

By the Committee on Governmental Oversight and Accountability;
and 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 retain legal counsel and
5 issue and enforce subpoenas under certain
6 circumstances; amending s. 20.055, F.S.; revising the
7 definitions of the terms "agency head" and "state
8 agency" to include the State Board of Administration
9 and the Office of Early Learning of the Department of
10 Education; prescribing additional hiring requirements,
11 employment qualifications, and terms of employment for
12 inspectors general and staff of the office of
13 inspector general; specifying that an inspector
14 general is entitled to access to specified buildings
15 or facilities; establishing the duty of specified
16 persons and entities with respect to cooperation with
17 an inspector general's official duties; requiring
18 contracts and other specified documents to contain a
19 statement regarding compliance with an inspector
20 general's official duties; providing an effective
21 date.

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

24
25 Section 1. Subsection (5) is added to section 14.32,
26 Florida Statutes, to read:

27 14.32 Office of Chief Inspector General.—

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

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30 (a) Hire or retain legal counsel.

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

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

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

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

52 20.055 Agency inspectors general.—

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

54 (a) "Agency head" means the Governor, a Cabinet officer, or
55 a secretary or executive director as those terms are defined in
56 s. 20.03, the chair of the Public Service Commission, the
57 Director of the Office of Insurance Regulation of the Financial
58 Services Commission, the Director of the Office of Financial

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59 Regulation of the Financial Services Commission, the board of
60 directors of the Florida Housing Finance Corporation, the
61 Executive Director of the State Board of Administration, the
62 Executive Director of the Office of Early Learning, and the
63 Chief Justice of the State Supreme Court.

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

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

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88 to matters arising during a former employee's term of state
89 employment; or persons who are the subject of audits or
90 investigations conducted pursuant to ss. 112.3187-112.31895 or
91 s. 409.913 or which are otherwise confidential and exempt under
92 s. 119.07.

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

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

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

112 (b) Assess the reliability and validity of the information
113 provided by the state agency on performance measures and
114 standards, and make recommendations for improvement, if
115 necessary, before submission of such information pursuant to s.
116 216.1827.

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

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

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

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

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

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

144 (i) Ensure that an appropriate balance is maintained
145 between audit, investigative, and other accountability

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146 activities.

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

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

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

170 3. A former or current elected official may not be
171 appointed inspector general within 5 years after the end of such
172 individual's period of service. This restriction does not
173 prohibit the reappointment of a current inspector general.

174 4. Upon appointment as inspector general, an individual's

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175 initial term shall be 3 years. Subsequent 3-year terms may be
176 renewed at the discretion of the agency head or, for agencies
177 under the jurisdiction of the Governor, the Chief Inspector
178 General. Notwithstanding this term of appointment, an inspector
179 general may be removed from office for cause by the agency head
180 or, for agencies under the jurisdiction of the Governor, the
181 Chief Inspector General, as provided in paragraph (c).

182 (b) The inspector general shall report to and be under the
183 general supervision of the agency head and is not subject to
184 supervision by any other employee of the state agency in which
185 the office is established. For state agencies under the
186 jurisdiction of the Governor, the inspector general shall be
187 under the general supervision of the agency head for
188 administrative purposes, shall report to the Chief Inspector
189 General, and may hire and remove staff within the office of the
190 inspector general in consultation with the Chief Inspector
191 General but independently of the agency.

192 (c) For state agencies under the jurisdiction of the
193 Cabinet or the Governor and Cabinet, the inspector general may
194 be removed from office by the agency head. For state agencies
195 under the jurisdiction of the Governor, the inspector general
196 may only be removed from office by the Chief Inspector General
197 for cause, including concerns regarding performance,
198 malfeasance, misfeasance, misconduct, or failure to carry out
199 his or her duties under this section. The Chief Inspector
200 General shall notify the Governor in writing of his or her
201 intention to remove the inspector general at least 21 days
202 before the removal. For state agencies under the jurisdiction of
203 the Governor and Cabinet, the agency head shall notify the

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204 Governor and Cabinet in writing of his or her intention to
205 remove the inspector general at least 21 days before the
206 removal. If the inspector general disagrees with the removal,
207 the inspector general may present objections in writing to the
208 Governor within the 21-day period.

209 (d) The Governor, the Governor and Cabinet, the agency
210 head, or agency staff may not prevent or prohibit the inspector
211 general from initiating, carrying out, or completing any audit
212 or investigation.

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

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

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

229 3. ~~(c)~~ A certified public accountant license issued pursuant
230 to chapter 473 or a certified internal audit certificate issued
231 by the Institute of Internal Auditors or earned by examination,
232 and 4 years of the professional experience ~~as~~ required under

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233 subparagraph 1. in paragraph (a).

234 (b) For agencies under the jurisdiction of the Governor,
235 the inspector general shall be selected on the basis of
236 integrity, leadership capability, and experience in accounting,
237 auditing, financial analysis, law, management analysis, program
238 evaluation, public administration, investigation, criminal
239 justice administration, or another closely related field. The
240 inspector general is subject to level 2 background screening.
241 The inspector general shall have a 4-year degree from an
242 accredited institution of higher learning or at least 5 years of
243 experience in at least one of the following areas:

244 1. Inspector general.

245 2. Supervisory experience in an office of inspector general
246 or an investigative public agency similar to an office of
247 inspector general.

248 3. Local, state, or federal law enforcement officer.

249 4. Local, state, or federal court judge.

250 5. Senior-level auditor or comptroller.

251 6. Experience in the administration and management of
252 complex audits and investigations.

253 7. Experience managing programs for prevention,
254 examination, detection, elimination of fraud, waste, abuse,
255 mismanagement, malfeasance, or misconduct in government or
256 organizations.

257 8. An advanced degree in law, accounting, public
258 administration, or another relevant field may substitute for one
259 year of required experience.

260 (c) The inspector general shall possess at appointment, or
261 obtain within the first year after appointment, certification

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262 from the Association of Inspectors General as a certified
263 inspector general. The inspector general shall have at least one
264 other related professional certification, such as certified
265 inspector general investigator, certified inspector general
266 auditor, certified public accountant, certified internal
267 auditor, certified governmental financial manager, certified
268 fraud examiner, or certified financial crimes investigator, or
269 be a licensed attorney.

270 (d) The inspector general may not hold, or be a candidate
271 for, an elective office while inspector general, and a current
272 officer or employee of an office of inspector general may not
273 hold, or be a candidate for, an elective office. The inspector
274 general may not hold office in a political party or political
275 committee. An employee of an office of inspector general may not
276 hold office in a political party or political committee while
277 employed in the office of inspector general.

278 (5) The inspector general and his or her staff shall have
279 access to any records, data, and other information of the state
280 agency which he or she deems necessary to carry out his or her
281 duties. At all times, the inspector general shall have access to
282 a building or facility that is owned, operated, or leased by a
283 department, agency, board, or commission, or a property held in
284 trust to the state.

285 (6) It is the duty of every state officer, employee,
286 agency, special district, board, commission, contractor,
287 subcontractor, licensee, and applicant for certification of
288 eligibility for a contract or program, to cooperate with the
289 inspector general in any investigation, audit, inspection,
290 review, or hearing conducted pursuant to this section. Each

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291 contract, bid, proposal, and application or solicitation for a
292 contract shall contain a statement that the corporation,
293 partnership, or person understands and will comply with this
294 subsection.

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

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

318 (b) Audit workpapers and reports shall be public records to
319 the extent that they do not include information which has been

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

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

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

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

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

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

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

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

377 (h)~~(i)~~ The inspector general shall develop long-term and

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

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