

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

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

15
16 Section 1. Section 20.055, Florida Statutes, is amended to
17 read:

18 20.055 Agency inspectors general.—

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

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

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

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

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

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

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

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

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

78 (b) Assess the reliability and validity of the information

79 | provided by the state agency on performance measures and
80 | standards, and make recommendations for improvement, if
81 | necessary, before submission of such information pursuant to s.
82 | 216.1827.

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

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

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

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

104 | (g) Ensure effective coordination and cooperation between

105 the Auditor General, federal auditors, and other governmental
 106 bodies with a view toward avoiding duplication.

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

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

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

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

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

131 general, the agency head or, for agencies under the jurisdiction
132 of the Governor, the Chief Inspector General, may appoint other
133 office of inspector general management personnel as interim
134 inspector general until such time as a successor inspector
135 general is appointed.

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

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

150 (c) For state agencies under the jurisdiction of the
151 Cabinet or the Governor and Cabinet, the inspector general may
152 be removed from office by the agency head. For state agencies
153 under the jurisdiction of the Governor, the inspector general
154 may only be removed from office by the Chief Inspector General
155 for cause, including concerns regarding performance,
156 malfeasance, misfeasance, misconduct, or failure to carry out

157 his or her duties under this section. The Chief Inspector
158 General shall notify the Governor in writing of his or her
159 intention to remove the inspector general at least 21 days
160 before the removal. For state agencies under the jurisdiction of
161 the Governor and Cabinet, the agency head shall notify the
162 Governor and Cabinet in writing of his or her intention to
163 remove the inspector general at least 21 days before the
164 removal. If the inspector general disagrees with the removal,
165 the inspector general may present objections in writing to the
166 Governor within the 21-day period.

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

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

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

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

187 3.~~(e)~~ A certified public accountant license issued
188 pursuant to chapter 473 or a certified internal audit
189 certificate issued by the Institute of Internal Auditors or
190 earned by examination, and 4 years of experience as required in
191 subparagraph 1. paragraph (a).

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

203 1. Inspector general.

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

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

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

209 5. Senior-level auditor or comptroller.

210 6. The administration and management of complex audits and
211 investigations.

212 7. Managing programs for prevention, examination,
213 detection, elimination of fraud, waste, abuse, mismanagement,
214 malfeasance, or misconduct in government or other organizations.

215
216 An advanced degree in law, accounting, public administration, or
217 other relevant field may substitute for 1 year of required
218 experience.

219 (c) The inspector general shall possess at appointment, or
220 obtain within the first year after appointment, a certification
221 from the Association of Inspectors General as a certified
222 inspector general. The inspector general must have one or more
223 other professional certifications, such as certified inspector
224 general investigator, certified inspector general auditor,
225 certified public accountant, certified internal auditor,
226 certified governmental financial manager, or certified fraud
227 examiner, certified financial crimes investigator or other
228 related certification, or be a licensed attorney.

229 (d) The inspector general may not hold, or be a candidate
230 for, an elective office of the state or a municipality, county,
231 or other political subdivision of the state while inspector
232 general, and a current officer or employee of an office of
233 inspector general may not hold, or be a candidate for, an
234 elective office of the state or a municipality, county, or other

235 political subdivision of the state. The inspector general may
236 not hold office in a political party or political committee. An
237 employee of an office of inspector general may not hold office
238 in a political party or political committee while employed in
239 the office of inspector general.

240 (5) The inspector general and his or her staff shall have
241 access to any records, data, and other information of the state
242 agency that he or she deems necessary to carry out his or her
243 duties. The inspector general, at all times, shall have access
244 to a building or facility that is owned, operated, or leased by
245 a department, agency, board, or commission, or a property held
246 in trust to the state if the inspector general deems such access
247 necessary to carry out his or her duties. The inspector general
248 may also request such information or assistance as may be
249 necessary from the state agency or from any federal, state, or
250 local government entity.

251 (6) It is the duty of every state officer, employee,
252 agency, special district, board, commission, contractor, and
253 subcontractor to cooperate with the inspector general in any
254 investigation, audit, inspection, review, or hearing pursuant to
255 this section. Beginning July 1, 2015, each contract, bid,
256 proposal, and application or solicitation for a contract shall
257 contain a statement that the corporation, partnership, or person
258 understands and will comply with this subsection.

259 (7) ~~(5)~~ In carrying out the auditing duties and
260 responsibilities of this act, each inspector general shall

261 review and evaluate internal controls necessary to ensure the
262 fiscal accountability of the state agency. The inspector general
263 shall conduct financial, compliance, electronic data processing,
264 and performance audits of the agency and prepare audit reports
265 of his or her findings. The scope and assignment of the audits
266 shall be determined by the inspector general; however, the
267 agency head may at any time request the inspector general to
268 perform an audit of a special program, function, or
269 organizational unit. The performance of the audit shall be under
270 the direction of the inspector general, except that if the
271 inspector general does not possess the qualifications specified
272 in subsection (4), the director of auditing shall perform the
273 functions listed in this subsection.

274 (a) Such audits shall be conducted in accordance with the
275 current International Standards for the Professional Practice of
276 Internal Auditing as published by the Institute of Internal
277 Auditors, Inc., or, where appropriate, in accordance with
278 generally accepted governmental auditing standards. All audit
279 reports issued by internal audit staff shall include a statement
280 that the audit was conducted pursuant to the appropriate
281 standards.

282 (b) Audit workpapers and reports shall be public records
283 to the extent that they do not include information which has
284 been made confidential and exempt from the provisions of s.
285 119.07(1) pursuant to law. However, when the inspector general
286 or a member of the staff receives from an individual a complaint

287 or information that falls within the definition provided in s.
288 112.3187(5), the name or identity of the individual may not be
289 disclosed to anyone else without the written consent of the
290 individual, unless the inspector general determines that such
291 disclosure is unavoidable during the course of the audit or
292 investigation.

293 ~~(c) The inspector general and the staff shall have access~~
294 ~~to any records, data, and other information of the state agency~~
295 ~~he or she deems necessary to carry out his or her duties. The~~
296 ~~inspector general may also request such information or~~
297 ~~assistance as may be necessary from the state agency or from any~~
298 ~~federal, state, or local government entity.~~

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

306 (d)~~(e)~~ At the conclusion of an audit in which the subject
307 of the audit is a specific entity contracting with the state or
308 an individual substantially affected, if the audit is not
309 confidential or otherwise exempt from disclosure by law, the
310 inspector general shall, consistent with s. 119.07(1), submit
311 the findings to the entity contracting with the state or the
312 individual substantially affected, who shall be advised in

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

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

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

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

339 inspector general shall file a copy of such response with the
340 Legislative Auditing Committee.

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

357 (8)~~(6)~~ In carrying out the investigative duties and
358 responsibilities specified in this section, each inspector
359 general shall initiate, conduct, supervise, and coordinate
360 investigations designed to detect, deter, prevent, and eradicate
361 fraud, waste, mismanagement, misconduct, and other abuses in
362 state government. For these purposes, each inspector general
363 shall:

364 (a) Receive complaints and coordinate all activities of

365 the agency as required by the Whistle-blower's Act pursuant to
366 ss. 112.3187-112.31895.

367 (b) Receive and consider the complaints which do not meet
368 the criteria for an investigation under the Whistle-blower's Act
369 and conduct, supervise, or coordinate such inquiries,
370 investigations, or reviews as the inspector general deems
371 appropriate.

372 (c) Report expeditiously to the Department of Law
373 Enforcement or other law enforcement agencies, as appropriate,
374 whenever the inspector general has reasonable grounds to believe
375 there has been a violation of criminal law.

376 (d) Conduct investigations and other inquiries free of
377 actual or perceived impairment to the independence of the
378 inspector general or the inspector general's office. This shall
379 include freedom from any interference with investigations and
380 timely access to records and other sources of information.

381 (e) At the conclusion of each investigation in which the
382 subject of the investigation is a specific entity contracting
383 with the state or an individual substantially affected as
384 defined by this section, and if the investigation is not
385 confidential or otherwise exempt from disclosure by law, the
386 inspector general shall, consistent with s. 119.07(1), submit
387 findings to the subject that is a specific entity contracting
388 with the state or an individual substantially affected, who
389 shall be advised in writing that they may submit a written
390 response within 20 working days after receipt of the findings.

391 Such response and the inspector general's rebuttal to the
392 response, if any, shall be included in the final investigative
393 report.

394 (f) Submit in a timely fashion final reports on
395 investigations conducted by the inspector general to the agency
396 head, except for whistle-blower's investigations, which shall be
397 conducted and reported pursuant to s. 112.3189.

398 (9)~~(7)~~(a) Except as provided in paragraph (b), each
399 inspector general shall, not later than September 30 of each
400 year, prepare an annual report summarizing the activities of the
401 office during the immediately preceding state fiscal year.

402 (b) The inspector general of the Florida Housing Finance
403 Corporation shall, not later than 90 days after the end of each
404 fiscal year, prepare an annual report summarizing the activities
405 of the office of inspector general during the immediately
406 preceding fiscal year.

407 (c) The final reports prepared pursuant to paragraphs (a)
408 and (b) shall be provided to the heads of the respective
409 agencies and, for state agencies under the jurisdiction of the
410 Governor, the Chief Inspector General. Such reports shall
411 include, but need not be limited to:

412 1. A description of activities relating to the
413 development, assessment, and validation of performance measures.

414 2. A description of significant abuses and deficiencies
415 relating to the administration of programs and operations of the
416 agency disclosed by investigations, audits, reviews, or other

417 activities during the reporting period.

418 3. A description of the recommendations for corrective
419 action made by the inspector general during the reporting period
420 with respect to significant problems, abuses, or deficiencies
421 identified.

422 4. The identification of each significant recommendation
423 described in previous annual reports on which corrective action
424 has not been completed.

425 5. A summary of each audit and investigation completed
426 during the reporting period.

427 (10)~~(8)~~ The inspector general in each state agency shall
428 provide to the agency head, upon receipt, all written complaints
429 concerning the duties and responsibilities in this section or
430 any allegation of misconduct related to the office of the
431 inspector general or its employees, if received from subjects of
432 audits or investigations who are individuals substantially
433 affected or entities contracting with the state, as defined in
434 this section. For state agencies under the jurisdiction of the
435 Governor, the inspector general shall also provide the complaint
436 to the Chief Inspector General.

437 (11)~~(9)~~ Each agency inspector general shall, to the extent
438 both necessary and practicable, include on his or her staff
439 individuals with electronic data processing auditing experience.

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

442 14.32 Office of Chief Inspector General.—

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

445 (a) Hire or retain legal counsel.

446 (b) Issue and serve subpoenas and subpoenas duces tecum,
 447 for agencies under the jurisdiction of the Governor, to compel
 448 the attendance of witnesses and the production of documents,
 449 reports, answers, records, accounts, and other data in any
 450 medium.

451 (c) Require or permit a person to file a statement in
 452 writing, under oath or otherwise, as to all the facts and
 453 circumstances concerning the matter to be audited, examined, or
 454 investigated.

455
 456 In the event of noncompliance with a subpoena issued pursuant to
 457 this subsection, the Chief Inspector General may petition the
 458 circuit court of the county in which the person subpoenaed
 459 resides or has his or her principal place of business for an
 460 order requiring the subpoenaed person to appear and testify and
 461 to produce documents, reports, answers, records, accounts, or
 462 other data as specified in the subpoena.

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