

By the Committees on General Government Appropriations;  
Governmental Operations; and Senator Bennett

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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 if such findings are not exempt from  
8 disclosure; requiring responses to findings within 20  
9 working days; requiring agencies under the Governor to  
10 notify the Chief Inspector General of inspector general  
11 appointments and terminations; prohibiting agency staff  
12 from preventing or prohibiting the inspector general from  
13 initiating, carrying out, or completing any audit or  
14 investigation; requiring audits to be conducted in  
15 accordance with the current International Standards for  
16 the Professional Practice of Internal Auditing; requiring  
17 the inspector general of each state agency to report  
18 certain written complaints to the agency head, and for  
19 agencies under the Governor, to the agency head and the  
20 Chief Inspector General; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Section 20.055, Florida Statutes, is amended to  
25 read:

26 20.055 Agency inspectors general.--

27 (1) For the purposes of this section:

28 (a) "State agency" means each department created pursuant  
29 to this chapter, and also includes the Executive Office of the

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30 Governor, the Department of Military Affairs, the Fish and  
31 Wildlife Conservation Commission, the Office of Insurance  
32 Regulation of the Financial Services Commission, the Office of  
33 Financial Regulation of the Financial Services Commission, the  
34 Public Service Commission, the Board of Governors of the State  
35 University System, and the state courts system.

36 (b) "Agency head" means the Governor, a Cabinet officer, a  
37 secretary as defined in s. 20.03(5), or an executive director as  
38 defined in s. 20.03(6). It also includes the five commissioners  
39 ~~chair~~ of the Public Service Commission, the Director of the  
40 Office of Insurance Regulation of the Financial Services  
41 Commission, the Director of the Office of Financial Regulation of  
42 the Financial Services Commission, and the Chief Justice of the  
43 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 employees,  
53 are not covered by this definition. This definition also does not  
54 cover former employees of the state if the final report of the  
55 state agency inspector general relates to matters arising during  
56 a former employee's term of state employment. This definition  
57 does not apply to persons who are the subject of audits or  
58 investigations conducted pursuant to ss. 112.3187-112.31895 or s.

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59 409.913 or who are otherwise exempt from the provisions of s.  
60 119.07(1).

61 (d) "Entities contracting with the state" means for-profit  
62 and not-for-profit organizations or businesses having a legal  
63 existence, such as corporations or partnerships, as opposed to  
64 natural persons, which have entered into a relationship with a  
65 state agency as defined in paragraph (a) to provide for  
66 consideration certain goods or services to the state agency or on  
67 behalf of the state agency. The relationship may be evidenced by  
68 payment by warrant or purchasing card, contract, purchase order,  
69 provider agreement, or other such mutually agreed upon  
70 relationship. This definition does not apply to entities who are  
71 the subject of audits or investigations conducted pursuant to ss.  
72 112.3187-112.31895 or s. 409.913 or who are otherwise exempt from  
73 the provisions of s. 119.07(1).

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

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

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

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88 (c) Review the actions taken by the state agency to improve  
89 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 the  
94 inspector general does not possess the qualifications specified  
95 in subsection (4), the director of auditing shall conduct such  
96 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, and  
106 report on the progress made in implementing corrective action.

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

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

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

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

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117 Offices of Inspector General as published and revised by the  
118 Association of Inspectors General.

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

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

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

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

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

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146 | general's office shall possess the following qualifications:

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

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

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

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

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175 | possess the qualifications specified in subsection (4), the  
176 | director of auditing shall perform the functions listed in this  
177 | subsection.

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

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

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

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

211 (e) At the conclusion of an audit in which the subject of  
212 the audit is a specific entity contracting with the state or an  
213 individual substantially affected, if the audit is not  
214 confidential or otherwise exempt from disclosure by law, the  
215 inspector general shall, consistent with s. 119.07(1), submit the  
216 findings to the entity contracting with the state or the  
217 individual substantially affected, who shall be advised in  
218 writing that they may submit a written response within 20 working  
219 days after receipt of the findings. The response and the  
220 inspector general's rebuttal to the response, if any, must be  
221 included in the final audit report.

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

224 ~~(g)(f)~~ The Auditor General, in connection with the  
225 independent postaudit of the same agency pursuant to s. 11.45,  
226 shall give appropriate consideration to internal audit reports  
227 and the resolution of findings therein. The Legislative Auditing  
228 Committee may inquire into the reasons or justifications for  
229 failure of the agency head to correct the deficiencies reported  
230 in internal audits that are also reported by the Auditor General  
231 and shall take appropriate action.

232 ~~(h)(g)~~ The inspector general shall monitor the



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233 implementation of the state agency's response to any report on  
234 the state agency issued by the Auditor General or by the Office  
235 of Program Policy Analysis and Government Accountability. No  
236 later than 6 months after the Auditor General or the Office of  
237 Program Policy Analysis and Government Accountability publishes a  
238 report on the state agency, the inspector general shall provide a  
239 written response to the agency head on the status of corrective  
240 actions taken. The Inspector General shall file a copy of such  
241 response with the Legislative Auditing Committee.

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

258 (6) In carrying out the investigative duties and  
259 responsibilities specified in this section, each inspector  
260 general shall initiate, conduct, supervise, and coordinate  
261 investigations designed to detect, deter, prevent, and eradicate

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262 fraud, waste, mismanagement, misconduct, and other abuses in  
263 state government. For these purposes, each inspector general  
264 ~~state agency~~ shall:

265 (a) Receive complaints and coordinate all activities of the  
266 agency as required by the Whistle-blower's Act pursuant to ss.  
267 112.3187-112.31895.

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

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

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

282 (e) At the conclusion of each investigation in which the  
283 subject of the investigation is a specific entity contracting  
284 with the state or an individual substantially affected as defined  
285 by this section, and if the investigation is not confidential or  
286 otherwise exempt from disclosure by law, consistent with s.  
287 119.07(1), submit findings to the subject that is a specific  
288 entity contracting with the state or an individual substantially  
289 affected, who shall be advised in writing that they may submit a  
290 written response within 20 working days after receipt of the

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291 findings. Such response and the inspector general's rebuttal to  
292 the response, if any, shall be included in the final  
293 investigative report.

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

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

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320 the duties and responsibilities in this section or any allegation  
321 of misconduct related to the office of the inspector general or  
322 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.