

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 audits and investigations to specified persons
 7 or entities; requiring responses to findings within 20
 8 working days; requiring agencies under the Governor to
 9 notify the Chief Inspector General of inspector general
 10 appointments and terminations; prohibiting agency staff
 11 from preventing or prohibiting the inspector general from
 12 initiating, carrying out, or completing any audit or
 13 investigation; requiring audits to be conducted in
 14 accordance with the current International Standards for
 15 the Professional Practice of Internal Auditing; requiring
 16 the inspector general of each state agency to report
 17 certain written complaints to the agency head, and for
 18 agencies under the Governor, to the agency head and the
 19 Chief Inspector General; requiring the Chief Inspector
 20 General to fulfill certain duties and responsibilities;
 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, the Board of Governors of the State
 36 University System, and the state courts system.

37 (b) "Agency head" means the Governor, a Cabinet officer, a
 38 secretary as defined in s. 20.03(5), or an executive director as
 39 defined in s. 20.03(6). It also includes the chair of the Public
 40 Service Commission, the Director of the Office of Insurance
 41 Regulation of the Financial Services Commission, the Director of
 42 the Office of Financial Regulation of the Financial Services
 43 Commission, and the Chief Justice of the State Supreme Court.

44 (c) "Individuals substantially affected" means natural
 45 persons who have established a real and sufficiently immediate
 46 injury in fact due to the findings, conclusions, or
 47 recommendations of a final report of a state agency inspector
 48 general, who are the subject of the audit or investigation, and
 49 who do not have or are not currently afforded an existing right
 50 to an independent review process. Employees of the state,
 51 including career service, probationary, other personal service,
 52 Selected Exempt Service, and Senior Management Service
 53 employees, are not covered by this definition. This definition
 54 also does not cover former employees of the state if the final
 55 report of the state agency inspector general relates to matters
 56 arising during a former employee's term of state employment.

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

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

74 (a) Advise in the development of performance measures,
75 standards, and procedures for the evaluation of state agency
76 programs.

77 (b) Assess the reliability and validity of the information
78 provided by the state agency on performance measures and
79 standards, and make recommendations for improvement, if
80 necessary, prior to submission of those measures and standards
81 to the Executive Office of the Governor pursuant to s.
82 216.0166(1).

83 (c) Review the actions taken by the state agency to
84 improve program performance and meet program standards and make

85 recommendations for improvement, if necessary.

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

92 (e) Conduct, supervise, or coordinate other activities
93 carried out or financed by that state agency for the purpose of
94 promoting economy and efficiency in the administration of, or
95 preventing and detecting fraud and abuse in, its programs and
96 operations.

97 (f) Keep such agency head informed concerning fraud,
98 abuses, and deficiencies relating to programs and operations
99 administered or financed by the state agency, recommend
100 corrective action concerning fraud, abuses, and deficiencies,
101 and report on the progress made in implementing corrective
102 action.

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

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

109 (i) Ensure that an appropriate balance is maintained
110 between audit, investigative, and other accountability
111 activities.

112 (j) Comply with the General Principles and Standards for

113 Offices of Inspector General as published and revised by the
 114 Association of Inspectors General.

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

121 (b) Each inspector general shall report to and be under
 122 the general supervision of the agency head and shall not be
 123 subject to supervision by any other employee of the state
 124 agency. The inspector general shall be appointed without regard
 125 to political affiliation.

126 (c) An inspector general may be removed from office by the
 127 agency head. For agencies under the direction of the Governor,
 128 the agency head shall notify the Governor and the Chief
 129 Inspector General, in writing, of the intention to terminate the
 130 inspector general at least 7 days prior to the removal. For
 131 state agencies under the direction of the Governor and Cabinet,
 132 the agency head shall notify the Governor and Cabinet in writing
 133 of the intention to terminate the inspector general at least 7
 134 days prior to the removal.

135 (d) The agency head or agency staff shall not prevent or
 136 prohibit the inspector general ~~or director of auditing~~ from
 137 initiating, carrying out, or completing any audit or
 138 investigation.

139 (4) To ensure that state agency audits are performed in
 140 accordance with applicable auditing standards, the inspector

141 general or the director of auditing within the inspector
142 general's office shall possess the following qualifications:

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

151 (b) A master's degree in accounting, business
152 administration, or public administration from an accredited
153 college or university and 4 years of experience as required in
154 paragraph (a); or

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

159 (5) In carrying out the auditing duties and
160 responsibilities of this act, each inspector general shall
161 review and evaluate internal controls necessary to ensure the
162 fiscal accountability of the state agency. The inspector general
163 shall conduct financial, compliance, electronic data processing,
164 and performance audits of the agency and prepare audit reports
165 of his or her findings. The scope and assignment of the audits
166 shall be determined by the inspector general; however, the
167 agency head may at any time direct the inspector general to
168 perform an audit of a special program, function, or

169 organizational unit. The performance of the audit shall be under
 170 the direction of the inspector general, except that if the
 171 inspector general does not possess the qualifications specified
 172 in subsection (4), the director of auditing shall perform the
 173 functions listed in this subsection.

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

183 (b) Audit workpapers and reports shall be public records
 184 to the extent that they do not include information which has
 185 been made confidential and exempt from the provisions of s.
 186 119.07(1) pursuant to law. However, when the inspector general
 187 or a member of the staff receives from an individual a complaint
 188 or information that falls within the definition provided in s.
 189 112.3187(5), the name or identity of the individual shall not be
 190 disclosed to anyone else without the written consent of the
 191 individual, unless the inspector general determines that such
 192 disclosure is unavoidable during the course of the audit or
 193 investigation.

194 (c) The inspector general and the staff shall have access
 195 to any records, data, and other information of the state agency
 196 he or she deems necessary to carry out his or her duties. The

197 inspector general is also authorized to request such information
198 or assistance as may be necessary from the state agency or from
199 any federal, state, or local government entity.

200 (d) At the conclusion of each audit, the inspector general
201 shall submit preliminary findings and recommendations to the
202 person responsible for supervision of the program function or
203 operational unit who shall respond to any adverse findings
204 within 20 working days after receipt of the tentative findings.
205 Such response and the inspector general's rebuttal to the
206 response shall be included in the final audit report.

207 (e) At the conclusion of an audit in which the results of
208 the audit are published and distributed and the subject of the
209 audit is a specific entity contracting with the state or an
210 individual substantially affected by the findings, conclusions,
211 and recommendations, the inspector general shall submit findings
212 to the subject who shall be advised in writing that they may
213 submit a written response to any adverse findings within 20
214 working days after receipt of the findings. Such response and
215 the inspector general's rebuttal to the response, if any, shall
216 be included in the final audit report.

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

219 (g)~~(f)~~ The Auditor General, in connection with the
220 independent postaudit of the same agency pursuant to s. 11.45,
221 shall give appropriate consideration to internal audit reports
222 and the resolution of findings therein. The Legislative Auditing
223 Committee may inquire into the reasons or justifications for
224 failure of the agency head to correct the deficiencies reported

225 in internal audits that are also reported by the Auditor General
226 and shall take appropriate action.

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

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

253 (j) Inspector general audit reports distributed to the
 254 Public Service Commission shall be provided to each member of
 255 the commission.

256 (6) In carrying out the investigative duties and
 257 responsibilities specified in this section, each inspector
 258 general shall initiate, conduct, supervise, and coordinate
 259 investigations designed to detect, deter, prevent, and eradicate
 260 fraud, waste, mismanagement, misconduct, and other abuses in
 261 state government. For these purposes, each inspector general
 262 ~~state agency~~ shall:

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

266 (b) Receive and consider the complaints which do not meet
 267 the criteria for an investigation under the Whistle-blower's Act
 268 and conduct, supervise, or coordinate such inquiries,
 269 investigations, or reviews as the inspector general deems
 270 appropriate.

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

275 (d) Conduct investigations and other inquiries free of
 276 actual or perceived impairment to the independence of the
 277 inspector general or the inspector general's office. This shall
 278 include freedom from any interference with investigations and
 279 timely access to records and other sources of information.

280 (e) At the conclusion of each investigation in which the

281 subject of the investigation is a specific entity contracting
 282 with the state or an individual substantially affected by the
 283 findings, conclusions, and recommendations, the inspector
 284 general shall, consistent with chapter 119, submit findings to
 285 the subject that is a specific entity contracting with the state
 286 or an individual substantially affected, who shall be advised
 287 that they may submit a written response within 20 working days
 288 after the receipt of the findings. Such response and the
 289 inspector general's rebuttal to the response, if any, shall be
 290 included in the final investigative report.

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

295 (g) Provide to each member of the Public Service
 296 Commission inspector general investigative reports distributed
 297 to the commission.

298 (7) Each inspector general shall, not later than September
 299 30 of each year, prepare an annual report summarizing the
 300 activities of the office during the immediately preceding state
 301 fiscal year. The final report shall be furnished to the agency
 302 head. Such report shall include, but need not be limited to:

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

305 (b) A description of significant abuses and deficiencies
 306 relating to the administration of programs and operations of the
 307 agency disclosed by investigations, audits, reviews, or other
 308 activities during the reporting period.

309 (c) A description of the recommendations for corrective
310 action made by the inspector general during the reporting period
311 with respect to significant problems, abuses, or deficiencies
312 identified.

313 (d) The identification of each significant recommendation
314 described in previous annual reports on which corrective action
315 has not been completed.

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

318 (8) The inspector general in each agency shall provide to
319 the agency head, upon receipt, all written complaints concerning
320 the duties and responsibilities in this section or any
321 allegation of misconduct related to the office of the inspector
322 general or its employees, if received from subjects of audits or
323 investigations who are individuals substantially affected or
324 entities contracting with the state, as defined in this section.
325 For agencies solely under the direction of the Governor, the
326 inspector general shall also provide the complaint to the Chief
327 Inspector General.

328 (9)~~(8)~~ Each agency inspector general shall, to the extent
329 both necessary and practicable, include on his or her staff
330 individuals with electronic data processing auditing experience.

331 Section 2. This act shall take effect July 1, 2008.