

1 A bill to be entitled
2 An act relating to agency inspectors general; amending
3 s. 20.055, F.S.; providing additional hiring
4 requirements, employment qualifications, and terms of
5 employment for inspectors general and staff;
6 specifying additional records and personnel accessible
7 to inspectors general during an audit or
8 investigation; amending s. 14.32, F.S.; authorizing
9 the Chief Inspector General to retain legal counsel
10 and issue and enforce subpoenas under certain
11 circumstances; providing an effective date.

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

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

17 20.055 Agency inspectors general.—

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

19 (a) "Agency head" means the Governor, a Cabinet officer,
20 or a secretary or executive director as those terms are defined
21 in s. 20.03, the chair of the Public Service Commission, the
22 Director of the Office of Insurance Regulation of the Financial
23 Services Commission, the Director of the Office of Financial
24 Regulation of the Financial Services Commission, the board of
25 directors of the Florida Housing Finance Corporation, the
26 executive director of the State Board of Administration, the

27 executive director of the Office of Early Learning, and the
28 Chief Justice of the State Supreme Court.

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

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

53 | to matters arising during a former employee's term of state
 54 | employment; or persons who are the subject of audits or
 55 | investigations conducted pursuant to ss. 112.3187-112.31895 or
 56 | s. 409.913 or which are otherwise confidential and exempt under
 57 | s. 119.07.

58 | (d) "State agency" means each department created pursuant
 59 | to this chapter and the Executive Office of the Governor, the
 60 | Department of Military Affairs, the Fish and Wildlife
 61 | Conservation Commission, the Office of Insurance Regulation of
 62 | the Financial Services Commission, the Office of Financial
 63 | Regulation of the Financial Services Commission, the Public
 64 | Service Commission, the Board of Governors of the State
 65 | University System, the Florida Housing Finance Corporation, the
 66 | Agency for State Technology, the State Board of Administration,
 67 | the Office of Early Learning, and the state courts system.

68 | (2) An ~~The~~ office of inspector general is established in
 69 | each state agency to provide a central point for coordination of
 70 | and responsibility for activities that promote accountability,
 71 | integrity, and efficiency in government. It is the duty and
 72 | responsibility of each inspector general, with respect to the
 73 | state agency in which the office is established, to:

74 | (a) Advise in the development of performance measures,
 75 | standards, and procedures for the evaluation of state agency
 76 | programs.

77 | (b) Assess the reliability and validity of the information
 78 | provided by the state agency on performance measures and

79 standards, and make recommendations for improvement, if
80 necessary, before submission of such information pursuant to s.
81 216.1827.

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

85 (d) Provide direction for, supervise, and coordinate
86 audits, investigations, and management reviews relating to the
87 programs and operations of the state agency, except that when
88 the inspector general does not possess the qualifications
89 specified in subsection (4), the director of auditing shall
90 conduct such audits.

91 (e) Conduct, supervise, or coordinate other activities
92 carried out or financed by that state agency for the purpose of
93 promoting economy and efficiency in the administration of, or
94 preventing and detecting fraud and abuse in, its programs and
95 operations.

96 (f) Keep the agency head or, for state agencies under the
97 jurisdiction of the Governor, the Chief Inspector General
98 informed concerning fraud, abuses, and deficiencies relating to
99 programs and operations administered or financed by the state
100 agency, recommend corrective action concerning fraud, abuses,
101 and deficiencies, and report on the progress made in
102 implementing corrective action.

103 (g) Ensure effective coordination and cooperation between
104 the Auditor General, federal auditors, and other governmental

105 bodies with a view toward avoiding duplication.

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

109 (i) Ensure that an appropriate balance is maintained
110 between audit, investigative, and other accountability
111 activities.

112 (j) Comply with the General Principles and Standards for
113 Offices of Inspector General as published and revised by the
114 Association of Inspectors General.

115 (3) (a) 1. For state agencies under the jurisdiction of the
116 Cabinet or the Governor and Cabinet, the inspector general shall
117 be appointed by the agency head. For state agencies under the
118 jurisdiction of the Governor, the inspector general shall be
119 appointed by the Chief Inspector General. The agency head or
120 Chief Inspector General shall notify the Governor in writing of
121 his or her intention to hire the inspector general at least 7
122 days before an offer of employment. The inspector general shall
123 be appointed without regard to political affiliation.

124 2. Within 60 days after a vacancy or anticipated vacancy
125 in the position of inspector general, the agency head or, for
126 agencies under the jurisdiction of the Governor, the Chief
127 Inspector General, shall initiate a national search for an
128 inspector general and shall set the salary of the inspector
129 general. In the event of a vacancy in the position of inspector
130 general, the agency head or, for agencies under the jurisdiction

131 of the Governor, the Chief Inspector General, may appoint other
132 office of inspector general management personnel as interim
133 inspector general until such time as a successor inspector
134 general is appointed.

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

139 4. Upon appointment as inspector general, an individual's
140 initial term shall be 3 years. Subsequent 3-year terms may be
141 renewed at the discretion of the agency head or, for agencies
142 under the jurisdiction of the Governor, the Chief Inspector
143 General. Notwithstanding this term of appointment, an inspector
144 general may be removed from office for cause by the agency head
145 or, for agencies under the jurisdiction of the Governor, the
146 Chief Inspector General as provided in paragraph (c).

147 (b) The inspector general shall report to and be under the
148 general supervision of the agency head and is not subject to
149 supervision by any other employee of the state agency in which
150 the office is established. For state agencies under the
151 jurisdiction of the Governor, the inspector general shall be
152 under the general supervision of the agency head for
153 administrative purposes, shall report to the Chief Inspector
154 General, and may hire and remove staff within the office of the
155 inspector general in consultation with the Chief Inspector
156 General but independently of the agency.

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

174 (d) The Governor, the Governor and Cabinet, the agency
175 head, or agency staff may not prevent or prohibit the inspector
176 general from initiating, carrying out, or completing any audit
177 or investigation.

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

182 1.~~(a)~~ A bachelor's degree from an accredited college or

183 university with a major in accounting, or with a major in
 184 business which includes five courses in accounting, and 5 years
 185 of experience as an internal auditor or independent postauditor,
 186 electronic data processing auditor, accountant, or any
 187 combination thereof. The experience shall at a minimum consist
 188 of audits of units of government or private business
 189 enterprises, operating for profit or not for profit; ~~or~~

190 2.(b) A master's degree in accounting, business
 191 administration, or public administration from an accredited
 192 college or university and 4 years of experience as required in
 193 subparagraph 1. paragraph (a); or

194 3.(c) A certified public accountant license issued
 195 pursuant to chapter 473 or a certified internal audit
 196 certificate issued by the Institute of Internal Auditors or
 197 earned by examination, and 4 years of experience as required in
 198 paragraph (a).

199 (b) For agencies under the jurisdiction of the Governor,
 200 the inspector general shall be selected on the basis of
 201 integrity, leadership capability, and experience in accounting,
 202 auditing, financial analysis, law, management analysis, program
 203 evaluation, public administration, investigation, criminal
 204 justice administration, or other closely related field. The
 205 inspector general is subject to a level 2 background screening
 206 pursuant to chapter 435. The inspector general shall have a 4-
 207 year degree from an accredited institution of higher learning or
 208 have at least 5 years of experience in at least one of the

209 following areas:

210 1. Inspector general.

211 2. Supervisory experience in an office of inspector
 212 general or an investigative public agency similar to an office
 213 of inspector general.

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

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

216 5. Senior-level auditor or comptroller.

217 6. The administration and management of complex audits and
 218 investigations.

219 7. Managing programs for prevention, examination,
 220 detection, elimination of fraud, waste, abuse, mismanagement,
 221 malfeasance, or misconduct in government or other organizations.

222
 223 An advanced degree in law, accounting, public administration, or
 224 other relevant field may substitute for 1 year of required
 225 experience.

226 (c) The inspector general shall possess at appointment, or
 227 obtain within the first year after appointment, a certification
 228 from the Association of Inspectors General as a certified
 229 inspector general. The inspector general must have one or more
 230 other professional certifications, such as certified inspector
 231 general investigator, certified inspector general auditor,
 232 certified public accountant, certified internal auditor,
 233 certified governmental financial manager, or certified fraud
 234 examiner, certified financial crimes investigator or other

235 related certification, or be a licensed attorney.

236 (d) The inspector general may not hold, or be a candidate
237 for, an elective office while inspector general, and a current
238 officer or employee of an office of inspector general may not
239 hold, or be a candidate for, an elective office. The inspector
240 general may not hold office in a political party or political
241 committee. An employee of an office of inspector general may not
242 hold office in a political party or political committee while
243 employed in the office of inspector general.

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

259 (a) Such audits shall be conducted in accordance with the
260 current International Standards for the Professional Practice of

261 Internal Auditing as published by the Institute of Internal
262 Auditors, Inc., or, where appropriate, in accordance with
263 generally accepted governmental auditing standards. All audit
264 reports issued by internal audit staff shall include a statement
265 that the audit was conducted pursuant to the appropriate
266 standards.

267 (b) Audit workpapers and reports shall be public records
268 to the extent that they do not include information which has
269 been made confidential and exempt from the provisions of s.
270 119.07(1) pursuant to law. However, when the inspector general
271 or a member of the staff receives from an individual a complaint
272 or information that falls within the definition provided in s.
273 112.3187(5), the name or identity of the individual may not be
274 disclosed to anyone else without the written consent of the
275 individual, unless the inspector general determines that such
276 disclosure is unavoidable during the course of the audit or
277 investigation.

278 (c)1. The inspector general and the staff shall have
279 access to any records, data, and other information of the state
280 agency that he or she deems necessary to carry out his or her
281 duties. The inspector general, at all times, shall have access
282 to a building or facility that is owned, operated, or leased by
283 a department, agency, board, or commission, or a property held
284 in trust to the state. The inspector general may also request
285 such information or assistance as may be necessary from the
286 state agency or from any federal, state, or local government

287 entity.

288 2. It shall be the duty of every state officer, employee,
289 agency, special district, board, commission, contractor,
290 subcontractor, licensee, and applicant for certification of
291 eligibility for a contract or program, to cooperate with the
292 inspector general in any investigation, audit, inspection,
293 review, or hearing pursuant to this section. Each contract, bid,
294 proposal, and application or solicitation for a contract shall
295 contain a statement that the corporation, partnership, or person
296 understands and will abide by this subparagraph.

297 (d) At the conclusion of each audit, the inspector general
298 shall submit preliminary findings and recommendations to the
299 person responsible for supervision of the program function or
300 operational unit who shall respond to any adverse findings
301 within 20 working days after receipt of the preliminary
302 findings. Such response and the inspector general's rebuttal to
303 the response shall be included in the final audit report.

304 (e) At the conclusion of an audit in which the subject of
305 the audit is a specific entity contracting with the state or an
306 individual substantially affected, if the audit is not
307 confidential or otherwise exempt from disclosure by law, the
308 inspector general shall, consistent with s. 119.07(1), submit
309 the findings to the entity contracting with the state or the
310 individual substantially affected, who shall be advised in
311 writing that they may submit a written response within 20
312 working days after receipt of the findings. The response and the

313 inspector general's rebuttal to the response, if any, must be
314 included in the final audit report.

315 (f) The inspector general shall submit the final report to
316 the agency head, the Auditor General, and, for state agencies
317 under the jurisdiction of the Governor, the Chief Inspector
318 General.

319 (g) The Auditor General, in connection with the
320 independent postaudit of the same agency pursuant to s. 11.45,
321 shall give appropriate consideration to internal audit reports
322 and the resolution of findings therein. The Legislative Auditing
323 Committee may inquire into the reasons or justifications for
324 failure of the agency head to correct the deficiencies reported
325 in internal audits that are also reported by the Auditor General
326 and shall take appropriate action.

327 (h) The inspector general shall monitor the implementation
328 of the state agency's response to any report on the state agency
329 issued by the Auditor General or by the Office of Program Policy
330 Analysis and Government Accountability. No later than 6 months
331 after the Auditor General or the Office of Program Policy
332 Analysis and Government Accountability publishes a report on the
333 state agency, the inspector general shall provide a written
334 response to the agency head or, for state agencies under the
335 jurisdiction of the Governor, the Chief Inspector General on the
336 status of corrective actions taken. The inspector general shall
337 file a copy of such response with the Legislative Auditing
338 Committee.

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

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

357 14.32 Office of Chief Inspector General.—

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

360 (a) May hire or retain legal counsel.

361 (b) Issue and serve subpoenas and subpoenas duces tecum to
 362 compel the attendance of witnesses and the production of
 363 documents, reports, answers, records, accounts, and other data
 364 in any medium.

365 (c) Require or permit a person to file a statement in
366 writing, under oath or otherwise, as to all the facts and
367 circumstances concerning the matter to be audited, examined, or
368 investigated.

369
370 In the event of noncompliance with a subpoena issued pursuant to
371 this subsection, the Chief Inspector General may petition the
372 circuit court of the county in which the person subpoenaed
373 resides or has his or her principal place of business for an
374 order requiring the subpoenaed person to appear and testify and
375 to produce documents, reports, answers, records, accounts, or
376 other data as specified in the subpoena.

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