head and shall not
13 be subject to supervision by any other employee of the state
14 agency. The inspector general shall be appointed without
15 regard to political affiliation.

16 (c) An inspector general may be removed from office by
17 the agency head. For agencies under the direction of the
18 Governor, the agency head shall notify the Governor and the
19 Chief Inspector General, in writing, of the intention to
20 terminate the inspector general at least 7 days prior to the
21 removal. For state agencies under the direction of the
22 Governor and Cabinet, the agency head shall notify the
23 Governor and Cabinet in writing of the intention to terminate
24 the inspector general at least 7 days prior to the removal.

25 (d) The agency head or agency staff shall not prevent
26 or prohibit the inspector general ~~or director of auditing~~ from
27 initiating, carrying out, or completing any audit or
28 investigation.

29 (4) To ensure that state agency audits are performed
30 in accordance with applicable auditing standards, the
31 inspector general or the director of auditing within the

Bill No. SB 2078

Barcode 903008

1 inspector general's office shall possess the following
2 qualifications:

3 (a) A bachelor's degree from an accredited college or
4 university with a major in accounting, or with a major in
5 business which includes five courses in accounting, and 5
6 years of experience as an internal auditor or independent
7 postauditor, electronic data processing auditor, accountant,
8 or any combination thereof. The experience shall at a minimum
9 consist of audits of units of government or private business
10 enterprises, operating for profit or not for profit; or

11 (b) A master's degree in accounting, business
12 administration, or public administration from an accredited
13 college or university and 4 years of experience as required in
14 paragraph (a); or

15 (c) A certified public accountant license issued
16 pursuant to chapter 473 or a certified internal audit
17 certificate issued by the Institute of Internal Auditors or
18 earned by examination, and 4 years of experience as required
19 in paragraph (a).

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

Bill No. SB 2078

Barcode 903008

1 the inspector general does not possess the qualifications
2 specified in subsection (4), the director of auditing shall
3 perform the functions listed in this subsection.

4 (a) Such audits shall be conducted in accordance with
5 the current International Standards for the Professional
6 Practice of Internal Auditing ~~as and subsequent Internal~~
7 ~~Auditing Standards or Statements on Internal Auditing~~
8 ~~Standards~~ published by the Institute of Internal Auditors,
9 Inc., or, where appropriate, in accordance with generally
10 accepted governmental auditing standards. All audit reports
11 issued by internal audit staff shall include a statement that
12 the audit was conducted pursuant to the appropriate standards.

13 (b) Audit workpapers and reports shall be public
14 records to the extent that they do not include information
15 which has been made confidential and exempt from the
16 provisions of s. 119.07(1) pursuant to law. However, when the
17 inspector general or a member of the staff receives from an
18 individual a complaint or information that falls within the
19 definition provided in s. 112.3187(5), the name or identity of
20 the individual shall not be disclosed to anyone else without
21 the written consent of the individual, unless the inspector
22 general determines that such disclosure is unavoidable during
23 the course of the audit or investigation.

24 (c) The inspector general and the staff shall have
25 access to any records, data, and other information of the
26 state agency he or she deems necessary to carry out his or her
27 duties. The inspector general is also authorized to request
28 such information or assistance as may be necessary from the
29 state agency or from any federal, state, or local government
30 entity.

31 (d) At the conclusion of each audit, the inspector

Bill No. SB 2078

Barcode 903008

1 general shall submit preliminary findings and recommendations
 2 to the person responsible for supervision of the program
 3 function or operational unit who shall respond to any adverse
 4 findings within 20 working days after receipt of the tentative
 5 findings. Such response and the inspector general's rebuttal
 6 to the response shall be included in the final audit report.

7 (e) At the conclusion of an audit in which the results
 8 of the audit are published and disbursed and the subject of
 9 the audit is a specific, singular entity contracting with the
 10 state, the inspector general shall submit findings to the
 11 subject who shall respond to any adverse findings within 20
 12 working days. Such response and the inspector general's
 13 rebuttal to the response, if any, shall be included in the
 14 final audit report.

15 (f)(e) The inspector general shall submit the final
 16 report to the agency head and to the Auditor General.

17 (g)(f) The Auditor General, in connection with the
 18 independent postaudit of the same agency pursuant to s. 11.45,
 19 shall give appropriate consideration to internal audit reports
 20 and the resolution of findings therein. The Legislative
 21 Auditing Committee may inquire into the reasons or
 22 justifications for failure of the agency head to correct the
 23 deficiencies reported in internal audits that are also
 24 reported by the Auditor General and shall take appropriate
 25 action.

26 (h)(g) The inspector general shall monitor the
 27 implementation of the state agency's response to any report on
 28 the state agency issued by the Auditor General or by the
 29 Office of Program Policy Analysis and Government
 30 Accountability. No later than 6 months after the Auditor
 31 General or the Office of Program Policy Analysis and

Bill No. SB 2078

Barcode 903008

1 Government Accountability publishes a report on the state
 2 agency, the inspector general shall provide a written response
 3 to the agency head on the status of corrective actions taken.
 4 The Inspector General shall file a copy of such response with
 5 the Legislative Auditing Committee.

6 *(i)(h)* The inspector general shall develop long-term
 7 and annual audit plans based on the findings of periodic risk
 8 assessments. The plan, where appropriate, should include
 9 postaudit samplings of payments and accounts. The plan shall
 10 show the individual audits to be conducted during each year
 11 and related resources to be devoted to the respective audits.
 12 The Chief Financial Officer, to assist in fulfilling the
 13 responsibilities for examining, auditing, and settling
 14 accounts, claims, and demands pursuant to s. 17.03(1), and
 15 examining, auditing, adjusting, and settling accounts pursuant
 16 to s. 17.04, may utilize audits performed by the inspectors
 17 general and internal auditors. For state agencies under the
 18 Governor, the audit plans shall be submitted to the Governor's
 19 Chief Inspector General. The plan shall be submitted to the
 20 agency head for approval. A copy of the approved plan shall be
 21 submitted to the Auditor General.

22 (6) In carrying out the investigative duties and
 23 responsibilities specified in this section, each inspector
 24 general shall initiate, conduct, supervise, and coordinate
 25 investigations designed to detect, deter, prevent, and
 26 eradicate fraud, waste, mismanagement, misconduct, and other
 27 abuses in state government. For these purposes, each inspector
 28 general ~~state agency~~ shall:

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

Bill No. SB 2078

Barcode 903008

1 (b) Receive and consider the complaints which do not
 2 meet the criteria for an investigation under the
 3 Whistle-blower's Act and conduct, supervise, or coordinate
 4 such inquiries, investigations, or reviews as the inspector
 5 general deems appropriate.

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

10 (d) Conduct investigations and other inquiries free of
 11 actual or perceived impairment to the independence of the
 12 inspector general or the inspector general's office. This
 13 shall include freedom from any interference with
 14 investigations and timely access to records and other sources
 15 of information.

16 (e) At the conclusion of each investigation in which
 17 the subject of the investigation is a specific entity
 18 contracting with the state or an individual substantially
 19 affected by the findings, conclusions, and recommendations,
 20 the inspector general shall submit findings to the subject who
 21 shall respond to any adverse findings within 10 days. Such
 22 response and the inspector general's rebuttal to the response,
 23 if any, shall be included in the final investigative report.

24 ~~(f)(e)~~ Submit in a timely fashion final reports on
 25 investigations conducted by the inspector general to the
 26 agency head, except for whistle-blower's investigations, which
 27 shall be conducted and reported pursuant to s. 112.3189.

28 (7) Each inspector general shall, not later than
 29 September 30 of each year, prepare an annual report
 30 summarizing the activities of the office during the
 31 immediately preceding state fiscal year. The final report

Bill No. SB 2078

Barcode 903008

1 shall be furnished to the agency head. Such report shall
2 include, but need not be limited to:

3 (a) A description of activities relating to the
4 development, assessment, and validation of performance
5 measures.

6 (b) A description of significant abuses and
7 deficiencies relating to the administration of programs and
8 operations of the agency disclosed by investigations, audits,
9 reviews, or other activities during the reporting period.

10 (c) A description of the recommendations for
11 corrective action made by the inspector general during the
12 reporting period with respect to significant problems, abuses,
13 or deficiencies identified.

14 (d) The identification of each significant
15 recommendation described in previous annual reports on which
16 corrective action has not been completed.

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

19 (8) The inspector general in each agency under the
20 Governor's jurisdiction shall timely report to the Chief
21 Inspector General all written complaints received concerning
22 the duties and responsibilities outlined in this section or
23 any misconduct alleged related to the office of the inspector
24 general or its employees.

25 (9) The Chief Inspector General in the Executive
26 Office of the Governor, as defined in s. 14.32, shall:

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

31 (b) Develop policies and procedures for reviewing

Bill No. SB 2078

Barcode 903008

1 complaints against a state agency office of inspector general
 2 or its employees, including, but not limited to, complaints
 3 regarding misconduct, failure to properly follow professional
 4 standards, or any other violation of agency policy, rule, or
 5 law which is consistent with the definitions in this section
 6 and s. 14.32. The policies and procedures must identify
 7 exemptions from this process, including, but not limited to,
 8 whistle-blower investigations conducted in accordance with ss.
 9 112.3187-112.31895. These policies and procedures must afford
 10 entities contracting with state agencies, and individuals
 11 substantially affected by the findings, conclusions, and
 12 recommendations, a meaningful opportunity to express their
 13 complaint and present additional material relevant to the
 14 original investigation.

15 (c) Distribute the report of any investigation
 16 conducted or supervised by the Chief Inspector General to the
 17 office of the inspector general of the state agency, the
 18 agency head of the subject's employing agency, and the person
 19 that filed the complaint against the office of inspector
 20 general of the state agency or its employees.

21 (10) If a state agency inspector general's reported
 22 adverse findings regarding entities contracting with state
 23 agencies and individuals substantially affected by the
 24 findings, conclusions, and recommendations are determined to
 25 be incorrect under this process, the agency shall reimburse
 26 reasonable legal fees and costs specifically associated with
 27 filing and pursuing the complaints, which are incurred by the
 28 entities contracting with state agencies and individuals
 29 substantially affected by the findings, conclusions, and
 30 recommendations.

31 (11)(8) Each agency inspector general shall, to the

Bill No. SB 2078

Barcode 903008

1 extent both necessary and practicable, include on his or her
2 staff individuals with electronic data processing auditing
3 experience.

4 Section 2. This act shall take effect July 1, 2007.
5
6

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause
10

11 and insert:

12 A bill to be entitled
13 An act relating to agency inspectors general;
14 amending s. 20.055, F.S.; providing
15 definitions; requiring agency inspectors
16 general to adopt certain principles and
17 standards; requiring an inspector general to
18 submit findings of an audit to specified
19 persons or entities; requiring agencies under
20 the Governor to notify the Chief Inspector
21 General of inspector general appointments and
22 terminations; prohibiting agency staff from
23 preventing or prohibiting the inspector general
24 or director of auditing from initiating,
25 carrying out, or completing any audit or
26 investigation; requiring audits to be conducted
27 in accordance with the current International
28 Standards for the Professional Practice of
29 Internal Auditing; requiring the inspector
30 general of each state agency to report certain
31 written complaints to the Chief Inspector

Bill No. SB 2078

Barcode 903008

1 General; requiring the Chief Inspector General
2 to fulfill certain duties and responsibilities;
3 requiring a state agency to reimburse legal
4 fees and costs that are incurred by certain
5 individuals and entities under certain
6 conditions; providing an effective date.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31