



428656

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/27/2008	.	
	.	
	.	

1 The Committee on Governmental Operations (King) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

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

9 20.055 Agency inspectors general.--

10 (1) For the purposes of this section:

11 (a) "State agency" means each department created pursuant
 12 to this chapter, and also includes the Executive Office of the
 13 Governor, the Department of Military Affairs, the Fish and
 14 Wildlife Conservation Commission, the Office of Insurance
 15 Regulation of the Financial Services Commission, the Office of
 16 Financial Regulation of the Financial Services Commission, the

Bill No. SB 498



428656

17 Public Service Commission, the Board of Governors of the State
18 University System, and the state courts system.

19 (b) "Agency head" means the Governor, a Cabinet officer, a
20 secretary as defined in s. 20.03(5), or an executive director as
21 defined in s. 20.03(6). It also includes the chair of the Public
22 Service Commission, the Director of the Office of Insurance
23 Regulation of the Financial Services Commission, the Director of
24 the Office of Financial Regulation of the Financial Services
25 Commission, and the Chief Justice of the State Supreme Court.

26 (c) "Individuals substantially affected" means natural
27 persons who have established a real and sufficiently immediate
28 injury in fact due to the findings, conclusions, or
29 recommendations of a final report of a state agency inspector
30 general, who are the subject of the audit or investigation, and
31 who do not have or are not currently afforded an existing right
32 to an independent review process. Employees of the state,
33 including career service, probationary, other personal service,
34 Selected Exempt Service, and Senior Management Service employees,
35 are not covered by this definition. This definition also does not
36 cover former employees of the state if the final report of the
37 state agency inspector general relates to matters arising during
38 a former employee's term of state employment.

39 (d) "Entities contracting with the state" means for-profit
40 and not-for-profit organizations or businesses having a legal
41 existence, such as corporations or partnerships, as opposed to
42 natural persons, that have entered into a relationship with a
43 state agency as defined in paragraph (a) to provide for
44 consideration certain goods or services to the state agency or on
45 behalf of the state agency. The relationship may be evidenced by
46 payment by warrant or purchasing card, contract, purchase order,



428656

47 | provider agreement, or other such mutually agreed upon
48 | relationship.

49 | (2) The Office of Inspector General is hereby established
50 | in each state agency to provide a central point for coordination
51 | of and responsibility for activities that promote accountability,
52 | integrity, and efficiency in government. It shall be the duty and
53 | responsibility of each inspector general, with respect to the
54 | state agency in which the office is established, to:

55 | (a) Advise in the development of performance measures,
56 | standards, and procedures for the evaluation of state agency
57 | programs.

58 | (b) Assess the reliability and validity of the information
59 | provided by the state agency on performance measures and
60 | standards, and make recommendations for improvement, if
61 | necessary, prior to submission of those measures and standards to
62 | the Executive Office of the Governor pursuant to s. 216.0166(1).

63 | (c) Review the actions taken by the state agency to improve
64 | program performance and meet program standards and make
65 | recommendations for improvement, if necessary.

66 | (d) Provide direction for, supervise, and coordinate
67 | audits, investigations, and management reviews relating to the
68 | programs and operations of the state agency, except that when the
69 | inspector general does not possess the qualifications specified
70 | in subsection (4), the director of auditing shall conduct such
71 | audits.

72 | (e) Conduct, supervise, or coordinate other activities
73 | carried out or financed by that state agency for the purpose of
74 | promoting economy and efficiency in the administration of, or
75 | preventing and detecting fraud and abuse in, its programs and
76 | operations.



428656

77 (f) Keep such agency head informed concerning fraud,
78 abuses, and deficiencies relating to programs and operations
79 administered or financed by the state agency, recommend
80 corrective action concerning fraud, abuses, and deficiencies, and
81 report on the progress made in implementing corrective action.

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

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

88 (i) Ensure that an appropriate balance is maintained
89 between audit, investigative, and other accountability
90 activities.

91 (j) Comply with the General Principles and Standards for
92 Offices of Inspector General as published and revised by the
93 Association of Inspectors General.

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

100 (b) Each inspector general shall report to and be under the
101 general supervision of the agency head and shall not be subject
102 to supervision by any other employee of the state agency. The
103 inspector general shall be appointed without regard to political
104 affiliation.

105 (c) An inspector general may be removed from office by the
106 agency head. For agencies under the direction of the Governor,



428656

107 | the agency head shall notify the Governor and the Chief Inspector
108 | General, in writing, of the intention to terminate the inspector
109 | general at least 7 days prior to the removal. For state agencies
110 | under the direction of the Governor and Cabinet, the agency head
111 | shall notify the Governor and Cabinet in writing of the intention
112 | to terminate the inspector general at least 7 days prior to the
113 | removal.

114 | (d) The agency head or agency staff shall not prevent or
115 | prohibit the inspector general ~~or director of auditing~~ from
116 | initiating, carrying out, or completing any audit or
117 | investigation.

118 | (4) To ensure that state agency audits are performed in
119 | accordance with applicable auditing standards, the inspector
120 | general or the director of auditing within the inspector
121 | general's office shall possess the following qualifications:

122 | (a) A bachelor's degree from an accredited college or
123 | university with a major in accounting, or with a major in
124 | business which includes five courses in accounting, and 5 years
125 | of experience as an internal auditor or independent postauditor,
126 | electronic data processing auditor, accountant, or any
127 | combination thereof. The experience shall at a minimum consist of
128 | audits of units of government or private business enterprises,
129 | operating for profit or not for profit; or

130 | (b) A master's degree in accounting, business
131 | administration, or public administration from an accredited
132 | college or university and 4 years of experience as required in
133 | paragraph (a); or

134 | (c) A certified public accountant license issued pursuant
135 | to chapter 473 or a certified internal audit certificate issued



428656

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

138 (5) In carrying out the auditing duties and
139 responsibilities of this act, each inspector general shall review
140 and evaluate internal controls necessary to ensure the fiscal
141 accountability of the state agency. The inspector general shall
142 conduct financial, compliance, electronic data processing, and
143 performance audits of the agency and prepare audit reports of his
144 or her findings. The scope and assignment of the audits shall be
145 determined by the inspector general; however, the agency head may
146 at any time direct the inspector general to perform an audit of a
147 special program, function, or organizational unit. The
148 performance of the audit shall be under the direction of the
149 inspector general, except that if the inspector general does not
150 possess the qualifications specified in subsection (4), the
151 director of auditing shall perform the functions listed in this
152 subsection.

153 (a) Such audits shall be conducted in accordance with the
154 current International Standards for the Professional Practice of
155 Internal Auditing as ~~and subsequent Internal Auditing Standards~~
156 ~~or Statements on Internal Auditing Standards~~ published by the
157 Institute of Internal Auditors, Inc., or, where appropriate, in
158 accordance with generally accepted governmental auditing
159 standards. All audit reports issued by internal audit staff shall
160 include a statement that the audit was conducted pursuant to the
161 appropriate standards.

162 (b) Audit workpapers and reports shall be public records to
163 the extent that they do not include information which has been
164 made confidential and exempt from the provisions of s. 119.07(1)
165 pursuant to law. However, when the inspector general or a member



428656

166 of the staff receives from an individual a complaint or
167 information that falls within the definition provided in s.
168 112.3187(5), the name or identity of the individual shall not be
169 disclosed to anyone else without the written consent of the
170 individual, unless the inspector general determines that such
171 disclosure is unavoidable during the course of the audit or
172 investigation.

173 (c) The inspector general and the staff shall have access
174 to any records, data, and other information of the state agency
175 he or she deems necessary to carry out his or her duties. The
176 inspector general is also authorized to request such information
177 or assistance as may be necessary from the state agency or from
178 any federal, state, or local government entity.

179 (d) At the conclusion of each audit, the inspector general
180 shall submit preliminary findings and recommendations to the
181 person responsible for supervision of the program function or
182 operational unit who shall respond to any adverse findings within
183 20 working days after receipt of the tentative findings. Such
184 response and the inspector general's rebuttal to the response
185 shall be included in the final audit report.

186 (e) At the conclusion of an audit in which the results of
187 the audit are published and distributed and the subject of the
188 audit is a specific entity contracting with the state or an
189 individual substantially affected by the findings, conclusions,
190 and recommendations, the inspector general shall submit findings
191 to the subject who shall be advised in writing that they may
192 submit a written response to any adverse findings within 20
193 working days after receipt of the findings. Such response and the
194 inspector general's rebuttal to the response, if any, shall be
195 included in the final audit report.



428656

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

198 ~~(g)~~(f) The Auditor General, in connection with the
199 independent postaudit of the same agency pursuant to s. 11.45,
200 shall give appropriate consideration to internal audit reports
201 and the resolution of findings therein. The Legislative Auditing
202 Committee may inquire into the reasons or justifications for
203 failure of the agency head to correct the deficiencies reported
204 in internal audits that are also reported by the Auditor General
205 and shall take appropriate action.

206 ~~(h)~~(g) The inspector general shall monitor the
207 implementation of the state agency's response to any report on
208 the state agency issued by the Auditor General or by the Office
209 of Program Policy Analysis and Government Accountability. No
210 later than 6 months after the Auditor General or the Office of
211 Program Policy Analysis and Government Accountability publishes a
212 report on the state agency, the inspector general shall provide a
213 written response to the agency head on the status of corrective
214 actions taken. The Inspector General shall file a copy of such
215 response with the Legislative Auditing Committee.

216 ~~(i)~~(h) The inspector general shall develop long-term and
217 annual audit plans based on the findings of periodic risk
218 assessments. The plan, where appropriate, should include
219 postaudit samplings of payments and accounts. The plan shall show
220 the individual audits to be conducted during each year and
221 related resources to be devoted to the respective audits. The
222 Chief Financial Officer, to assist in fulfilling the
223 responsibilities for examining, auditing, and settling accounts,
224 claims, and demands pursuant to s. 17.03(1), and examining,
225 auditing, adjusting, and settling accounts pursuant to s. 17.04,



428656

226 | may utilize audits performed by the inspectors general and
227 | internal auditors. For state agencies under the Governor, the
228 | audit plans shall be submitted to the Governor's Chief Inspector
229 | General. The plan shall be submitted to the agency head for
230 | approval. A copy of the approved plan shall be submitted to the
231 | Auditor General.

232 | (6) In carrying out the investigative duties and
233 | responsibilities specified in this section, each inspector
234 | general shall initiate, conduct, supervise, and coordinate
235 | investigations designed to detect, deter, prevent, and eradicate
236 | fraud, waste, mismanagement, misconduct, and other abuses in
237 | state government. For these purposes, each inspector general
238 | ~~state agency~~ shall:

239 | (a) Receive complaints and coordinate all activities of the
240 | agency as required by the Whistle-blower's Act pursuant to ss.
241 | 112.3187-112.31895.

242 | (b) Receive and consider the complaints which do not meet
243 | the criteria for an investigation under the Whistle-blower's Act
244 | and conduct, supervise, or coordinate such inquiries,
245 | investigations, or reviews as the inspector general deems
246 | appropriate.

247 | (c) Report expeditiously to the Department of Law
248 | Enforcement or other law enforcement agencies, as appropriate,
249 | whenever the inspector general has reasonable grounds to believe
250 | there has been a violation of criminal law.

251 | (d) Conduct investigations and other inquiries free of
252 | actual or perceived impairment to the independence of the
253 | inspector general or the inspector general's office. This shall
254 | include freedom from any interference with investigations and
255 | timely access to records and other sources of information.



428656

256 (e) At the conclusion of each investigation in which the
257 subject of the investigation is a specific entity contracting
258 with the state or an individual substantially affected by the
259 findings, conclusions, and recommendations, the inspector general
260 shall, consistent with chapter 119, submit findings to the
261 subject that is a specific entity contracting with the state or
262 an individual substantially affected, who shall be advised that
263 they may submit a written response within 20 working days after
264 the receipt of the findings. Such response and the inspector
265 general's rebuttal to the response, if any, shall be included in
266 the final investigative report.

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

271 (7) Each inspector general shall, not later than September
272 30 of each year, prepare an annual report summarizing the
273 activities of the office during the immediately preceding state
274 fiscal year. The final report shall be furnished to the agency
275 head. Such report shall include, but need not be limited to:

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

278 (b) A description of significant abuses and deficiencies
279 relating to the administration of programs and operations of the
280 agency disclosed by investigations, audits, reviews, or other
281 activities during the reporting period.

282 (c) A description of the recommendations for corrective
283 action made by the inspector general during the reporting period
284 with respect to significant problems, abuses, or deficiencies
285 identified.



428656

286 (d) The identification of each significant recommendation
287 described in previous annual reports on which corrective action
288 has not been completed.

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

291 (8) The inspector general in each agency shall provide to
292 the agency head, upon receipt, all written complaints concerning
293 the duties and responsibilities in this section or any allegation
294 of misconduct related to the office of the inspector general or
295 its employees, if received from subjects of audits or
296 investigations who are individuals substantially affected or
297 entities contracting with the state, as defined in this section.
298 For agencies solely under the direction of the Governor, the
299 inspector general shall also provide the complaint to the Chief
300 Inspector General.

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

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

305
306 ===== T I T L E A M E N D M E N T =====

307 And the title is amended as follows:

308 Delete everything before the enacting clause
309 and insert:

310 A bill to be entitled
311 An act relating to agency inspectors general; amending s.
312 20.055, F.S.; providing definitions; requiring agency
313 inspectors general to comply with certain principles and
314 standards; requiring an inspector general to submit
315 findings of audits and investigations to specified persons



428656

316 | or entities; ; requiring responses to findings within 20
317 | working days; requiring agencies under the Governor to
318 | notify the Chief Inspector General of inspector general
319 | appointments and terminations; prohibiting agency staff
320 | from preventing or prohibiting the inspector general from
321 | initiating, carrying out, or completing any audit or
322 | investigation; requiring audits to be conducted in
323 | accordance with the current International Standards for
324 | the Professional Practice of Internal Auditing; requiring
325 | the inspector general of each state agency to report
326 | certain written complaints to the agency head, and for
327 | agencies under the Governor, to the agency head and the
328 | Chief Inspector General; requiring the Chief Inspector
329 | General to fulfill certain duties and responsibilities;
330 | providing an effective date.