



560970

594-03403-15

Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to inspectors general; amending s. 14.32, F.S.; authorizing the Chief Inspector General or his or her designee to retain legal counsel and issue and enforce subpoenas under certain circumstances; amending s. 20.055, F.S.; revising the definitions of the terms "agency head" and "state agency" to include the State Board of Administration and the Office of Early Learning of the Department of Education; prescribing additional hiring requirements, employment qualifications, and terms of employment for inspectors general and staff of the office of inspector general; specifying that an inspector general is entitled to access to specified buildings or facilities; establishing the duty of specified persons and entities with respect to cooperation with an inspector general's official duties; requiring contracts and other specified documents to contain a statement regarding compliance with an inspector general's official duties; providing an effective date.

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

Section 1. Subsection (5) is added to section 14.32, Florida Statutes, to read:

14.32 Office of Chief Inspector General.—



594-03403-15

28 (5) In exercising authority under this section, the Chief
29 Inspector General or his or her designee may:

30 (a) Hire or retain legal counsel.

31 (b) Issue and serve subpoenas and subpoenas duces tecum,
32 for agencies under the jurisdiction of the Governor, to compel
33 the attendance of witnesses and the production of documents,
34 reports, answers, records, accounts, and other data in any
35 medium.

36 (c) Require or allow a person to file a statement in
37 writing, under oath or otherwise, as to all the facts and
38 circumstances concerning the matter to be audited, examined, or
39 investigated.

40
41 In the event of noncompliance with a subpoena issued pursuant to
42 this subsection, the Chief Inspector General may petition the
43 circuit court of the county in which the person subpoenaed
44 resides or has his or her principal place of business for an
45 order requiring the person subpoenaed to appear and testify and
46 to produce documents, reports, answers, records, accounts, or
47 other data as specified in the subpoena.

48 Section 2. Present subsections (1) through (5) of section
49 20.055, Florida Statutes, are amended, new subsections (5) and
50 (6) are added to that section, and present subsections (6)
51 through (9) are redesignated as subsections (8) through (11),
52 respectively, to read:

53 20.055 Agency inspectors general.—

54 (1) As used in this section, the term:

55 (a) "Agency head" means the Governor, a Cabinet officer, or
56 a secretary or executive director as those terms are defined in



594-03403-15

57 s. 20.03, the chair of the Public Service Commission, the
58 Director of the Office of Insurance Regulation of the Financial
59 Services Commission, the Director of the Office of Financial
60 Regulation of the Financial Services Commission, the board of
61 directors of the Florida Housing Finance Corporation, the
62 Executive Director of the State Board of Administration, the
63 Executive Director of the Office of Early Learning, and the
64 Chief Justice of the State Supreme Court.

65 (b) "Entities contracting with the state" means for-profit
66 and not-for-profit organizations or businesses that have a legal
67 existence, such as corporations or partnerships, as opposed to
68 natural persons, which have entered into a relationship with a
69 state agency to provide for consideration certain goods or
70 services to the state agency or on behalf of the state agency.
71 The relationship may be evidenced by payment by warrant or
72 purchasing card, contract, purchase order, provider agreement,
73 or other such mutually agreed upon relationship. The term does
74 not apply to entities that are the subject of audits or
75 investigations conducted pursuant to ss. 112.3187-112.31895 or
76 s. 409.913 or which are otherwise confidential and exempt under
77 s. 119.07.

78 (c) "Individuals substantially affected" means natural
79 persons who have established a real and sufficiently immediate
80 injury in fact due to the findings, conclusions, or
81 recommendations of a final report of a state agency inspector
82 general, who are the subject of the audit or investigation, and
83 who do not have or are not currently afforded an existing right
84 to an independent review process. The term does not apply to
85 employees of the state, including career service, probationary,



560970

594-03403-15

86 other personal service, Selected Exempt Service, and Senior
87 Management Service employees; former employees of the state if
88 the final report of the state agency inspector general relates
89 to matters arising during a former employee's term of state
90 employment; or persons who are the subject of audits or
91 investigations conducted pursuant to ss. 112.3187-112.31895 or
92 s. 409.913 or which are otherwise confidential and exempt under
93 s. 119.07.

94 (d) "State agency" means each department created pursuant
95 to this chapter and the Executive Office of the Governor, the
96 Department of Military Affairs, the Fish and Wildlife
97 Conservation Commission, the Office of Insurance Regulation of
98 the Financial Services Commission, the Office of Financial
99 Regulation of the Financial Services Commission, the Public
100 Service Commission, the Board of Governors of the State
101 University System, the Florida Housing Finance Corporation, the
102 Agency for State Technology, the State Board of Administration,
103 the Office of Early Learning, and the state courts system.

104 (2) An ~~The~~ office of Inspector General is established in
105 each state agency to provide a central point for coordination of
106 and responsibility for activities that promote accountability,
107 integrity, and efficiency in government. It is the duty and
108 responsibility of each inspector general, with respect to the
109 state agency in which the office is established, to:

110 (a) Advise in the development of performance measures,
111 standards, and procedures for the evaluation of state agency
112 programs.

113 (b) Assess the reliability and validity of the information
114 provided by the state agency on performance measures and



594-03403-15

115 standards, and make recommendations for improvement, if
116 necessary, before submission of such information pursuant to s.
117 216.1827.

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

121 (d) Provide direction for, supervise, and coordinate
122 audits, investigations, and management reviews relating to the
123 programs and operations of the state agency, except that when
124 the inspector general does not possess the qualifications
125 specified in subsection (4), the director of auditing shall
126 conduct such audits.

127 (e) Conduct, supervise, or coordinate other activities
128 carried out or financed by that state agency for the purpose of
129 promoting economy and efficiency in the administration of, or
130 preventing and detecting fraud and abuse in, its programs and
131 operations.

132 (f) Keep the agency head or, for state agencies under the
133 jurisdiction of the Governor, the Chief Inspector General
134 informed concerning fraud, abuses, and deficiencies relating to
135 programs and operations administered or financed by the state
136 agency, recommend corrective action concerning fraud, abuses,
137 and deficiencies, and report on the progress made in
138 implementing corrective action.

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

142 (h) Review, as appropriate, rules relating to the programs
143 and operations of such state agency and make recommendations



594-03403-15

144 concerning their impact.

145 (i) Ensure that an appropriate balance is maintained
146 between audit, investigative, and other accountability
147 activities.

148 (j) Comply with the General Principles and Standards for
149 Offices of Inspector General as published and revised by the
150 Association of Inspectors General.

151 (3) (a) 1. For state agencies under the jurisdiction of the
152 Cabinet or the Governor and Cabinet, the inspector general shall
153 be appointed by the agency head. For state agencies under the
154 jurisdiction of the Governor, the inspector general shall be
155 appointed by the Chief Inspector General. The agency head or
156 Chief Inspector General shall notify the Governor in writing of
157 his or her intention to hire the inspector general at least 7
158 days before an offer of employment. The inspector general shall
159 be appointed without regard to political affiliation.

160 2. Within 60 days after a vacancy or anticipated vacancy in
161 the position of inspector general, the agency head or, for
162 agencies under the jurisdiction of the Governor, the Chief
163 Inspector General, shall initiate a national search for an
164 inspector general and shall set the salary of the inspector
165 general. In the event of a vacancy in the position of inspector
166 general, the agency head or, for agencies under the jurisdiction
167 of the Governor, the Chief Inspector General, may appoint other
168 office of inspector general management personnel as interim
169 inspector general until such time as a successor inspector
170 general is appointed.

171 3. A former or current elected official may not be
172 appointed inspector general within 5 years after the end of such



594-03403-15

173 individual's period of service. This restriction does not
174 prohibit the reappointment of a current inspector general.

175 (b) The inspector general shall report to and be under the
176 general supervision of the agency head and is not subject to
177 supervision by any other employee of the state agency in which
178 the office is established. For state agencies under the
179 jurisdiction of the Governor, the inspector general shall be
180 under the general supervision of the agency head for
181 administrative purposes, shall report to the Chief Inspector
182 General, and may hire and remove staff within the office of the
183 inspector general in consultation with the Chief Inspector
184 General but independently of the agency.

185 (c) For state agencies under the jurisdiction of the
186 Cabinet or the Governor and Cabinet, the inspector general may
187 be removed from office by the agency head. For state agencies
188 under the jurisdiction of the Governor, the inspector general
189 may only be removed from office by the Chief Inspector General
190 for cause, including concerns regarding performance,
191 malfeasance, misfeasance, misconduct, or failure to carry out
192 his or her duties under this section. The Chief Inspector
193 General shall notify the Governor in writing of his or her
194 intention to remove the inspector general at least 21 days
195 before the removal. For state agencies under the jurisdiction of
196 the Governor and Cabinet, the agency head shall notify the
197 Governor and Cabinet in writing of his or her intention to
198 remove the inspector general at least 21 days before the
199 removal. If the inspector general disagrees with the removal,
200 the inspector general may present objections in writing to the
201 Governor within the 21-day period.



594-03403-15

202 (d) The Governor, the Governor and Cabinet, the agency
203 head, or agency staff may not prevent or prohibit the inspector
204 general from initiating, carrying out, or completing any audit
205 or investigation.

206 (4) (a) To ensure that state agency audits are performed in
207 accordance with applicable auditing standards, the inspector
208 general or the director of auditing within the inspector
209 general's office shall possess the following qualifications:

210 1. ~~(a)~~ A bachelor's degree from an accredited college or
211 university with a major in accounting, or with a major in
212 business which includes five courses in accounting, and 5 years
213 of experience as an internal auditor or independent postauditor,
214 electronic data processing auditor, accountant, or any
215 combination thereof. At a minimum, the experience must ~~shall at~~
216 ~~a minimum~~ consist of audits of units of government or private
217 business enterprises, operating for profit or not for profit; ~~or~~

218 2. ~~(b)~~ A master's degree in accounting, business
219 administration, or public administration from an accredited
220 college or university and 4 years of the professional experience
221 ~~as required~~ under subparagraph 1. in paragraph (a); or

222 3. ~~(c)~~ A certified public accountant license issued pursuant
223 to chapter 473 or a certified internal audit certificate issued
224 by the Institute of Internal Auditors or earned by examination,
225 and 4 years of the professional experience ~~as required~~ under
226 subparagraph 1. in paragraph (a).

227 (b) For agencies under the jurisdiction of the Governor,
228 the inspector general shall be selected on the basis of
229 integrity, leadership capability, and experience in accounting,
230 auditing, financial analysis, law, management analysis, program



594-03403-15

231 evaluation, public administration, investigation, criminal
232 justice administration, or another closely related field. The
233 inspector general is subject to level 2 background screening
234 pursuant to chapter 435. The inspector general shall have a 4-
235 year degree from an accredited institution of higher learning or
236 at least 5 years of experience in at least one of the following
237 areas:

- 238 1. Inspector general.
239 2. Supervisory experience in an office of inspector general
240 or an investigative public agency similar to an office of
241 inspector general.
242 3. Local, state, or federal law enforcement officer.
243 4. Local, state, or federal court judge.
244 5. Senior-level auditor or comptroller.
245 6. The administration and management of complex audits and
246 investigations.
247 7. Managing programs for prevention, examination,
248 detection, elimination of fraud, waste, abuse, mismanagement,
249 malfeasance, or misconduct in government or organizations.

250
251 An advanced degree in law, accounting, public administration, or
252 another relevant field may substitute for 1 year of required
253 experience.

254 (c) The inspector general shall possess at appointment, or
255 obtain within the first year after appointment, a certification
256 from the Association of Inspectors General as a certified
257 inspector general. The inspector general shall have at least one
258 other related professional certification, such as certified
259 inspector general investigator, certified inspector general



594-03403-15

260 auditor, certified public accountant, certified internal
261 auditor, certified governmental financial manager, certified
262 fraud examiner, or certified financial crimes investigator, or
263 be a licensed attorney.

264 (d) The inspector general may not hold, or be a candidate
265 for, an elective office with the state or any municipality,
266 county, or other political subdivision of the state while
267 inspector general, and a current officer or employee of an
268 office of inspector general may not hold, or be a candidate for,
269 an elective office with the state or any municipality, county,
270 or other political subdivision of the state. The inspector
271 general may not hold office in a political party or political
272 committee. An employee of an office of inspector general may not
273 hold office in a political party or political committee while
274 employed in the office of inspector general.

275 (5) The inspector general and his or her staff shall have
276 access to any records, data, and other information of the state
277 agency which he or she deems necessary to carry out his or her
278 duties. The inspector general, at all times, shall have access
279 to a building or facility that is owned, operated, or leased by
280 a department, agency, board, or commission, or a property held
281 in trust to the state if the inspector general deems such access
282 necessary to carry out his or her duties. The inspector general
283 may also request such information or assistance as may be
284 necessary from the state agency or from any federal, state, or
285 local governmental entity.

286 (6) It is the duty of every state officer, employee,
287 agency, special district, board, commission, contractor, and
288 subcontractor to cooperate with the inspector general in any



594-03403-15

289 investigation, audit, inspection, review, or hearing pursuant to
290 this section. Beginning July 1, 2015, each contract, bid,
291 proposal, and application or solicitation for a contract must
292 contain a statement that the corporation, partnership, or person
293 understands and will comply with this subsection.

294 (7)(5) In carrying out the auditing duties and
295 responsibilities specified in of this section act, each
296 inspector general shall review and evaluate internal controls
297 necessary to ensure the fiscal accountability of the state
298 agency. The inspector general shall conduct financial,
299 compliance, electronic data processing, and performance audits
300 of the agency and prepare audit reports of his or her findings.
301 The scope and assignment of the audits shall be determined by
302 the inspector general; however, the agency head may at any time
303 request the inspector general to perform an audit of a special
304 program, function, or organizational unit. The performance of
305 the audit shall be under the direction of the inspector general,
306 except that if the inspector general does not possess the
307 qualifications specified in subsection (4), the director of
308 auditing shall perform the functions listed in this subsection.

309 (a) Such audits shall be conducted in accordance with the
310 current International Standards for the Professional Practice of
311 Internal Auditing as published by the Institute of Internal
312 Auditors, Inc., or, where appropriate, in accordance with
313 generally accepted governmental auditing standards. All audit
314 reports issued by internal audit staff shall include a statement
315 that the audit was conducted pursuant to the appropriate
316 standards.

317 (b) Audit workpapers and reports shall be public records to



594-03403-15

318 the extent that they do not include information which has been
319 made confidential and exempt from the provisions of s. 119.07(1)
320 pursuant to law. However, when the inspector general or a member
321 of the staff receives from an individual a complaint or
322 information that falls within the definition provided in s.
323 112.3187(5), the name or identity of the individual may not be
324 disclosed to anyone else without the written consent of the
325 individual, unless the inspector general determines that such
326 disclosure is unavoidable during the course of the audit or
327 investigation.

328 ~~(c) The inspector general and the staff shall have access~~
329 ~~to any records, data, and other information of the state agency~~
330 ~~he or she deems necessary to carry out his or her duties. The~~
331 ~~inspector general may also request such information or~~
332 ~~assistance as may be necessary from the state agency or from any~~
333 ~~federal, state, or local government entity.~~

334 ~~(d)~~ At the conclusion of each audit, the inspector general
335 shall submit preliminary findings and recommendations to the
336 person responsible for supervision of the program function or
337 operational unit who shall respond to any adverse findings
338 within 20 working days after receipt of the preliminary
339 findings. Such response and the inspector general's rebuttal to
340 the response shall be included in the final audit report.

341 ~~(d)(e)~~ At the conclusion of an audit in which the subject
342 of the audit is a specific entity contracting with the state or
343 an individual substantially affected, if the audit is not
344 confidential or otherwise exempt from disclosure by law, the
345 inspector general shall, consistent with s. 119.07(1), submit
346 the findings to the entity contracting with the state or the



594-03403-15

347 individual substantially affected, who shall be advised in
348 writing that they may submit a written response within 20
349 working days after receipt of the findings. The response and the
350 inspector general's rebuttal to the response, if any, must be
351 included in the final audit report.

352 (e)~~(f)~~ The inspector general shall submit the final report
353 to the agency head, the Auditor General, and, for state agencies
354 under the jurisdiction of the Governor, the Chief Inspector
355 General.

356 (f)~~(g)~~ The Auditor General, in connection with the
357 independent postaudit of the same agency pursuant to s. 11.45,
358 shall give appropriate consideration to internal audit reports
359 and the resolution of findings therein. The Legislative Auditing
360 Committee may inquire into the reasons or justifications for
361 failure of the agency head to correct the deficiencies reported
362 in internal audits that are also reported by the Auditor General
363 and shall take appropriate action.

364 (g)~~(h)~~ The inspector general shall monitor the
365 implementation of the state agency's response to any report on
366 the state agency issued by the Auditor General or by the Office
367 of Program Policy Analysis and Government Accountability. No
368 later than 6 months after the Auditor General or the Office of
369 Program Policy Analysis and Government Accountability publishes
370 a report on the state agency, the inspector general shall
371 provide a written response to the agency head or, for state
372 agencies under the jurisdiction of the Governor, the Chief
373 Inspector General on the status of corrective actions taken. The
374 inspector general shall file a copy of such response with the
375 Legislative Auditing Committee.



560970

594-03403-15

376 (h)~~(i)~~ The inspector general shall develop long-term and
377 annual audit plans based on the findings of periodic risk
378 assessments. The plan, where appropriate, should include
379 postaudit samplings of payments and accounts. The plan shall
380 show the individual audits to be conducted during each year and
381 related resources to be devoted to the respective audits. The
382 Chief Financial Officer, to assist in fulfilling the
383 responsibilities for examining, auditing, and settling accounts,
384 claims, and demands pursuant to s. 17.03(1), and examining,
385 auditing, adjusting, and settling accounts pursuant to s. 17.04,
386 may use audits performed by the inspectors general and internal
387 auditors. For state agencies under the jurisdiction of the
388 Governor, the audit plans shall be submitted to the Chief
389 Inspector General. The plan shall be submitted to the agency
390 head for approval. A copy of the approved plan shall be
391 submitted to the Auditor General.

392 Section 3. This act shall take effect July 1, 2015.