

HB 1425

2010

1                   A bill to be entitled  
2           An act relating to Broward County; creating the Broward  
3           County Office of Inspector General; providing definitions,  
4           functions, authority, and powers of the Broward County  
5           Inspector General; providing for qualifications,  
6           selection, contract, facilities, and staff; providing for  
7           reporting and budgeting; providing for removal; providing  
8           for powers of state attorney; providing for a referendum;  
9           providing an effective date.

10  
11           WHEREAS, various public officials throughout South Florida  
12           have recently been charged with public corruption and the misuse  
13           of office, and

14           WHEREAS, misconduct involving abuse, corruption, fraud, and  
15           mismanagement by elected and appointed local government  
16           officials and employees in Broward County agencies and  
17           instrumentalities, contractors, and other parties doing business  
18           with Broward County and receiving local government funds  
19           undermines public confidence in local government and prevents  
20           the local government in Broward County from operating honestly,  
21           efficiently, and effectively, and

22           WHEREAS, it is critically important that elected and  
23           appointed local government officials and employees within  
24           Broward County discharge their duties and responsibilities in a  
25           lawful and ethical manner and be held accountable for their  
26           misconduct, inefficiency, and ineffectiveness, and

27           WHEREAS, imposing the duty on all elected and appointed  
28           local government officials and employees to cooperate with and

HB 1425

2010

29 | report misconduct to the Inspector General will broaden and  
 30 | strengthen the Inspector General's ability to detect,  
 31 | investigate, eliminate, and deter misconduct by Broward County  
 32 | officials and employees, vendors, and government-funded entities  
 33 | and promote integrity, honesty, and efficiency in government,  
 34 | NOW, THEREFORE,

35 |  
 36 | Be It Enacted by the Legislature of the State of Florida:

37 |  
 38 |       Section 1. Short title.—This act shall be entitled the  
 39 | "Broward County Office of Inspector General Act."

40 |       Section 2. Definitions.—

41 |       (1) "County" means the Charter Government of Broward  
 42 | County.

43 |       (2) "Board" means the Board of County Commissioners of  
 44 | Broward County.

45 |       (3) "State attorney" means the State Attorney of the 17th  
 46 | Judicial Circuit in and for Broward County or any elected or  
 47 | appointed successor or interim officers or special prosecutors  
 48 | acting in the state attorney's stead.

49 |       (4) "Inspector General" means the Broward County Office of  
 50 | Inspector General created pursuant to this act.

51 |       (5) "Local government" means the Charter Government of  
 52 | Broward County, any dependent special district of Broward  
 53 | County, the School Board or School District of Broward County,  
 54 | any constitutional officer of Broward County, as provided in s.  
 55 | 1, Art. VIII of the State Constitution, or any independent  
 56 | special district operating solely within Broward County. The

HB 1425

2010

57 term "local government" does not include any municipality within  
58 Broward County or any dependent district of any municipality  
59 within Broward County.

60 Section 3. Broward County Office of Inspector General  
61 created and established.—

62 (1) There is hereby established the Broward County Office  
63 of Inspector General, which is created in order to detect  
64 misconduct involving abuse, corruption, fraud, or violation of  
65 ordinances, state or federal laws, or the state or federal  
66 constitutions. The Inspector General shall have the power and  
67 responsibility to investigate elected and appointed officials  
68 and employees, local governments, and all agencies and  
69 instrumentalities, contractors, and other parties doing business  
70 with local governments or receiving local government funds.  
71 Notwithstanding this subsection, the investigative powers and  
72 responsibilities of the Inspector General shall not include  
73 violations of any law enforcement officer as defined in section  
74 112.531, Florida Statutes, and any firefighter as defined in  
75 section 112.81, Florida Statutes. The Inspector General shall  
76 head the Office of Inspector General. The organization and  
77 administration of the Office of Inspector General shall be  
78 independent to ensure that no interference or influence external  
79 to the Office of Inspector General adversely affects the  
80 independence and objectivity of the Inspector General.

81 (2) (a) Upon receipt of a written signed complaint, the  
82 Inspector General shall make a determination within 10 working  
83 days whether or not such complaint demonstrates probable cause  
84 of misconduct involving abuse, corruption, fraud, or violation

85 of ordinances, state or federal laws, or the state or federal  
86 constitutions. The determination shall be contained in a  
87 document signed by the Inspector General. Once probable cause  
88 has been found, the Inspector General shall inform the  
89 individual or individuals who may be the subject of an  
90 investigation that they have 15 working days to respond to the  
91 findings of the Inspector General. After receipt of a response  
92 or after 15 working days, the Inspector General shall fully  
93 investigate the complaint in which probable cause has been  
94 found. The Inspector General shall complete any investigation  
95 within 180 days after the Inspector General's finding of  
96 probable cause.

97 (b) Upon a finding of probable cause as provided in  
98 paragraph (a), the Inspector General shall have the authority  
99 to:

100 1. Undertake investigations of local government officers,  
101 employees, and other local government matters and publish the  
102 results of such investigations; and

103 2. Review and audit past, present, and proposed local  
104 government programs, accounts, records, contracts, change  
105 orders, and transactions. All elected and appointed local  
106 government officials and employees, local government agencies  
107 and instrumentalities, contractors, and other parties doing  
108 business with local government or receiving local government  
109 funds shall fully cooperate with the Inspector General.

110 (c) Pursuant to an investigation where there has been a  
111 finding of probable cause, the Inspector General shall have the  
112 power to conduct audits of, require reports from, and receive

HB 1425

2010

113 full and unrestricted access to the records of local government,  
114 including all elected and appointed local government officials  
115 and employees; local government departments, divisions,  
116 agencies, and instrumentalities; and contractors and other  
117 persons and entities doing business with local government or  
118 receiving local government funds regarding any such contracts or  
119 transactions with local government. The Inspector General's  
120 jurisdiction includes, but shall not be limited to, all  
121 projects, programs, contracts, or transactions that are funded  
122 in whole or in part by local government. The Inspector General  
123 may contract with outside entities deemed necessary to perform  
124 the functions of such office.

125 (d) In the case of a refusal to obey a request by the  
126 Inspector General for documents or for an interview, the  
127 Inspector General shall have the power to subpoena witnesses,  
128 administer oaths, and require the production of records.  
129 Seventy-two hours prior to serving a subpoena, the Inspector  
130 General shall provide written notice to the state attorney and  
131 the United States Attorney for the Southern District of Florida.  
132 The Inspector General shall not interfere with any ongoing  
133 criminal investigation or prosecution of the state attorney or  
134 the United States Attorney for the Southern District of Florida.  
135 When the state attorney or the United States Attorney for the  
136 Southern District of Florida has explicitly notified the  
137 Inspector General in writing that the Inspector General's  
138 investigation is interfering with an ongoing criminal  
139 investigation or prosecution, the Inspector General shall  
140 suspend service of subpoena, examination of witnesses, or other

HB 1425

2010

141 investigative activities as set forth in the notice. In the case  
142 of a refusal to obey a subpoena served to any person, the  
143 Inspector General may make application to any circuit court of  
144 this state which shall have jurisdiction to order the witness to  
145 appear before the Inspector General and to produce evidence if  
146 so ordered or to give testimony relating to the matter in  
147 question.

148 (e) If after a finding of probable cause the Inspector  
149 General believes in good faith that there is a violation of any  
150 state, federal, or local law, or rule, regulation, or policy, he  
151 or she shall notify the appropriate civil, criminal, or  
152 administrative agencies charged with enforcement of the  
153 violation. In the case of a possible violation of a rule,  
154 regulation, or policy governing a local government employee, the  
155 Inspector General shall notify the chief executive officer of  
156 the local government. After referring the matter to the  
157 appropriate entity for fact finding, the Inspector General may  
158 assist the entity in conducting the investigation.

159 (f) In order to investigate misconduct involving abuse,  
160 corruption, fraud, or violation of ordinances, state or federal  
161 statutes, or the state or federal constitutions, the Inspector  
162 General shall have the power, without limitation, to audit,  
163 investigate, monitor, inspect, and review the operations,  
164 activities, and processes of local government, including, but  
165 not limited to, activities of contractors; officers, agents, and  
166 employees of the Inspector General; and lobbyists and local  
167 government staff and officials.

168 (g) The Inspector General shall establish a hotline and

HB 1425

2010

169 website to receive complaints from identified persons.

170 (h) The Inspector General's records relating to active  
171 investigations shall be and are confidential and exempt from  
172 disclosure, as provided in section 112.3188(2), Florida  
173 Statutes.

174 (i) The Inspector General shall be deemed an appropriate  
175 local official of any local government that contracts with the  
176 Inspector General and Board of County Commissioners for purposes  
177 of whistleblower protection provided by section 112.3188(1),  
178 Florida Statutes.

179 (j) The Inspector General may recommend remedial action to  
180 local government. The Inspector General may follow up to  
181 determine whether recommended remedial actions have been taken.

182 (k) The Inspector General shall establish policies and  
183 procedures and monitor the costs of investigations undertaken.  
184 The Inspector General shall cooperate with all governmental  
185 agencies to recover costs from all entities involved in willful  
186 misconduct in regard to local government funds.

187 (l) Nothing in this subsection shall abridge an employee's  
188 constitutional right to collective bargaining.

189 (3) The Inspector General shall be a person who:

190 (a)1. Has at least 7 years of experience in any one or a  
191 combination of the following:

192 a. As a federal, state, or local law enforcement officer  
193 or official.

194 b. As a federal or state court judge.

195 c. As a federal, state, or local government attorney or  
196 private attorney with experience in investigating fraud,

197 corruption, and violations of law.

198 d. As an inspector general, certified public accountant,  
 199 or internal auditor.

200 e. As a person with progressive supervisory and managerial  
 201 experience in an investigative public agency similar to an  
 202 inspector general's office.

203 f. As a person who has managed and completed complex  
 204 investigations involving allegations of fraud, theft, deception,  
 205 or conspiracy.

206 g. As a person who has demonstrated the ability to work  
 207 with local, state, and federal law enforcement agencies and the  
 208 judiciary.

209 h. As a person who has a 4-year degree from an accredited  
 210 institution of higher learning.

211 i. As a person who has not been employed by Broward County  
 212 or any other governmental entity subject to the authority of the  
 213 Office of Inspector General during the 2-year period immediately  
 214 prior to selection.

215 2. Highly qualified candidates shall also have audit-  
 216 related skills or hold one or more of the following professional  
 217 certifications at the time of selection: Certified Inspector  
 218 General (CIG), Certified Inspector General Investigator (CIGI),  
 219 Certified Inspector General Auditor (CIGA), Certified Public  
 220 Accountant (CPA), Certified Internal Auditor (CIA), or Certified  
 221 Fraud Examiner (CFE).

222 (b) In addition to having a background in sub-  
 223 subparagraphs (a)1.a.-f., a candidate for Inspector General  
 224 shall also have experience in the management of private business



225 or a public entity or subdivision thereof.

226 (4) Responsibility for selecting the Inspector General  
 227 shall be vested solely with the Inspector General Selection  
 228 Committee ("selection committee"). The selection committee shall  
 229 be comprised of:

230 (a) One person chosen by the Chief Judge of the 17th  
 231 Judicial Circuit.

232 (b) One person chosen by the Chairperson of the Broward  
 233 Legislative Delegation.

234 (c) The Mayor of Broward County.

235 (d) The State Attorney for the 17th Judicial Circuit.

236 (e) The Public Defender for the 17th Judicial Circuit.

237 (f) The President of the Broward County Chiefs of Police  
 238 Association.

239  
 240 The persons chosen pursuant to paragraphs (a) and (b) must not  
 241 meet the definition of lobbyist by either county ordinance or  
 242 state law for 2 years prior to their selection. No member of the  
 243 selection committee shall be an elected or appointed official or  
 244 employee of any local government within Broward County at the  
 245 time of selection. The chairperson of the selection committee  
 246 shall be selected by the members of the selection committee, and  
 247 the selection committee shall determine its own rules of  
 248 procedure. After thoroughly reviewing qualifications, background  
 249 information, and personal and professional referrals, the  
 250 selection committee shall notify the County Attorney of Broward  
 251 County of its selection. The county attorney shall assist the  
 252 selected Inspector General as set forth in this section.

HB 1425

2010

253       (5) Within 30 days after the effective date of this act,  
254 the Human Resources Division of Broward County shall solicit  
255 qualified candidates. Within 120 days after the effective date  
256 of this act, the selection committee shall in good faith  
257 endeavor to select the Inspector General.

258       (6) The Human Resources Division of Broward County shall  
259 provide staff to the selection committee and as necessary shall  
260 advertise the acceptance of resumes for the position of  
261 Inspector General. All resumes received by the Human Resources  
262 Division shall be forwarded to the selection committee for  
263 consideration. The Human Resources Division shall contract with  
264 an appropriate entity to ensure that background checks are  
265 conducted on the candidates selected for interview by the  
266 selection committee. The results of the background checks shall  
267 be provided to the selection committee prior to the interview of  
268 candidates. After the initial selection of the Inspector  
269 General, the selection committee, for future selection processes  
270 as described in subsection (4), may continue to employ the  
271 services of the Human Resources Division or may utilize its own  
272 staff to solicit candidates for Inspector General. All  
273 advertisements for the acceptance of resumes for Inspector  
274 General shall include a salary range commensurate with public  
275 officials of like experience and expertise.

276       (7) The Inspector General shall serve for a term of 4  
277 years. At least 6 months prior to the end of each contract term,  
278 the selection committee shall determine whether or not to renew  
279 the Inspector General's contract for an additional term of 4  
280 years and shall promptly notify the Inspector General of its

281 decision. In the event the selection committee elects not to  
282 renew the Inspector General's contract, the selection committee  
283 shall promptly convene as necessary to solicit candidates for  
284 the selection of a new Inspector General in the same manner as  
285 described in subsection (4). The incumbent Inspector General may  
286 submit his or her name as a candidate to be considered for  
287 selection. The incumbent Inspector General shall serve until a  
288 successor is selected and assumes office.

289 (8) In case of a vacancy in the position of Inspector  
290 General, the chairperson of the selection committee may appoint  
291 a member of the Inspector General's Office as interim Inspector  
292 General within 10 days after the vacancy occurs until such time  
293 as a successor Inspector General is selected and assumes office.  
294 A successor Inspector General shall be selected in the same  
295 manner as described in subsection (2), except for the following  
296 specific time constraints:

297 (a) Solicitation for qualified candidates for selection  
298 should be published within 20 days, but no later than 40 days  
299 after the date the vacancy occurs; and

300 (b) The selection committee must in good faith endeavor to  
301 convene and select an Inspector General within 90 days after the  
302 date the vacancy occurs.

303 (9) The selection committee, with the assistance of the  
304 County Attorney of Broward County, shall negotiate a contract of  
305 employment with the Inspector General substantially consistent  
306 with the terms included in contracts of other contractual  
307 employees of Broward County. The Inspector General shall be paid  
308 at a rate commensurate with public officials of like experience

HB 1425

2010

309 and expertise. Before the selection committee approves a  
310 contract for the Inspector General, a public hearing for same  
311 shall be scheduled by the Broward County Board of County  
312 Commissioners. The contract shall cover the 4-year term subject  
313 to the removal provisions in subsection (15). The contract shall  
314 include a provision requiring the selection committee to provide  
315 notice of its decision to renew or not to renew the contract at  
316 least 6 months prior to the termination of the contract. The  
317 contract shall provide that the Inspector General may not  
318 represent a political party, be on any executive committee  
319 thereof, or seek public office during his or her term of service  
320 or for 4 years thereafter. The limitation in this subsection  
321 does not include seeking selection as Inspector General for a  
322 subsequent term. The contract shall further provide that the  
323 Inspector General may not be a lobbyist, as defined in Broward  
324 County ordinances or general law, for 2 years after term of  
325 service.

326 (10) (a) The county shall provide the Office of Inspector  
327 General with appropriately located office space and sufficient  
328 physical facilities together with necessary office supplies,  
329 equipment, and furnishings to enable the Inspector General to  
330 perform his or her functions.

331 (b) The Inspector General shall have the power to appoint,  
332 employ, and remove such assistants, employees, and personnel and  
333 establish personnel procedures as deemed necessary for the  
334 efficient and effective administration of the activities of the  
335 Office of Inspector General.

336 (11) (a) The Inspector General shall publish and deliver

HB 1425

2010

337 finalized reports and recommendations to all local governments  
338 and the offices represented on the selection committee.  
339 Notwithstanding any other provision of this act, whenever the  
340 Inspector General determines that it is appropriate to publish  
341 and deliver a report or recommendation that contains findings as  
342 to the person or entity that is the subject of the report or the  
343 person or entity that is the subject of the recommendation, the  
344 Inspector General shall provide the affected person or entity a  
345 copy of the report or recommendation. Such person or entity  
346 shall have 15 working days to submit a written explanation or  
347 rebuttal of the findings before the report or recommendation is  
348 finalized. Such timely submitted written explanation or rebuttal  
349 shall be attached to the finalized report or recommendation. The  
350 requirements of this paragraph shall not apply when the  
351 Inspector General, in conjunction with the state attorney or  
352 United States Attorney, determines that supplying the affected  
353 person or entity with such report will jeopardize a pending  
354 criminal investigation.

355 (b) A complaint received by the Office of Inspector  
356 General shall be held in abeyance when the complaint is received  
357 against a person who is running for local government office and  
358 the complaint is received within 60 days after the date of the  
359 election. The complaint shall be abated until the last election  
360 for that local government office has been determined.

361 (12) Notwithstanding anything contained in general law to  
362 the contrary, the state attorney may in his or her discretion  
363 prosecute ordinance violations relating to ethics which have  
364 been enacted by Broward County without an agreement between the

365 state attorney's office and Broward County.

366 (13) The Inspector General shall annually prepare and  
367 publish a written report concerning the work and activities of  
368 the Office of Inspector General, including, but not limited to,  
369 statistical information regarding the disposition of closed  
370 investigations, audits, and other reviews. The annual report of  
371 the Inspector General shall be posted promptly on Broward  
372 County's public website.

373 (14) (a) Each local government covered by this act shall be  
374 responsible for the funding of the Broward County Office of  
375 Inspector General. Pursuant to its annual budget process, the  
376 Board of County Commissioners of Broward County shall provide  
377 sufficient financial support for the Inspector General's Office  
378 to fulfill its duties as set forth in this act. In order to  
379 ensure adequate funding for the prompt establishment of the  
380 Inspector General, the Board of County Commissioners of Broward  
381 County shall approve an amount equal to \$200,000 to fund all  
382 Inspector General related operations for the remainder of the  
383 2010-2011 fiscal year. The Inspector General shall timely  
384 deliver to the board of county commissioners a budget, including  
385 a reasonable estimate of operating and capital expenditures of  
386 the Office of Inspector General, and shall include revenues,  
387 including, but not limited to, projected Inspector General  
388 contract fee revenue to be collected from the county and any  
389 other participating local governments and public agencies. The  
390 Inspector General's budget shall not be implemented until a  
391 public hearing is held by the Board of County Commissioners of  
392 Broward County. The Inspector General shall establish a fiscal

HB 1425

2010

393 year that coincides with that of Broward County. Nothing in this  
394 paragraph shall be construed to prohibit the Inspector General  
395 from transmitting to the Broward County Board of County  
396 Commissioners supplemental budget requests, which shall be  
397 scheduled for a public hearing and, if approved by the  
398 commission, shall constitute amendments to the county budget.

399 (b) The amount of each local government within Broward  
400 County shall be added for a total amount. The percentage that  
401 each local government's budget represents in relation to the  
402 total budget amount shall be the percentage for which each local  
403 government shall be responsible to fund the Office of Inspector  
404 General. The Charter Government of Broward County provides a  
405 procedure in which each local government shall remit a local  
406 government's share to Broward County in order to fund the Office  
407 of Inspector General. Full payment from each local government  
408 shall be made to Broward County within 90 days after the  
409 enactment of the budget of Broward County or any amendment to  
410 the budget of Broward County representing funding for the Office  
411 of Inspector General.

412 (15) The Inspector General may be removed only for cause  
413 based upon specified charges of the following: neglect of duty,  
414 abuse of power or authority, discrimination, or ethical  
415 misconduct. The removal process shall be initiated at a duly  
416 noticed public hearing of the selection committee. An  
417 affirmative vote of three members of the selection committee  
418 shall be required to present the Inspector General with the  
419 charges and to proceed to final public hearings. The selection  
420 committee shall transmit a copy of the charges to the Inspector

421 General at least 60 days prior to all final public hearings,  
 422 which shall be convened by the selection committee. The  
 423 Inspector General shall have an opportunity to be heard in  
 424 person and by counsel at the final public hearings prior to the  
 425 votes being taken on his or her removal. The Inspector General  
 426 may only be removed upon the affirmative vote of all members of  
 427 the selection committee. A record of the proceedings, together  
 428 with the charges and findings thereon, shall be filed with the  
 429 County Administrator of Broward County. The Inspector General  
 430 shall be removed without a public hearing in the event the  
 431 Inspector General is convicted of or enters a plea of guilty or  
 432 nolo contendere to a state or federal felony.

433 (16) Both the Office of Inspector General and the  
 434 selection committee created by this act shall be deemed a part  
 435 of the Charter Government of Broward County and, except as  
 436 provided in this act, shall be subject to all regularly enacted  
 437 ordinances, rules, regulations, policies, and procedures of  
 438 Broward County.

439 Section 4. Referendum.—The Broward County Board of County  
 440 Commissioners shall schedule a special referendum election on  
 441 the date of the general election of 2016 in accordance with the  
 442 terms of the laws pertaining to elections. The item that shall  
 443 appear on the ballot shall be the question that is provided in  
 444 section 5. This act shall expire and be of no force and effect  
 445 on the date after the general election of November 2016 unless a  
 446 ballot question placed on such ballot as provided in section 5  
 447 has been approved by voters voting in such election.

448 Section 5. Ballot statement.—The Broward County Board of



HB 1425

2010

449 County Commissioners shall schedule a special referendum  
 450 election on the date of the general election of 2010 in  
 451 accordance with the terms of the laws pertaining to elections.

452 The item that shall appear on the ballot shall be as follows:

453  
 454 Creation of the Broward County Office of Inspector General

455  
 456 Shall there be created the Broward County Office of Inspector  
 457 General, appointed by an independent committee and funded by  
 458 Broward County local governments? The Inspector General shall  
 459 detect misconduct involving abuse, corruption, fraud, or  
 460 violation of ordinances, state or federal laws, or the state or  
 461 federal constitutions by officers, employees, and contractors of  
 462 Broward County, dependent special districts of Broward County,  
 463 the School Board or School District of Broward County,  
 464 constitutional officers of Broward County, and independent  
 465 special districts operating solely within Broward County.

466 Yes

467 No

468 Section 6. This act shall take effect only upon approval  
 469 by a majority of those qualified electors of Broward County  
 470 voting in a referendum to be held by the County Commission of  
 471 Broward County in conjunction with the next general, special, or  
 472 other election in Broward County, except that this section and  
 473 section 5 shall take effect upon this act becoming a law.