

By the Committees on Fiscal Policy; and 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 Office of Early Learning of the
9 Department of Education; prescribing additional hiring
10 requirements, employment qualifications, and terms of
11 employment for inspectors general and staff of the
12 office of inspector general; establishing the duty of
13 specified persons and entities with respect to
14 cooperation with an inspector general's official
15 duties; requiring contracts and other specified
16 documents to contain a statement regarding compliance
17 with an inspector general's official duties; providing
18 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) Hire or retain legal counsel.

28 (b) Issue and serve subpoenas and subpoenas duces tecum,
29 for agencies under the jurisdiction of the Governor, to compel

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30 the attendance of witnesses and the production of documents,
31 reports, answers, records, accounts, and other data in any
32 medium.

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

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

45 Section 2. Subsections (1) through (4) of section 20.055,
46 Florida Statutes, are amended, present subsections (5) through
47 (9) are redesignated as subsections (6) through (10),
48 respectively, and a new subsection (5) is added to that section,
49 to read:

50 20.055 Agency inspectors general.—

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

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

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59 Executive Director of the Office of Early Learning, and the
60 Chief Justice of the State Supreme Court.

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

74 (c) "Individuals substantially affected" means natural
75 persons who have established a real and sufficiently immediate
76 injury in fact due to the findings, conclusions, or
77 recommendations of a final report of a state agency inspector
78 general, who are the subject of the audit or investigation, and
79 who do not have or are not currently afforded an existing right
80 to an independent review process. The term does not apply to
81 employees of the state, including career service, probationary,
82 other personal service, Selected Exempt Service, and Senior
83 Management Service employees; former employees of the state if
84 the final report of the state agency inspector general relates
85 to matters arising during a former employee's term of state
86 employment; or persons who are the subject of audits or
87 investigations conducted pursuant to ss. 112.3187-112.31895 or

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88 s. 409.913 or which are otherwise confidential and exempt under
89 s. 119.07.

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

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

106 (a) Advise in the development of performance measures,
107 standards, and procedures for the evaluation of state agency
108 programs.

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

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

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

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

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

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

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

141 (i) Ensure that an appropriate balance is maintained
142 between audit, investigative, and other accountability
143 activities.

144 (j) Comply with the General Principles and Standards for
145 Offices of Inspector General as published and revised by the

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146 Association of Inspectors General.

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

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

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

171 (b) The inspector general shall report to and be under the
172 general supervision of the agency head and is not subject to
173 supervision by any other employee of the state agency in which
174 the office is established. For state agencies under the

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175 jurisdiction of the Governor, the inspector general shall be
176 under the general supervision of the agency head for
177 administrative purposes, shall report to the Chief Inspector
178 General, and may hire and remove staff within the office of the
179 inspector general in consultation with the Chief Inspector
180 General but independently of the agency.

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

198 (d) The Governor, the Governor and Cabinet, the agency
199 head, or agency staff may not prevent or prohibit the inspector
200 general from initiating, carrying out, or completing any audit
201 or investigation.

202 (4) (a) To ensure that state agency audits are performed in
203 accordance with applicable auditing standards, the inspector

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204 general or the director of auditing within the inspector
205 general's office shall possess the following qualifications:

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

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

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

223 (b) For agencies under the jurisdiction of the Governor,
224 the inspector general shall be selected on the basis of
225 integrity, leadership capability, and experience in accounting,
226 auditing, financial analysis, law, management analysis, program
227 evaluation, public administration, investigation, criminal
228 justice administration, or another closely related field. The
229 inspector general is subject to level 2 background screening
230 pursuant to chapter 435. The inspector general shall have a 4-
231 year degree from an accredited institution of higher learning or
232 at least 5 years of experience in at least one of the following

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233 areas:

234 1. Inspector general.

235 2. Supervisory experience in an office of inspector general
236 or an investigative public agency similar to an office of
237 inspector general.

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

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

240 5. Senior-level auditor or comptroller.

241 6. The administration and management of complex audits and
242 investigations.

243 7. Managing programs for prevention, examination,
244 detection, elimination of fraud, waste, abuse, mismanagement,
245 malfeasance, or misconduct in government or organizations.

246
247 An advanced degree in law, accounting, public administration, or
248 another relevant field may substitute for 1 year of required
249 experience.

250 (c) The inspector general shall possess at appointment, or
251 obtain within the first year after appointment, a certification
252 from the Association of Inspectors General as a certified
253 inspector general. The inspector general shall have at least one
254 other related professional certification, such as certified
255 inspector general investigator, certified inspector general
256 auditor, certified public accountant, certified internal
257 auditor, certified governmental financial manager, certified
258 fraud examiner, or certified financial crimes investigator, or
259 be a licensed attorney.

260 (d) The inspector general may not hold, or be a candidate
261 for, an elective office with the state or any municipality,

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

271 (5) It is the duty of every state officer, employee,
272 agency, special district, board, commission, contractor, and
273 subcontractor to cooperate with the inspector general in any
274 investigation, audit, inspection, review, or hearing conducted
275 pursuant to this section. Beginning July 1, 2015, each contract,
276 bid, proposal, and application or solicitation for a contract
277 shall contain a statement that the corporation, partnership, or
278 person understands and will comply with this subsection.

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