

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; establishing the duty of specified
 7 persons and entities with respect to cooperation with
 8 an inspector general's official duties; requiring
 9 contracts and other specified documents to contain a
 10 statement regarding compliance with an inspector
 11 general's official duties; amending s. 14.32, F.S.;
 12 authorizing the Chief Inspector General to retain
 13 legal counsel and issue and enforce subpoenas under
 14 certain circumstances; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 20.055, Florida Statutes, is amended to
 19 read:

20 20.055 Agency inspectors general.—

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

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

27 | Regulation of the Financial Services Commission, the board of
28 | directors of the Florida Housing Finance Corporation, the
29 | executive director of the Office of Early Learning, and the
30 | Chief Justice of the State Supreme Court.

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

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

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

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

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

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

79 (b) Assess the reliability and validity of the information
80 provided by the state agency on performance measures and
81 standards, and make recommendations for improvement, if
82 necessary, before submission of such information pursuant to s.
83 216.1827.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

176 1. ~~(a)~~ A bachelor's degree from an accredited college or
177 university with a major in accounting, or with a major in
178 business which includes five courses in accounting, and 5 years
179 of experience as an internal auditor or independent postauditor,
180 electronic data processing auditor, accountant, or any
181 combination thereof. The experience shall at a minimum consist
182 of audits of units of government or private business

183 enterprises, operating for profit or not for profit; or

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

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

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

204 1. Inspector general.

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

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

209 4. Local, state, or federal court judge.
 210 5. Senior-level auditor or comptroller.
 211 6. The administration and management of complex audits and
 212 investigations.
 213 7. Managing programs for prevention, examination,
 214 detection, elimination of fraud, waste, abuse, mismanagement,
 215 malfeasance, or misconduct in government or other organizations.
 216
 217 An advanced degree in law, accounting, public administration, or
 218 other relevant field may substitute for 1 year of required
 219 experience.
 220 (c) The inspector general shall possess at appointment, or
 221 obtain within the first year after appointment, a certification
 222 from the Association of Inspectors General as a certified
 223 inspector general. The inspector general must have one or more
 224 other professional certifications, such as certified inspector
 225 general investigator, certified inspector general auditor,
 226 certified public accountant, certified internal auditor,
 227 certified governmental financial manager, or certified fraud
 228 examiner, certified financial crimes investigator or other
 229 related certification, or be a licensed attorney.
 230 (d) The inspector general may not hold, or be a candidate
 231 for, an elective office of the state or a municipality, county,
 232 or other political subdivision of the state while inspector
 233 general, and a current officer or employee of an office of
 234 inspector general may not hold, or be a candidate for, an

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

241 (5) It is the duty of every state officer, employee,
242 agency, special district, board, commission, contractor, and
243 subcontractor to cooperate with the inspector general in any
244 investigation, audit, inspection, review, or hearing pursuant to
245 this section. Beginning July 1, 2015, each contract, bid,
246 proposal, and application or solicitation for a contract shall
247 contain a statement that the corporation, partnership, or person
248 understands and will comply with this subsection.

249 (6)~~(5)~~ In carrying out the auditing duties and
250 responsibilities of this act, each inspector general shall
251 review and evaluate internal controls necessary to ensure the
252 fiscal accountability of the state agency. The inspector general
253 shall conduct financial, compliance, electronic data processing,
254 and performance audits of the agency and prepare audit reports
255 of his or her findings. The scope and assignment of the audits
256 shall be determined by the inspector general; however, the
257 agency head may at any time request the inspector general to
258 perform an audit of a special program, function, or
259 organizational unit. The performance of the audit shall be under
260 the direction of the inspector general, except that if the

261 inspector general does not possess the qualifications specified
262 in subsection (4), the director of auditing shall perform the
263 functions listed in this subsection.

264 (a) Such audits shall be conducted in accordance with the
265 current International Standards for the Professional Practice of
266 Internal Auditing as published by the Institute of Internal
267 Auditors, Inc., or, where appropriate, in accordance with
268 generally accepted governmental auditing standards. All audit
269 reports issued by internal audit staff shall include a statement
270 that the audit was conducted pursuant to the appropriate
271 standards.

272 (b) Audit workpapers and reports shall be public records
273 to the extent that they do not include information which has
274 been made confidential and exempt from the provisions of s.
275 119.07(1) pursuant to law. However, when the inspector general
276 or a member of the staff receives from an individual a complaint
277 or information that falls within the definition provided in s.
278 112.3187(5), the name or identity of the individual may not be
279 disclosed to anyone else without the written consent of the
280 individual, unless the inspector general determines that such
281 disclosure is unavoidable during the course of the audit or
282 investigation.

283 (c) The inspector general and the staff shall have access
284 to any records, data, and other information of the state agency
285 he or she deems necessary to carry out his or her duties. The
286 inspector general may also request such information or

287 assistance as may be necessary from the state agency or from any
288 federal, state, or local government entity.

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

296 (e) At the conclusion of an audit in which the subject of
297 the audit is a specific entity contracting with the state or an
298 individual substantially affected, if the audit is not
299 confidential or otherwise exempt from disclosure by law, the
300 inspector general shall, consistent with s. 119.07(1), submit
301 the findings to the entity contracting with the state or the
302 individual substantially affected, who shall be advised in
303 writing that they may submit a written response within 20
304 working days after receipt of the findings. The response and the
305 inspector general's rebuttal to the response, if any, must be
306 included in the final audit report.

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

311 (g) The Auditor General, in connection with the
312 independent postaudit of the same agency pursuant to s. 11.45,

313 shall give appropriate consideration to internal audit reports
314 and the resolution of findings therein. The Legislative Auditing
315 Committee may inquire into the reasons or justifications for
316 failure of the agency head to correct the deficiencies reported
317 in internal audits that are also reported by the Auditor General
318 and shall take appropriate action.

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

331 (i) The inspector general shall develop long-term and
332 annual audit plans based on the findings of periodic risk
333 assessments. The plan, where appropriate, should include
334 postaudit samplings of payments and accounts. The plan shall
335 show the individual audits to be conducted during each year and
336 related resources to be devoted to the respective audits. The
337 Chief Financial Officer, to assist in fulfilling the
338 responsibilities for examining, auditing, and settling accounts,

339 claims, and demands pursuant to s. 17.03(1), and examining,
340 auditing, adjusting, and settling accounts pursuant to s. 17.04,
341 may use audits performed by the inspectors general and internal
342 auditors. For state agencies under the jurisdiction of the
343 Governor, the audit plans shall be submitted to the Chief
344 Inspector General. The plan shall be submitted to the agency
345 head for approval. A copy of the approved plan shall be
346 submitted to the Auditor General.

347 (7)~~(6)~~ In carrying out the investigative duties and
348 responsibilities specified in this section, each inspector
349 general shall initiate, conduct, supervise, and coordinate
350 investigations designed to detect, deter, prevent, and eradicate
351 fraud, waste, mismanagement, misconduct, and other abuses in
352 state government. For these purposes, each inspector general
353 shall:

354 (a) Receive complaints and coordinate all activities of
355 the agency as required by the Whistle-blower's Act pursuant to
356 ss. 112.3187-112.31895.

357 (b) Receive and consider the complaints which do not meet
358 the criteria for an investigation under the Whistle-blower's Act
359 and conduct, supervise, or coordinate such inquiries,
360 investigations, or reviews as the inspector general deems
361 appropriate.

362 (c) Report expeditiously to the Department of Law
363 Enforcement or other law enforcement agencies, as appropriate,
364 whenever the inspector general has reasonable grounds to believe

365 there has been a violation of criminal law.

366 (d) Conduct investigations and other inquiries free of
367 actual or perceived impairment to the independence of the
368 inspector general or the inspector general's office. This shall
369 include freedom from any interference with investigations and
370 timely access to records and other sources of information.

371 (e) At the conclusion of each investigation in which the
372 subject of the investigation is a specific entity contracting
373 with the state or an individual substantially affected as
374 defined by this section, and if the investigation is not
375 confidential or otherwise exempt from disclosure by law, the
376 inspector general shall, consistent with s. 119.07(1), submit
377 findings to the subject that is a specific entity contracting
378 with the state or an individual substantially affected, who
379 shall be advised in writing that they may submit a written
380 response within 20 working days after receipt of the findings.
381 Such response and the inspector general's rebuttal to the
382 response, if any, shall be included in the final investigative
383 report.

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

388 (8)~~(7)~~(a) Except as provided in paragraph (b), each
389 inspector general shall, not later than September 30 of each
390 year, prepare an annual report summarizing the activities of the

391 office during the immediately preceding state fiscal year.

392 (b) The inspector general of the Florida Housing Finance
393 Corporation shall, not later than 90 days after the end of each
394 fiscal year, prepare an annual report summarizing the activities
395 of the office of inspector general during the immediately
396 preceding fiscal year.

397 (c) The final reports prepared pursuant to paragraphs (a)
398 and (b) shall be provided to the heads of the respective
399 agencies and, for state agencies under the jurisdiction of the
400 Governor, the Chief Inspector General. Such reports shall
401 include, but need not be limited to:

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

404 2. A description of significant abuses and deficiencies
405 relating to the administration of programs and operations of the
406 agency disclosed by investigations, audits, reviews, or other
407 activities during the reporting period.

408 3. A description of the recommendations for corrective
409 action made by the inspector general during the reporting period
410 with respect to significant problems, abuses, or deficiencies
411 identified.

412 4. The identification of each significant recommendation
413 described in previous annual reports on which corrective action
414 has not been completed.

415 5. A summary of each audit and investigation completed
416 during the reporting period.

417 (9)~~(8)~~ The inspector general in each state agency shall
418 provide to the agency head, upon receipt, all written complaints
419 concerning the duties and responsibilities in this section or
420 any allegation of misconduct related to the office of the
421 inspector general or its employees, if received from subjects of
422 audits or investigations who are individuals substantially
423 affected or entities contracting with the state, as defined in
424 this section. For state agencies under the jurisdiction of the
425 Governor, the inspector general shall also provide the complaint
426 to the Chief Inspector General.

427 (10)~~(9)~~ Each agency inspector general shall, to the extent
428 both necessary and practicable, include on his or her staff
429 individuals with electronic data processing auditing experience.

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

432 14.32 Office of Chief Inspector General.—

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

435 (a) Hire or retain legal counsel.

436 (b) Issue and serve subpoenas and subpoenas duces tecum,
437 for agencies under the jurisdiction of the Governor, to compel
438 the attendance of witnesses and the production of documents,
439 reports, answers, records, accounts, and other data in any
440 medium.

441 (c) Require or permit a person to file a statement in
442 writing, under oath or otherwise, as to all the facts and

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443 circumstances concerning the matter to be audited, examined, or
444 investigated.

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446 In the event of noncompliance with a subpoena issued pursuant to
447 this subsection, the Chief Inspector General may petition the
448 circuit court of the county in which the person subpoenaed
449 resides or has his or her principal place of business for an
450 order requiring the subpoenaed person to appear and testify and
451 to produce documents, reports, answers, records, accounts, or
452 other data as specified in the subpoena.

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