

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Subcommittee

3 Representative Raulerson offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (1) through (5) of section 20.055,
 8 Florida Statutes, are amended to read:

9 20.055 Agency inspectors general.—

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

11 (a) "Agency head" means the Governor, a Cabinet officer,
 12 or a secretary or executive director as those terms are defined
 13 in s. 20.03, the chair of the Public Service Commission, the
 14 Director of the Office of Insurance Regulation of the Financial
 15 Services Commission, the Director of the Office of Financial
 16 Regulation of the Financial Services Commission, the board of
 17 directors of the Florida Housing Finance Corporation, the

Amendment No.

18 Executive Director of the State Board of Administration, the
19 Executive Director of the Office of Early Learning, and the
20 Chief Justice of the State Supreme Court.

21 (b) "Entities contracting with the state" means for-profit
22 and not-for-profit organizations or businesses that have a legal
23 existence, such as corporations or partnerships, as opposed to
24 natural persons, which have entered into a relationship with a
25 state agency to provide for consideration certain goods or
26 services to the state agency or on behalf of the state agency.
27 The relationship may be evidenced by payment by warrant or
28 purchasing card, contract, purchase order, provider agreement,
29 or other such mutually agreed upon relationship. The term does
30 not apply to entities that are the subject of audits or
31 investigations conducted pursuant to ss. 112.3187-112.31895 or
32 s. 409.913 or which are otherwise confidential and exempt under
33 s. 119.07.

34 (c) "Individuals substantially affected" means natural
35 persons who have established a real and sufficiently immediate
36 injury in fact due to the findings, conclusions, or
37 recommendations of a final report of a state agency inspector
38 general, who are the subject of the audit or investigation, and
39 who do not have or are not currently afforded an existing right
40 to an independent review process. The term does not apply to
41 employees of the state, including career service, probationary,
42 other personal service, Selected Exempt Service, and Senior
43 Management Service employees; former employees of the state if

Amendment No.

44 the final report of the state agency inspector general relates
45 to matters arising during a former employee's term of state
46 employment; or persons who are the subject of audits or
47 investigations conducted pursuant to ss. 112.3187-112.31895 or
48 s. 409.913 or which are otherwise confidential and exempt under
49 s. 119.07.

50 (d) "State agency" means each department created pursuant
51 to this chapter and the Executive Office of the Governor, the
52 Department of Military Affairs, the Fish and Wildlife
53 Conservation Commission, the Office of Insurance Regulation of
54 the Financial Services Commission, the Office of Financial
55 Regulation of the Financial Services Commission, the Public
56 Service Commission, the Board of Governors of the State
57 University System, the Florida Housing Finance Corporation, the
58 Agency for State Technology, the State Board of Administration,
59 the Office of Early Learning, and the state courts system.

60 (2) An ~~The~~ office of inspector general is established in
61 each state agency to provide a central point for coordination of
62 and responsibility for activities that promote accountability,
63 integrity, and efficiency in government. It is the duty and
64 responsibility of each inspector general, with respect to the
65 state agency in which the office is established, to:

66 (a) Advise in the development of performance measures,
67 standards, and procedures for the evaluation of state agency
68 programs.

Amendment No.

69 (b) Assess the reliability and validity of the information
70 provided by the state agency on performance measures and
71 standards, and make recommendations for improvement, if
72 necessary, before submission of such information pursuant to s.
73 216.1827.

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

77 (d) Provide direction for, supervise, and coordinate
78 audits, investigations, and management reviews relating to the
79 programs and operations of the state agency, except that when
80 the inspector general does not possess the qualifications
81 specified in subsection (4), the director of auditing shall
82 conduct such audits.

83 (e) Conduct, supervise, or coordinate other activities
84 carried out or financed by that state agency for the purpose of
85 promoting economy and efficiency in the administration of, or
86 preventing and detecting fraud and abuse in, its programs and
87 operations.

88 (f) Keep the agency head or, for state agencies under the
89 jurisdiction of the Governor, the Chief Inspector General
90 informed concerning fraud, abuses, and deficiencies relating to
91 programs and operations administered or financed by the state
92 agency, recommend corrective action concerning fraud, abuses,
93 and deficiencies, and report on the progress made in
94 implementing corrective action.

Amendment No.

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

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

101 (i) Ensure that an appropriate balance is maintained
102 between audit, investigative, and other accountability
103 activities.

104 (j) Comply with the General Principles and Standards for
105 Offices of Inspector General as published and revised by the
106 Association of Inspectors General.

107 (3) (a) 1. For state agencies under the jurisdiction of the
108 Cabinet or the Governor and Cabinet, the inspector general shall
109 be appointed by the agency head. For state agencies under the
110 jurisdiction of the Governor, the inspector general shall be
111 appointed by the Chief Inspector General. The agency head or
112 Chief Inspector General shall notify the Governor in writing of
113 his or her intention to hire the inspector general at least 7
114 days before an offer of employment. The inspector general shall
115 be appointed without regard to political affiliation.

116 2. Within 60 days after a vacancy or anticipated vacancy
117 in the position of inspector general, the agency head or, for
118 agencies under the jurisdiction of the Governor, the Chief
119 Inspector General, shall initiate a national search for an
120 inspector general and shall set the salary of the inspector

Amendment No.

121 general. In the event of a vacancy in the position of inspector
122 general, the agency head or, for agencies under the jurisdiction
123 of the Governor, the Chief Inspector General, may appoint other
124 office of inspector general management personnel as interim
125 inspector general until such time as a successor inspector
126 general is appointed.

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

131 4. Upon appointment as inspector general, an individual's
132 initial term shall be 3 years. Subsequent 3-year terms may be
133 renewed at the discretion of the agency head or, for agencies
134 under the jurisdiction of the Governor, the Chief Inspector
135 General. Notwithstanding this term of appointment, an inspector
136 general may be removed from office for cause by the agency head
137 or, for agencies under the jurisdiction of the Governor, the
138 Chief Inspector General, as provided in paragraph (c).

139 (b) The inspector general shall report to and be under the
140 general supervision of the agency head and is not subject to
141 supervision by any other employee of the state agency in which
142 the office is established. For state agencies under the
143 jurisdiction of the Governor, the inspector general shall be
144 under the general supervision of the agency head for
145 administrative purposes, shall report to the Chief Inspector
146 General, and may hire and remove staff within the office of the

Amendment No.

147 inspector general in consultation with the Chief Inspector
148 General but independently of the agency.

149 (c) For state agencies under the jurisdiction of the
150 Cabinet or the Governor and Cabinet, the inspector general may
151 be removed from office by the agency head. For state agencies
152 under the jurisdiction of the Governor, the inspector general
153 may only be removed from office by the Chief Inspector General
154 for cause, including concerns regarding performance,
155 malfeasance, misfeasance, misconduct, or failure to carry out
156 his or her duties under this section. The Chief Inspector
157 General shall notify the Governor in writing of his or her
158 intention to remove the inspector general at least 21 days
159 before the removal. For state agencies under the jurisdiction of
160 the Governor and Cabinet, the agency head shall notify the
161 Governor and Cabinet in writing of his or her intention to
162 remove the inspector general at least 21 days before the
163 removal. If the inspector general disagrees with the removal,
164 the inspector general may present objections in writing to the
165 Governor within the 21-day period.

166 (d) The Governor, the Governor and Cabinet, the agency
167 head, or agency staff may not prevent or prohibit the inspector
168 general from initiating, carrying out, or completing any audit
169 or investigation.

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

Amendment No.

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

174 ~~1.(a)~~ A bachelor's degree from an accredited college or
175 university with a major in accounting, or with a major in
176 business which includes five courses in accounting, and 5 years
177 of experience as an internal auditor or independent postauditor,
178 electronic data processing auditor, accountant, or any
179 combination thereof. The experience shall at a minimum consist
180 of audits of units of government or private business
181 enterprises, operating for profit or not for profit; ~~or~~

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

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

191 (b) For agencies under the jurisdiction of the Governor,
192 the inspector general shall be selected on the basis of
193 integrity, leadership capability, and experience in accounting,
194 auditing, financial analysis, law, management analysis, program
195 evaluation, public administration, investigation, criminal
196 justice administration, or other closely related field. The
197 inspector general shall be subject to a level two background

Amendment No.

198 screening. The inspector general shall have a 4-year degree from
199 an accredited institution of higher learning or have at least 5
200 years of experience in at least one of the following areas:

201 1. Inspector general.

202 2. Supervisory experience in an office of inspector
203 general or an investigative public agency similar to an office
204 of inspector general.

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

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

207 5. Senior-level auditor or comptroller.

208 6. Experience in the administration and management of
209 complex audits and investigations.

210 7. Experience managing programs for prevention,
211 examination, detection, elimination of fraud, waste, abuse,
212 mismanagement, malfeasance or misconduct in government or
213 organizations.

214 8. An advanced degree in law, accounting, public
215 administration, or other relevant field may substitute for one
216 year of required experience.

217 (c) The inspector general shall possess at appointment, or
218 obtain within the first year after appointment, a certification
219 from the Association of Inspectors General as a certified
220 inspector general. The inspector general shall have one or more
221 other professional certifications, such as certified inspector
222 general investigator, certified inspector general auditor,
223 certified public accountant, certified internal auditor,

Amendment No.

224 certified governmental financial manager, or certified fraud
225 examiner, certified financial crimes investigator or other
226 related certification, or be a licensed attorney.

227 (d) The inspector general may not hold, or be a candidate
228 for, an elective office while inspector general, and a current
229 officer or employee of an office of inspector general may not
230 hold, or be a candidate for, an elective office. The inspector
231 general may not hold office in a political party or political
232 committee. An employee of an office of inspector general may not
233 hold office in a political party or political committee while
234 employed in the office of inspector general.

235 (5) In carrying out the auditing duties and
236 responsibilities of this act, each inspector general shall
237 review and evaluate internal controls necessary to ensure the
238 fiscal accountability of the state agency. The inspector general
239 shall conduct financial, compliance, electronic data processing,
240 and performance audits of the agency and prepare audit reports
241 of his or her findings. The scope and assignment of the audits
242 shall be determined by the inspector general; however, the
243 agency head may at any time request the inspector general to
244 perform an audit of a special program, function, or
245 organizational unit. The performance of the audit shall be under
246 the direction of the inspector general, except that if the
247 inspector general does not possess the qualifications specified
248 in subsection (4), the director of auditing shall perform the
249 functions listed in this subsection.

Amendment No.

250 (a) Such audits shall be conducted in accordance with the
251 current International Standards for the Professional Practice of
252 Internal Auditing as published by the Institute of Internal
253 Auditors, Inc., or, where appropriate, in accordance with
254 generally accepted governmental auditing standards. All audit
255 reports issued by internal audit staff shall include a statement
256 that the audit was conducted pursuant to the appropriate
257 standards.

258 (b) Audit workpapers and reports shall be public records
259 to the extent that they do not include information which has
260 been made confidential and exempt from the provisions of s.
261 119.07(1) pursuant to law. However, when the inspector general
262 or a member of the staff receives from an individual a complaint
263 or information that falls within the definition provided in s.
264 112.3187(5), the name or identity of the individual may not be
265 disclosed to anyone else without the written consent of the
266 individual, unless the inspector general determines that such
267 disclosure is unavoidable during the course of the audit or
268 investigation.

269 (c)1. The inspector general and the staff shall have
270 access to any records, data, and other information of the state
271 agency he or she deems necessary to carry out his or her duties.
272 At all times the inspector general shall have access to a
273 building or facility that is owned, operated, or leased by a
274 department, agency, board, or commission, or a property held in
275 trust to the state. The inspector general may also request such

Amendment No.

276 information or assistance as may be necessary from the state
277 agency or from any federal, state, or local government entity.

278 2. It shall be the duty of every state officer, employee,
279 agency, special district, board, commission, contractor,
280 subcontractor, licensee, and applicant for certification of
281 eligibility for a contract or program, to cooperate with the
282 inspector general in any investigation, audit, inspection,
283 review, or hearing pursuant to this section. Each contract, bid,
284 proposal, and application or solicitation for a contract shall
285 contain a statement that the corporation, partnership, or person
286 understands and will abide by this subparagraph.

287 (d) At the conclusion of each audit, the inspector general
288 shall submit preliminary findings and recommendations to the
289 person responsible for supervision of the program function or
290 operational unit who shall respond to any adverse findings
291 within 20 working days after receipt of the preliminary
292 findings. Such response and the inspector general's rebuttal to
293 the response shall be included in the final audit report.

294 (e) At the conclusion of an audit in which the subject of
295 the audit is a specific entity contracting with the state or an
296 individual substantially affected, if the audit is not
297 confidential or otherwise exempt from disclosure by law, the
298 inspector general shall, consistent with s. 119.07(1), submit
299 the findings to the entity contracting with the state or the
300 individual substantially affected, who shall be advised in
301 writing that they may submit a written response within 20

Amendment No.

302 working days after receipt of the findings. The response and the
303 inspector general's rebuttal to the response, if any, must be
304 included in the final audit report.

305 (f) The inspector general shall submit the final report to
306 the agency head, the Auditor General, and, for state agencies
307 under the jurisdiction of the Governor, the Chief Inspector
308 General.

309 (g) The Auditor General, in connection with the
310 independent postaudit of the same agency pursuant to s. 11.45,
311 shall give appropriate consideration to internal audit reports
312 and the resolution of findings therein. The Legislative Auditing
313 Committee may inquire into the reasons or justifications for
314 failure of the agency head to correct the deficiencies reported
315 in internal audits that are also reported by the Auditor General
316 and shall take appropriate action.

317 (h) The inspector general shall monitor the implementation
318 of the state agency's response to any report on the state agency
319 issued by the Auditor General or by the Office of Program Policy
320 Analysis and Government Accountability. No later than 6 months
321 after the Auditor General or the Office of Program Policy
322 Analysis and Government Accountability publishes a report on the
323 state agency, the inspector general shall provide a written
324 response to the agency head or, for state agencies under the
325 jurisdiction of the Governor, the Chief Inspector General on the
326 status of corrective actions taken. The inspector general shall

Amendment No.

327 file a copy of such response with the Legislative Auditing
328 Committee.

329 (i) The inspector general shall develop long-term and
330 annual audit plans based on the findings of periodic risk
331 assessments. The plan, where appropriate, should include
332 postaudit samplings of payments and accounts. The plan shall
333 show the individual audits to be conducted during each year and
334 related resources to be devoted to the respective audits. The
335 Chief Financial Officer, to assist in fulfilling the
336 responsibilities for examining, auditing, and settling accounts,
337 claims, and demands pursuant to s. 17.03(1), and examining,
338 auditing, adjusting, and settling accounts pursuant to s. 17.04,
339 may use audits performed by the inspectors general and internal
340 auditors. For state agencies under the jurisdiction of the
341 Governor, the audit plans shall be submitted to the Chief
342 Inspector General. The plan shall be submitted to the agency
343 head for approval. A copy of the approved plan shall be
344 submitted to the Auditor General.

345 Section 2. Subsection (5) is added to section 14.32,
346 Florida Statutes, to read:

347 14.32 Office of Chief Inspector General.—

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

350 (a) May hire or retain legal counsel.

351 (b) Issue and serve subpoenas and subpoenas duces tecum to
352 compel the attendance of witnesses and the production of

Amendment No.

353 documents, reports, answers, records, accounts, and other data
354 in any medium.

355 (c) Require or permit a person to file a statement in
356 writing, under oath or otherwise, as to all the facts and
357 circumstances concerning the matter to be audited, examined, or
358 investigated.

359
360 In the event of noncompliance with a subpoena issued pursuant to
361 this subsection, the Chief Inspector General may petition the
362 circuit court of the county in which the person subpoenaed
363 resides or has his or her principal place of business for an
364 order requiring the subpoenaed person to appear and testify and
365 to produce documents, reports, answers, records, accounts, or
366 other data as specified in the subpoena.

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

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370 **T I T L E A M E N D M E N T**

371 Remove everything before the enacting clause and insert:
372 An act relating to agency inspectors general; amending s.
373 20.055, F.S.; providing additional hiring requirements,
374 employment qualifications, and terms of employment for
375 inspectors general and staff; specifying additional records and
376 personnel accessible to inspectors general during an audit or
377 investigation; amending s. 14.32, F.S.; authorizing the Chief
378 Inspector General to retain legal counsel and issue and enforce

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 371 (2015)

Amendment No.

379 subpoenas under certain circumstances; providing an effective
380 date.