

By Senator Latvala

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1 A bill to be entitled
2 An act relating to inspectors general; amending s.
3 14.32, F.S.; authorizing the Chief Inspector General
4 or his or her designee to issue and enforce subpoenas
5 under certain circumstances; amending s. 20.055, F.S.;
6 providing additional hiring requirements, employment
7 qualifications, and terms of employment for agency
8 inspectors general and staff; specifying additional
9 records and personnel that must be accessible to
10 agency inspectors general during an audit or
11 investigation; authorizing agency inspectors general
12 and designated staff to administer oaths; requiring
13 all personnel to comply with requests of agency
14 inspectors general under penalty of loss of
15 employment; specifying that disclosure of certain
16 information to agency inspectors general does not
17 constitute a waiver of attorney-client privilege;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (5) is added to section 14.32,
23 Florida Statutes, to read:

24 14.32 Office of Chief Inspector General.—

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

27 (a) Issue and serve subpoenas and subpoenas duces tecum to
28 compel the attendance of witnesses and the production of
29 documents, reports, answers, records, accounts, and other data

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30 in any medium.

31 (b) Require or authorize a person to file a statement in
32 writing, under oath or otherwise, as to all the facts and
33 circumstances concerning the matter to be audited, examined, or
34 investigated.

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

43 Section 2. Subsections (3), (4), and (5) of section 20.055,
44 Florida Statutes, are amended to read:

45 20.055 Agency inspectors general.—

46 (3) (a) 1. For state agencies under the jurisdiction of the
47 Cabinet or the Governor and Cabinet, the inspector general shall
48 be appointed by the agency head. For state agencies under the
49 jurisdiction of the Governor, the inspector general shall be
50 appointed by the Chief Inspector General. The agency head or
51 Chief Inspector General shall notify the Governor in writing of
52 his or her intention to hire the inspector general at least 7
53 days before an offer of employment. The inspector general shall
54 be appointed without regard to political affiliation.

55 2. Within 60 days after a vacancy or anticipated vacancy in
56 the position of inspector general, the agency head or, for
57 agencies under the jurisdiction of the Governor, the Chief
58 Inspector General, shall initiate a national search for an

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59 inspector general and shall set the salary of the inspector
60 general. In the event of a vacancy in the position of inspector
61 general, the agency head or, for agencies under the jurisdiction
62 of the Governor, the Chief Inspector General, may appoint other
63 office of inspector general management personnel as interim
64 inspector general until such time that a successor inspector
65 general is appointed.

66 3. A former or current elected official may not be
67 appointed inspector general within 5 years after the end of such
68 individual's period of service. Notwithstanding this
69 restriction, employees of the office of inspector general who
70 have served in the office for 4 or more years may be considered
71 eligible for appointment to the position of inspector general.
72 This subparagraph does not prohibit the reappointment of a
73 current inspector general.

74 4. Upon appointment as inspector general, an individual's
75 initial term shall be 5 years. Subsequent 5-year terms may be
76 renewed at the discretion of the agency head or, for agencies
77 under the jurisdiction of the Governor, the Chief Inspector
78 General. Notwithstanding this term of appointment, an inspector
79 general may be removed from office at the discretion of the
80 agency head or, for agencies under the jurisdiction of the
81 Governor, the Chief Inspector General, as provided in paragraph
82 (c).

83 (b) The inspector general shall report to and be under the
84 general supervision of the agency head and is not subject to
85 supervision by any other employee of the state agency in which
86 the office is established. For state agencies under the
87 jurisdiction of the Governor, the inspector general shall be

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88 under the general supervision of the agency head, shall report
89 to the Chief Inspector General, and may hire and remove staff
90 within the office of the inspector general in consultation with
91 the Chief Inspector General but independently of the agency. An
92 office of inspector general may include, but not be limited to,
93 a division of investigations, a division of audit, or other
94 division as appropriate. The Chief Inspector General may hire or
95 retain legal counsel.

96 (c) For state agencies under the jurisdiction of the
97 Cabinet or the Governor and Cabinet, the inspector general may
98 be removed from office by the agency head. For state agencies
99 under the jurisdiction of the Governor, the inspector general
100 may only be removed from office by the Chief Inspector General
101 for cause, including concerns regarding performance,
102 malfeasance, misfeasance, misconduct, or failure to carry out
103 his or her duties under this section. The Chief Inspector
104 General shall notify the Governor in writing of his or her
105 intention to remove the inspector general at least 21 days
106 before the removal. For state agencies under the jurisdiction of
107 the Governor and Cabinet, the agency head shall notify the
108 Governor and Cabinet in writing of his or her intention to
109 remove the inspector general at least 21 days before the
110 removal. If the inspector general disagrees with the removal,
111 the inspector general may present objections in writing to the
112 Governor within the 21-day period.

113 (d) The Governor, the Governor and Cabinet, the agency
114 head, or agency staff may not prevent or prohibit the inspector
115 general from initiating, carrying out, or completing any audit
116 or investigation.

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

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

129 2. ~~(b)~~ A master's degree in accounting, business
130 administration, or public administration from an accredited
131 college or university and 4 years of experience as required in
132 subparagraph 1. ~~paragraph (a)~~; or

133 3. ~~(c)~~ A certified public accountant license issued pursuant
134 to chapter 473 or a certified internal audit certificate issued
135 by the Institute of Internal Auditors or earned by examination,
136 and 4 years of experience as required in paragraph (a).

137 4. The inspector general shall possess at appointment, or
138 seek within the first year after appointment, a certification
139 from the Association of Inspectors General as a certified
140 inspector general. A well-qualified inspector general shall have
141 two or more other professional certifications, such as certified
142 inspector general investigator, certified inspector general
143 auditor, certified public accountant, certified internal
144 auditor, certified governmental financial manager, or certified
145 fraud examiner, or be a licensed attorney.

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146 (b) The inspector general shall have special training and
147 experience in the administration and managing of programs for
148 prevention, examination, investigation, audit, detection,
149 elimination, and prosecution of fraud, corruption, waste,
150 mismanagement, or misconduct in the operation of government or
151 organizations. The inspector general shall be selected on the
152 basis of integrity, leadership capability, and demonstrated
153 ability in accounting, auditing, financial analysis, law,
154 management analysis, public administration, investigation,
155 criminal justice administration, or other closely related field.
156 In addition, the inspector general should demonstrate knowledge,
157 skills, abilities, and experience in conducting audits,
158 investigations, inspections, and performance reviews. A
159 qualified candidate for inspector general shall have a 4-year
160 degree from an accredited institution of higher learning or have
161 at least 5 years of experience in at least one of the following
162 professions:

- 163 1. Inspector general.
- 164 2. Local, state, or federal law enforcement officer.
- 165 3. Federal or state court judge.
- 166 4. Licensed attorney with expertise in the areas of audit
167 and investigation of fraud, mismanagement, waste, corruption,
168 and abuse of power.
- 169 5. Senior-level auditor or comptroller.
- 170 6. Supervisory experience in an office of inspector general
171 or an investigative public agency similar to an office of
172 inspector general.

173
174 For agencies under the jurisdiction of the Governor, the Chief

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175 Inspector General may consider other credentials,
176 certifications, education, and experience, as appropriate.

177 (c) In addition to the qualifications in paragraph (b), a
178 qualified candidate shall have:

179 1. Managed and completed complex investigations involving
180 allegations of fraud, waste, abuse, illegal acts, theft, public
181 corruption, deception and conspiracy;

182 2. Demonstrated the ability to effectively collaborate with
183 local, state, and federal law enforcement agencies and the
184 judiciary; or

185 3. An advanced degree in law, accounting, public
186 administration, or other relevant field.

187 (d) The inspector general may not hold, or be a candidate
188 for, an elective office while inspector general, and a current
189 officer or employee of an office of inspector general may not
190 hold, or be a candidate for, an elective office. The inspector
191 general may not hold office in a political party or political
192 committee, may not participate in a political campaign of any
193 candidate for elective office, and may not make a campaign
194 contribution or campaign endorsement. An employee of an office
195 of inspector general may not hold office in a political party or
196 political committee, participate in a political campaign of a
197 candidate for elective office, or make a campaign contribution
198 or campaign endorsement, while employed in the office of
199 inspector general.

200 (5) In carrying out the auditing duties and
201 responsibilities of this section ~~act~~, each inspector general
202 shall review and evaluate internal controls necessary to ensure
203 the fiscal accountability of the state agency. The inspector

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204 general shall conduct financial, compliance, electronic data
205 processing, and performance audits of the agency and prepare
206 audit reports of his or her findings. The scope and assignment
207 of the audits shall be determined by the inspector general;
208 however, the agency head may at any time request the inspector
209 general to perform an audit of a special program, function, or
210 organizational unit. The performance of the audit shall be under
211 the direction of the inspector general, except that if the
212 inspector general does not possess the qualifications specified
213 in subsection (4), the director of auditing shall perform the
214 functions listed in this subsection.

215 (a) Such audits shall be conducted in accordance with the
216 current International Standards for the Professional Practice of
217 Internal Auditing as published by the Institute of Internal
218 Auditors, Inc., or, where appropriate, in accordance with
219 generally accepted governmental auditing standards. All audit
220 reports issued by internal audit staff shall include a statement
221 that the audit was conducted pursuant to the appropriate
222 standards.

223 (b) Audit workpapers and reports shall be public records to
224 the extent that they do not include information which has been
225 made confidential and exempt from the provisions of s. 119.07(1)
226 pursuant to law. However, when the inspector general or a member
227 of the staff receives from an individual a complaint or
228 information that falls within the definition provided in s.
229 112.3187(5), the name or identity of the individual may not be
230 disclosed to anyone else without the written consent of the
231 individual, unless the inspector general determines that such
232 disclosure is unavoidable during the course of the audit or

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233 investigation.

234 (c) The inspector general and the staff shall have access
235 to all records, information, data, reports, plans, projections,
236 matters, contracts, memoranda, correspondence, audits, reviews,
237 papers, books, documents, computer hard drives, e-mails, instant
238 messages, recommendations, and any other material of the agency,
239 agency head, or of an individual, partnership, corporation, or
240 organization related to any financial or official function of
241 state government that the inspector general deems necessary to
242 facilitate an investigation, audit, inspection, or performance
243 review. The inspector general shall have access to all employees
244 of the agency. The inspector general shall, at all times, have
245 access to buildings or facilities that are owned, operated, or
246 leased by a department, agency, board, or commission, or
247 property held in trust to the state ~~to any records, data, and~~
248 ~~other information of the state agency he or she deems necessary~~
249 ~~to carry out his or her duties.~~ The inspector general may also
250 request such information or assistance as may be necessary from
251 the state agency or from any federal, state, or local government
252 entity.

253 (d)1. For purposes of an investigation, audit, inspection,
254 or performance review, the inspector general and staff
255 designated by the inspector general may administer oaths and
256 affirmations, compel witness attendance and testimony under
257 oath, take evidence, and require the production of any records
258 that the inspector general deems relevant or material to an
259 investigation, audit, inspection, or performance review.

260 2.a. In carrying out the provisions of this paragraph, the
261 inspector general shall have access to all records; reports;

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262 audits; reviews; papers; books; documents; computer hard drives;
263 e-mails; instant messages; recommendations; correspondence,
264 including information relative to the purchase of supplies and
265 services or anticipated purchase of supplies and services from
266 any contractor by an agency, board, or commission; and other
267 data and material that is maintained by or available to the
268 agency, board, or commission that in any way relates to the
269 programs and operations with respect to which the inspector
270 general has duties and responsibilities.

271 b. The inspector general may request information,
272 cooperation, and assistance from an agency, special district,
273 board, or commission. Each person in charge of an agency,
274 special district, board, or commission shall furnish the
275 inspector general with such information, cooperation, and
276 assistance upon receipt of such request.

277 c. The inspector general shall have direct and prompt
278 access to the head of any agency, special district, board, or
279 commission when necessary for any purpose pertaining to the
280 performance of his or her duties and responsibilities. The
281 inspector general may require the attendance and testimony under
282 oath of persons and the production of all records, reports,
283 audits, inspections, reviews, papers, books, documents, computer
284 hard drives, e-mails, instant messages, recommendations,
285 correspondence, and other data and material relevant to a matter
286 under audit, investigation, inspection, or performance review.
287 Such summons shall be served in the same manner as a summons for
288 the production of documents in civil cases issued on behalf of
289 the state. Failure to appear in response to a subpoena, answer a
290 question, or produce information requested, or to knowingly give

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291 false testimony during an investigation, audit, inspection, or
292 review shall be considered contempt of court and shall subject a
293 respondent to loss of employment with the agency, special
294 district, board, or commission.

295 d. Every state officer, employee, agency, special district,
296 board, commission, contractor, subcontractor, licensee, and
297 applicant for certification of eligibility for a contract or
298 program shall cooperate with the inspector general in any
299 investigation, audit, inspection, performance review, or hearing
300 conducted pursuant to this section. Each contract, bid,
301 proposal, and application or solicitation for a contract shall
302 contain a statement that the corporation, partnership, or person
303 understands and will abide by this section. An employee,
304 appointed officer, or elected official who violates this section
305 is subject to loss of employment.

306 e. Disclosure to an inspector general of communications
307 between an agency, special district, board, or commission and an
308 attorney representing the agency, special district, board, or
309 commission does not constitute a waiver of attorney-client
310 privilege.

311 (e)~~(d)~~ At the conclusion of each audit, the inspector
312 general shall submit preliminary findings and recommendations to
313 the person responsible for supervision of the program function
314 or operational unit who shall respond to any adverse findings
315 within 20 working days after receipt of the preliminary
316 findings. Such response and the inspector general's rebuttal to
317 the response shall be included in the final audit report.

318 (f)~~(e)~~ At the conclusion of an audit in which the subject
319 of the audit is a specific entity contracting with the state or

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320 an individual substantially affected, if the audit is not
321 confidential or otherwise exempt from disclosure by law, the
322 inspector general shall, consistent with s. 119.07(1), submit
323 the findings to the entity contracting with the state or the
324 individual substantially affected, who shall be advised in
325 writing that they may submit a written response within 20
326 working days after receipt of the findings. The response and the
327 inspector general's rebuttal to the response, if any, must be
328 included in the final audit report.

329 (g)~~(f)~~ The inspector general shall submit the final report
330 to the agency head, the Auditor General, and, for state agencies
331 under the jurisdiction of the Governor, the Chief Inspector
332 General.

333 (h)~~(g)~~ The Auditor General, in connection with the
334 independent postaudit of the same agency pursuant to s. 11.45,
335 shall give appropriate consideration to internal audit reports
336 and the resolution of findings therein. The Legislative Auditing
337 Committee may inquire into the reasons or justifications for
338 failure of the agency head to correct the deficiencies reported
339 in internal audits that are also reported by the Auditor General
340 and shall take appropriate action.

341 (i)~~(h)~~ The inspector general shall monitor the
342 implementation of the state agency's response to any report on
343 the state agency issued by the Auditor General or by the Office
344 of Program Policy Analysis and Government Accountability. No
345 later than 6 months after the Auditor General or the Office of
346 Program Policy Analysis and Government Accountability publishes
347 a report on the state agency, the inspector general shall
348 provide a written response to the agency head or, for state

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349 agencies under the jurisdiction of the Governor, the Chief
350 Inspector General on the status of corrective actions taken. The
351 inspector general shall file a copy of such response with the
352 Legislative Auditing Committee.

353 (j)~~(i)~~ The inspector general shall develop long-term and
354 annual audit plans based on the findings of periodic risk
355 assessments. The plan, where appropriate, should include
356 postaudit samplings of payments and accounts. The plan shall
357 show the individual audits to be conducted during each year and
358 related resources to be devoted to the respective audits. The
359 Chief Financial Officer, to assist in fulfilling the
360 responsibilities for examining, auditing, and settling accounts,
361 claims, and demands pursuant to s. 17.03(1), and examining,
362 auditing, adjusting, and settling accounts pursuant to s. 17.04,
363 may use audits performed by the inspectors general and internal
364 auditors. For state agencies under the jurisdiction of the
365 Governor, the audit plans shall be submitted to the Chief
366 Inspector General. The plan shall be submitted to the agency
367 head for approval. A copy of the approved plan shall be
368 submitted to the Auditor General.

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