

1 A bill to be entitled
2 An act relating to government integrity; creating s.
3 11.421, F.S.; creating the Florida Accountability
4 Office within the Office of Auditor General; providing
5 definitions; providing duties and powers of the
6 Florida Accountability Officer; amending s. 14.32,
7 F.S.; providing definitions; providing investigative
8 duties to the Chief Inspector General and agency
9 inspectors general; providing liability; amending s.
10 17.325, F.S.; requiring certain records to be sent to
11 the Florida Accountability Officer within a specified
12 timeframe; amending s. 20.055, F.S.; requiring agency
13 inspectors general to make certain determinations and
14 reports; amending s. 110.1245, F.S.; providing
15 requirements for awards given to employees who make a
16 report under the Whistle-blower's Act; authorizing
17 expenditures for such awards; amending s. 112.3187,
18 F.S.; revising the definition of the term "gross
19 mismanagement"; conforming provisions to changes made
20 by the act; amending s. 287.057, F.S.; requiring
21 certain state contracts to include a good faith
22 estimate of gross profit; requiring a determination of
23 reasonableness under certain conditions; prohibiting
24 certain state employees from participating in the
25 negotiation or award of state contracts; providing

26 definitions; revising the list of contractual services
27 and commodities that are not subject to competitive-
28 solicitation requirements; amending ss. 112.3188,
29 112.3189, and 112.31895, F.S.; conforming provisions
30 to changes made by the act; authorizing the Office of
31 the Auditor General to use carryforward funds to fund
32 the Florida Accountability Office; providing an
33 effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

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37 Section 1. Section 11.421, Florida Statutes, is created to
38 read:

39 11.421 Florida Accountability Office.-

40 (1) There is created within the Office of Auditor General
41 the Florida Accountability Office for the purpose of ensuring
42 accountability and integrity in state and local government and
43 identifying, investigating, and recommending the elimination of
44 waste, fraud, abuse, gross mismanagement, and related misconduct
45 in government.

46 (2) The Florida Accountability Officer shall oversee the
47 efficient operation of the office. The Florida Accountability
48 Officer shall be a legislative employee and serve at the
49 pleasure of the Auditor General.

50 (3) The Auditor General shall employ qualified individuals

51 for the office pursuant to s. 11.42.

52 (4) As used in this section, the term:

53 (a) "Abuse" means behavior that is deficient or improper
 54 when compared with behavior that a prudent person would consider
 55 a reasonable and necessary operational practice given the facts
 56 and circumstances. The term includes the misuse of authority or
 57 position for private gain.

58 (b) "Appropriations project" means a specific
 59 appropriation or proviso that provides funding for a specified
 60 entity that is a local government, private entity, or privately-
 61 operated program. The term does not include an appropriation or
 62 proviso:

63 1. Specifically authorized by statute;

64 2. That is part of a statewide distribution to local
 65 governments;

66 3. Recommended by a commission, council, or other similar
 67 entity created in statute to make annual funding
 68 recommendations, provided that such appropriation does not
 69 exceed the amount of funding recommended by the commission,
 70 council, or other similar entity;

71 4. For a specific transportation facility that is part of
 72 the Department of Transportation's 5-year work program submitted
 73 pursuant to s. 339.135;

74 5. For an education fixed capital outlay project that is
 75 submitted pursuant to s. 1013.64 or s. 1031.60; or

76 6. For a specified program, research initiative,
77 institute, center, or similar entity at a specific state college
78 or university recommended by the Board of Governors or the State
79 Board of Education in their Legislative Budget Request.

80 (c) "Fraud" means obtaining something of value through
81 willful misrepresentation, including, but not limited to, the
82 intentional misstatements or omissions of amounts or disclosures
83 in financial statements to deceive users of financial
84 statements, theft of an organization's assets, bribery, or the
85 use of one's position for personal enrichment through the
86 deliberate misuse or misapplication of an organization's
87 resources.

88 (d) "Gross mismanagement" has the same meaning as in s.
89 112.3187.

90 (e) "Misconduct" means conduct which, though not illegal,
91 is inappropriate for a person in his or her specified position.

92 (f) "Office" means the Florida Accountability Office.

93 (g) "Waste" means the act of using or expending resources
94 unreasonably, carelessly, extravagantly, or for no useful
95 purpose.

96 (5) The Florida Accountability Officer may investigate a
97 complaint alleging waste, fraud, abuse, gross mismanagement, or
98 misconduct in connection with the expenditure of public funds.

99 (6) A complaint may be submitted to the office by any of
100 the following persons:

- 101 (a) The President of the Senate.
- 102 (b) The Speaker of the House of Representatives.
- 103 (c) The chair of an appropriations committee in the Senate
104 or House of Representatives.
- 105 (d) The Auditor General.
- 106 (7) (a) Upon receipt of a complaint, the Florida
107 Accountability Officer shall determine whether the complaint
108 alleges facts supporting a reasonable suspicion of waste, fraud,
109 abuse, gross mismanagement, or misconduct. The Florida
110 Accountability Officer shall determine whether an investigation
111 into the matter has already been initiated by a law enforcement
112 agency, the Commission on Ethics, the Chief Financial Officer,
113 the Office of Chief Inspector General, or the applicable agency
114 inspector general.
- 115 (b) If the Florida Accountability Officer determines that
116 the complaint does not allege facts supporting reasonable
117 suspicion of waste, fraud, abuse, gross mismanagement, or
118 misconduct, the Florida Accountability Officer shall notify the
119 complainant in writing and the complaint shall be closed.
- 120 (c) If the complaint supports a reasonable suspicion of
121 waste, fraud, abuse, gross mismanagement, or misconduct, the
122 Florida Accountability Officer shall, within available
123 resources, conduct an investigation and issue a report of the
124 investigative findings to the complainant and to the President
125 of the Senate and the Speaker of the House of Representatives.

126 The Florida Accountability Officer may refer the matter to the
127 Auditor General, the appropriate law enforcement agency, the
128 Commission on Ethics, the Chief Financial Officer, the Office of
129 the Chief Inspector General, or the applicable agency inspector
130 general. The Auditor General may provide staff and other
131 resources to assist in the investigation.

132 (8) (a) The Florida Accountability Officer, or his or her
133 designee, may investigate the books, records, papers, documents,
134 data, operation, and physical location of any public agency in
135 this state and the public records of any entity that has
136 received public funds, including any confidential information.

137 (b) Upon the request of the Florida Accountability
138 Officer, the Legislative Auditing Committee or any other
139 committee of the Legislature may issue subpoenas and subpoenas
140 duces tecum, as provided in s. 11.143, to compel testimony or
141 the production of evidence when deemed necessary to an
142 investigation authorized by this section. Consistent with s.
143 11.143, such subpoenas and subpoenas duces tecum may be issued
144 as provided by applicable legislative rules, or in the absence
145 of applicable rules, by the chair of the Legislative Auditing
146 Committee with the approval of the Legislative Auditing
147 Committee and of the President of the Senate and the Speaker of
148 the House of Representatives, or either the President or Speaker
149 if such officer alone designated the Legislative Auditing
150 Committee under s. 1.01(17).

151 (c) If a witness fails or refuses to comply with a lawful
152 subpoena issued pursuant to this subsection at a time when the
153 Legislature is not in session, the Florida Accountability
154 Officer may file a complaint before any circuit court of the
155 state to enforce the subpoena. On the filing of such complaint,
156 the court shall take jurisdiction of the witness and the subject
157 matter of the complaint and shall direct the witness to respond
158 to all lawful questions and to produce all documentary evidence
159 in the possession of the witness which is lawfully demanded. The
160 failure of a witness to comply with such order constitutes a
161 direct and criminal contempt of court, and the court shall
162 punish the witness accordingly.

163 (d) When the Legislature is in session, upon the request
164 of the Florida Accountability Officer or the motion of a member
165 of the Legislative Auditing Committee, either house may order
166 compliance with the subpoena and subpoena duces tecum. Either
167 house may punish by fine or imprisonment a witness who refuses
168 to obey a lawful subpoena and subpoena duces tecum in accordance
169 with s. 5, Art. III of the Florida Constitution, but such
170 imprisonment may not extend beyond the final adjournment of the
171 session.

172 (9) The Florida Accountability Officer shall receive
173 copies of all reports required by ss. 14.32, 17.325, and 20.055.

174 (10) Each fiscal year, the Auditor General and the Florida
175 Accountability Officer shall conduct random audits and

176 inspections of at least one-third of the appropriations projects
177 appropriated in the prior year. Each audit and inspection must
178 include, but is not limited to, evaluating the performance of
179 the recipient of the appropriations project and the effect and
180 public value produced by the appropriations project.

181 Section 2. Subsections (1) through (5) of section 14.32,
182 Florida Statutes, are renumbered as subsections (2) through (6),
183 respectively, and new subsections (1) and (7) are added to that
184 section, to read:

185 14.32 Office of Chief Inspector General.—

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

187 (a) "Abuse" means behavior that is deficient or improper
188 when compared with behavior that a prudent person would consider
189 a reasonable and necessary operational practice given the facts
190 and circumstances. The term includes the misuse of authority or
191 position for private gain.

192 (b) "Fraud" means obtaining something of value through
193 willful misrepresentation, including, but not limited to, the
194 intentional misstatements or omissions of amounts or disclosures
195 in financial statements to deceive users of financial
196 statements, theft of an organization's assets, bribery, or the
197 use of one's position for personal enrichment through the
198 deliberate misuse or misapplication of an organization's
199 resources.

200 (c) "Independent contractor" has the same meaning as in s.

201 112.3187.

202 (d) "Misconduct" means conduct which, though not illegal,
203 is inappropriate for a person in his or her specified position.

204 (e) "Waste" means the act of using or expending resources
205 unreasonably, carelessly, extravagantly, or for no useful
206 purpose.

207 (7) (a) Within 6 months of the initiation of an
208 investigation of fraud, waste, abuse, mismanagement, or
209 misconduct in government, the Chief Inspector General or an
210 agency inspector general must determine whether there is
211 reasonable suspicion to believe that fraud, waste, abuse,
212 mismanagement, or misconduct in government has occurred. If the
213 determination is that reasonable suspicion has not been found to
214 exist and the investigation continues, a new determination must
215 be made every 3 months until the investigation is closed or
216 reasonable suspicion is found to exist.

217 (b) If the Chief Inspector General or an agency inspector
218 general determines that there is reasonable suspicion to believe
219 a public official, independent contractor, or agency has
220 committed fraud, waste, abuse, mismanagement, or misconduct in
221 government, the inspector general shall report such findings to
222 the Florida Accountability Officer and to the Commission on
223 Ethics or proper law enforcement agency, if the commission or
224 law enforcement agency has jurisdiction over the subject matter.

225 (c) If the findings of an investigation conducted pursuant

226 to this subsection conclude that a public official, independent
227 contractor, or agency has committed fraud, waste, abuse,
228 mismanagement, or misconduct in government, the Chief Inspector
229 General or agency inspector general shall report such findings
230 to the Chief Financial Officer within 30 days after the
231 investigation is closed. Such public official, independent
232 contractor, or person responsible within the agency is
233 personally liable for repayment of the funds that were diverted
234 or lost as a result of the fraud, waste, abuse, mismanagement,
235 or misconduct in government. If the person liable fails to repay
236 such funds voluntarily and the state does not agree to a
237 settlement, the Chief Financial Officer shall bring a civil
238 action to recover the funds within 60 days after receipt of such
239 findings.

240 Section 3. Subsections (4) and (5) of section 17.325,
241 Florida Statutes, are renumbered as subsections (5) and (6),
242 respectively, and a new subsection (4) is added to that section,
243 to read:

244 17.325 Governmental efficiency hotline; duties of Chief
245 Financial Officer.—

246 (4) A copy of each suggestion or item of information
247 received through the hotline that is logged pursuant to this
248 section must be provided to the Florida Accountability Officer
249 by the 15th of each month.

250 Section 4. Paragraph (g) is added to subsection (7) of

251 section 20.055, Florida Statutes, to read:

252 20.055 Agency inspectors general.—

253 (7) In carrying out the investigative duties and
 254 responsibilities specified in this section, each inspector
 255 general shall initiate, conduct, supervise, and coordinate
 256 investigations designed to detect, deter, prevent, and eradicate
 257 fraud, waste, mismanagement, misconduct, and other abuses in
 258 state government. For these purposes, each inspector general
 259 shall:

260 (g) Make determinations and reports as required by s.
 261 14.32(7).

262 Section 5. Paragraphs (a) and (b) of subsection (1) and
 263 subsection (2) of section 110.1245, Florida Statutes, are
 264 amended, and a new subsection (6) is added to that section, to
 265 read:

266 110.1245 Savings sharing program; bonus payments; other
 267 awards.—

268 (1) (a) The Department of Management Services shall adopt
 269 rules that prescribe procedures and promote a savings sharing
 270 program for an individual or group of employees who propose
 271 procedures or ideas that are adopted and that result in
 272 eliminating or reducing state expenditures, including employees
 273 reporting under the Whistle-blower's Act, if such proposals are
 274 placed in effect and may be implemented under current statutory
 275 authority.

276 (b) Each agency head shall recommend employees
277 individually or by group to be awarded an amount of money, which
278 amount shall be directly related to the cost savings realized.
279 Each proposed award and amount of money must be approved by the
280 Legislative Budget Commission, except an award under subsection
281 (6).

282 (2) In June of each year, bonuses shall be paid to
283 employees from funds authorized by the Legislature in an
284 appropriation specifically for bonuses. For purposes of this
285 subsection, awards issued under subsection (6) are not
286 considered bonuses. Each agency shall develop a plan for
287 awarding lump-sum bonuses, which plan shall be submitted no
288 later than September 15 of each year and approved by the Office
289 of Policy and Budget in the Executive Office of the Governor.
290 Such plan shall include, at a minimum, but is not limited to:

291 (a) A statement that bonuses are subject to specific
292 appropriation by the Legislature.

293 (b) Eligibility criteria as follows:

294 1. The employee must have been employed before ~~prior to~~
295 July 1 of that fiscal year and have been continuously employed
296 through the date of distribution.

297 2. The employee must not have been on leave without pay
298 consecutively for more than 6 months during the fiscal year.

299 3. The employee must have had no sustained disciplinary
300 action during the period beginning July 1 through the date the

301 | bonus checks are distributed. Disciplinary actions include
302 | written reprimands, suspensions, dismissals, and involuntary or
303 | voluntary demotions that were associated with a disciplinary
304 | action.

305 | 4. The employee must have demonstrated a commitment to the
306 | agency mission by reducing the burden on those served,
307 | continually improving the way business is conducted, producing
308 | results in the form of increased outputs, and working to improve
309 | processes.

310 | 5. The employee must have demonstrated initiative in work
311 | and have exceeded normal job expectations.

312 | 6. The employee must have modeled the way for others by
313 | displaying agency values of fairness, cooperation, respect,
314 | commitment, honesty, excellence, and teamwork.

315 | (c) A periodic evaluation process of the employee's
316 | performance.

317 | (d) A process for peer input that is fair, respectful of
318 | employees, and affects the outcome of the bonus distribution.

319 | (e) A division of the agency by work unit for purposes of
320 | peer input and bonus distribution.

321 | (f) A limitation on bonus distributions equal to 35
322 | percent of the agency's total authorized positions. This
323 | requirement may be waived by the Office of Policy and Budget in
324 | the Executive Office of the Governor upon a showing of
325 | exceptional circumstances.

326 (6) Each agency inspector general shall report employees
327 whose reports under the Whistle-blower's Act resulted in savings
328 or recovery of public funds in excess of \$1,000 to the agency
329 head. Whistle-blower awards shall be awarded by each agency, and
330 each agency head is authorized to incur expenditures to provide
331 such awards. The award shall be paid from the specific
332 appropriation or trust fund from which the savings or recovery
333 resulted. The agency inspector general to whom the whistle-
334 blower report was made or referred shall certify the identity of
335 the employee and, along with the agency head or his or her
336 designee, the savings or recovery resulting from the
337 investigation. If more than one employee makes a relevant
338 report, the award shall be shared in proportion to each
339 employee's contribution to the investigation as certified by the
340 agency inspector general. Whistle-blower awards shall be made in
341 the following amounts:

342 (a) A career service employee shall receive 10 percent of
343 the savings or recovery certified, but not less than \$500 and
344 not more than a total of \$50,000 for whistle-blower reports in
345 any 1 year. If the employee had any fault for the misspending or
346 attempted misspending of public funds identified in the
347 investigation that resulted in the savings, the award may be
348 denied at the discretion of the agency head. If the award is not
349 denied by the agency head, the award may not exceed \$500. The
350 agency inspector general shall certify any fault on the part of

351 the employee.

352 (b) A Senior Management Service employee or employee in a
353 select exempt position shall receive 5 percent of the savings or
354 recovery certified, but not more than a total of \$1,000 for
355 whistle-blower reports in any 1 year. An employee may not
356 receive an award under this subsection if he or she had any
357 fault for the misspending or attempted misspending of public
358 funds identified in the investigation that resulted in the
359 savings or recover. The agency inspector general shall certify
360 any fault on the part of the employee.

361 Section 6. Subsection (2), paragraph (e) of subsection
362 (3), and paragraph (b) of subsection (5) of section 112.3187,
363 Florida Statutes, are amended to read:

364 112.3187 Adverse action against employee for disclosing
365 information of specified nature prohibited; employee remedy and
366 relief.—

367 (2) LEGISLATIVE INTENT.—It is the intent of the
368 Legislature to prevent agencies or independent contractors from
369 taking retaliatory action against an employee who reports to an
370 appropriate agency violations of law on the part of a public
371 employer or independent contractor that create a substantial and
372 specific danger to the public's health, safety, or welfare. It
373 is further the intent of the Legislature to prevent agencies or
374 independent contractors from taking retaliatory action against
375 any person who discloses information to an appropriate agency

376 alleging improper use of governmental office, ~~gross~~ waste of
 377 funds, or any other abuse or ~~gross~~ neglect of duty on the part
 378 of an agency, public officer, or employee.

379 (3) DEFINITIONS.—As used in this act, unless otherwise
 380 specified, the following words or terms shall have the meanings
 381 indicated:

382 (e) "Gross Mismanagement" means a continuous or repeated
 383 pattern of neglect of managerial duty, managerial abuses,
 384 wrongful or arbitrary and capricious actions, or deceptive,
 385 fraudulent, or criminal conduct which may have a substantial
 386 adverse economic impact.

387 (5) NATURE OF INFORMATION DISCLOSED.—The information
 388 disclosed under this section must include:

389 (b) Any act or suspected act of gross mismanagement,
 390 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
 391 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
 392 committed by an employee or agent of an agency or independent
 393 contractor.

394 Section 7. Subsection (1) of section 112.3188, Florida
 395 Statutes, is amended to read:

396 112.3188 Confidentiality of information given to the Chief
 397 Inspector General, internal auditors, inspectors general, local
 398 chief executive officers, or other appropriate local officials.—

399 (1) The name or identity of any individual who discloses
 400 in good faith to the Chief Inspector General or an agency

401 inspector general, a local chief executive officer, or other
402 appropriate local official information that alleges that an
403 employee or agent of an agency or independent contractor:

404 (a) Has violated or is suspected of having violated any
405 federal, state, or local law, rule, or regulation, thereby
406 creating and presenting a substantial and specific danger to the
407 public's health, safety, or welfare; or

408 (b) Has committed an act of gross mismanagement,
409 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
410 neglect of duty

411
412 may not be disclosed to anyone other than a member of the Chief
413 Inspector General's, agency inspector general's, internal
414 auditor's, local chief executive officer's, or other appropriate
415 local official's staff without the written consent of the
416 individual, unless the Chief Inspector General, internal
417 auditor, agency inspector general, local chief executive
418 officer, or other appropriate local official determines that:
419 the disclosure of the individual's identity is necessary to
420 prevent a substantial and specific danger to the public's
421 health, safety, or welfare or to prevent the imminent commission
422 of a crime; or the disclosure is unavoidable and absolutely
423 necessary during the course of the audit, evaluation, or
424 investigation.

425 Section 8. Paragraph (c) of subsection (3), subsection

426 (4), and paragraph (a) of subsection (5) of section 112.3189,
427 Florida Statutes, are amended to read:

428 112.3189 Investigative procedures upon receipt of whistle-
429 blower information from certain state employees.—

430 (3) When a person alleges information described in s.
431 112.3187(5), the Chief Inspector General or agency inspector
432 general actually receiving such information shall within 20 days
433 of receiving such information determine:

434 (c) Whether the information actually disclosed
435 demonstrates reasonable cause to suspect that an employee or
436 agent of an agency or independent contractor has violated any
437 federal, state, or local law, rule, or regulation, thereby
438 creating and presenting a substantial and specific danger to the
439 public's health, safety, or welfare, or has committed an act of
440 gross mismanagement, malfeasance, misfeasance, ~~gross~~ waste of
441 public funds, or ~~gross~~ neglect of duty.

442 (4) If the Chief Inspector General or agency inspector
443 general under subsection (3) determines that the information
444 disclosed is not the type of information described in s.
445 112.3187(5), or that the source of the information is not a
446 person who is an employee or former employee of, or an applicant
447 for employment with, a state agency, as defined in s. 216.011,
448 or that the information disclosed does not demonstrate
449 reasonable cause to suspect that an employee or agent of an
450 agency or independent contractor has violated any federal,

451 state, or local law, rule, or regulation, thereby creating and
452 presenting a substantial and specific danger to the public's
453 health, safety, or welfare, or has committed an act of gross
454 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
455 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
456 agency inspector general shall notify the complainant of such
457 fact and copy and return, upon request of the complainant, any
458 documents and other materials that were provided by the
459 complainant.

460 (5)(a) If the Chief Inspector General or agency inspector
461 general under subsection (3) determines that the information
462 disclosed is the type of information described in s.
463 112.3187(5), that the source of the information is from a person
464 who is an employee or former employee of, or an applicant for
465 employment with, a state agency, as defined in s. 216.011, and
466 that the information disclosed demonstrates reasonable cause to
467 suspect that an employee or agent of an agency or independent
468 contractor has violated any federal, state, or local law, rule,
469 or regulation, thereby creating a substantial and specific
470 danger to the public's health, safety, or welfare, or has
471 committed an act of gross mismanagement, malfeasance,
472 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of
473 duty, the Chief Inspector General or agency inspector general
474 making such determination shall then conduct an investigation,
475 unless the Chief Inspector General or the agency inspector

476 general determines, within 30 days after receiving the
477 allegations from the complainant, that such investigation is
478 unnecessary. For purposes of this subsection, the Chief
479 Inspector General or the agency inspector general shall consider
480 the following factors, but is not limited to only the following
481 factors, when deciding whether the investigation is not
482 necessary:

483 1. The gravity of the disclosed information compared to
484 the time and expense of an investigation.

485 2. The potential for an investigation to yield
486 recommendations that will make state government more efficient
487 and effective.

488 3. The benefit to state government to have a final report
489 on the disclosed information.

490 4. Whether the alleged whistle-blower information
491 primarily concerns personnel practices that may be investigated
492 under chapter 110.

493 5. Whether another agency may be conducting an
494 investigation and whether any investigation under this section
495 could be duplicative.

496 6. The time that has elapsed between the alleged event and
497 the disclosure of the information.

498 Section 9. Paragraph (a) of subsection (3) of section
499 112.31895, Florida Statutes, is amended to read:

500 112.31895 Investigative procedures in response to

501 prohibited personnel actions.—

502 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

503 (a) The Florida Commission on Human Relations, in
 504 accordance with this act and for the sole purpose of this act,
 505 is empowered to:

506 1. Receive and investigate complaints from employees
 507 alleging retaliation by state agencies, as the term "state
 508 agency" is defined in s. 216.011.

509 2. Protect employees and applicants for employment with
 510 such agencies from prohibited personnel practices under s.
 511 112.3187.

512 3. Petition for stays and petition for corrective actions,
 513 including, but not limited to, temporary reinstatement.

514 4. Recommend disciplinary proceedings pursuant to
 515 investigation and appropriate agency rules and procedures.

516 5. Coordinate with the Chief Inspector General in the
 517 Executive Office of the Governor and the Florida Commission on
 518 Human Relations to receive, review, and forward to appropriate
 519 agencies, legislative entities, or the Department of Law
 520 Enforcement disclosures of a violation of any law, rule, or
 521 regulation, or disclosures of gross mismanagement, malfeasance,
 522 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of
 523 public funds.

524 6. Review rules pertaining to personnel matters issued or
 525 proposed by the Department of Management Services, the Public

526 Employees Relations Commission, and other agencies, and, if the
527 Florida Commission on Human Relations finds that any rule or
528 proposed rule, on its face or as implemented, requires the
529 commission of a prohibited personnel practice, provide a written
530 comment to the appropriate agency.

531 7. Investigate, request assistance from other governmental
532 entities, and, if appropriate, bring actions concerning,
533 allegations of retaliation by state agencies under subparagraph
534 1.

535 8. Administer oaths, examine witnesses, take statements,
536 issue subpoenas, order the taking of depositions, order
537 responses to written interrogatories, and make appropriate
538 motions to limit discovery, pursuant to investigations under
539 subparagraph 1.

540 9. Intervene or otherwise participate, as a matter of
541 right, in any appeal or other proceeding arising under this
542 section before the Public Employees Relations Commission or any
543 other appropriate agency, except that the Florida Commission on
544 Human Relations must comply with the rules of the commission or
545 other agency and may not seek corrective action or intervene in
546 an appeal or other proceeding without the consent of the person
547 protected under ss. 112.3187-112.31895.

548 10. Conduct an investigation, in the absence of an
549 allegation, to determine whether reasonable grounds exist to
550 believe that a prohibited action or a pattern of prohibited

551 action has occurred, is occurring, or is to be taken.

552 Section 10. Paragraph (e) of subsection (3) and subsection
553 (9) of section 287.057, Florida Statutes, are amended, and new
554 subsections (24) and (25) are added to that section, to read:

555 287.057 Procurement of commodities or contractual
556 services.—

557 (3) If the purchase price of commodities or contractual
558 services exceeds the threshold amount provided in s. 287.017 for
559 CATEGORY TWO, purchase of commodities or contractual services
560 may not be made without receiving competitive sealed bids,
561 competitive sealed proposals, or competitive sealed replies
562 unless:

563 (e) The following contractual services and commodities are
564 not subject to the competitive-solicitation requirements of this
565 section:

566 1. Artistic services. As used in this subsection, the term
567 "artistic services" does not include advertising or typesetting.
568 As used in this subparagraph, the term "advertising" means the
569 making of a representation in any form in connection with a
570 trade, business, craft, or profession in order to promote the
571 supply of commodities or services by the person promoting the
572 commodities or contractual services.

573 2. Academic program reviews if the fee for such services
574 does not exceed \$50,000.

575 3. Lectures by individuals.

576 4. Legal services, including attorney, paralegal, expert
 577 witness, appraisal, or mediator services.

578 5. Health services involving examination, diagnosis,
 579 treatment, prevention, medical consultation, or administration.
 580 The term also includes, but is not limited to, substance abuse
 581 and mental health services involving examination, diagnosis,
 582 treatment, prevention, or medical consultation if such services
 583 are offered to eligible individuals participating in a specific
 584 program that qualifies multiple providers and uses a standard
 585 payment methodology. Reimbursement of administrative costs for
 586 providers of services purchased in this manner are also exempt.
 587 For purposes of this subparagraph, the term "providers" means
 588 health professionals and health facilities, or organizations
 589 that deliver or arrange for the delivery of health services.

590 6. Services provided to persons with mental or physical
 591 disabilities by not-for-profit corporations that have obtained
 592 exemptions under s. 501(c)(3) of the United States Internal
 593 Revenue Code or when such services are governed by Office of
 594 Management and Budget Circular A-122. However, in acquiring such
 595 services, the agency shall consider the ability of the vendor,
 596 past performance, willingness to meet time requirements, and
 597 price.

598 7. Medicaid services delivered to an eligible Medicaid
 599 recipient unless the agency is directed otherwise in law.

600 8. Family placement services.

601 9. Prevention services related to mental health, including
602 drug abuse prevention programs, child abuse prevention programs,
603 and shelters for runaways, operated by not-for-profit
604 corporations. However, in acquiring such services, the agency
605 shall consider the ability of the vendor, past performance,
606 willingness to meet time requirements, and price.

607 10. Training and education services provided to injured
608 employees pursuant to s. 440.491(6).

609 11. Contracts entered into pursuant to s. 337.11.

610 12. Services or commodities provided by governmental
611 entities.

612 13. ~~Statewide~~ Public service announcement programs
613 ~~provided by a Florida statewide nonprofit corporation under s.~~
614 ~~501(c)(6) of the Internal Revenue Code~~ which have a guaranteed
615 documented match of at least \$3 to \$1.

616 (9) An agency shall not divide the solicitation of
617 commodities or contractual services so as to avoid the
618 requirements of subsections (1)-(3) or subsection (24).

619 (24) (a) For any contract in excess of \$50,000 that is
620 awarded through an invitation to negotiate or awarded without
621 competitive solicitation under paragraph (3) (c) or paragraph
622 (3) (e) or subsection (10), the proposal, offer, or response of
623 the contractor must include a good faith estimate of gross
624 profit for each year of the proposed contract, including renewal
625 years. If, in determining the good faith estimate of gross

626 profit, the contractor includes the cost of products or services
627 expected to be provided by a participant closely associated with
628 the contractor, the contractor must also identify such
629 participant, describe the association, and provide a good faith
630 estimate of gross profit for such participant for each year of
631 the contract, which must be attested to by an authorized
632 representative of the participant. If the estimate of gross
633 profit for any contractor and all such participants exceeds 15
634 percent of the total expected receipts in any 1 year, the agency
635 must, before awarding the contract, make a written determination
636 that the estimated gross profit is not excessive and specify the
637 reasons for such determination. Notwithstanding any provision of
638 the contract, a contractor is liable to the agency for three
639 times the amount or value of any misrepresentation of estimated
640 gross profit as liquidated damages for such misrepresentation.

641 (b) For purposes of this subsection, the term:

642 1. "Closely associated with the contractor" means the
643 contractor, principal of the contractor, or a family member or
644 business associate of a principal of the contractor is a
645 principal of the participant. "Principal" means a person who
646 owns at least 5 percent interest in the business or entity or is
647 a manager of the business or entity. "Business associate" means
648 a person or entity with whom a principal of the contractor has
649 substantial investment, employment, or partnership interests.

650 2. "Good faith estimate of gross profit" means a good

651 faith estimate of the total receipts expected under the contract
652 less the cost of providing contracted commodities and services
653 under the contract, not including overhead costs. "Overhead
654 costs" means all costs not directly related to contract
655 performance, including, but not limited to, marketing and
656 administrative expenses.

657 3. "Participant" means a person or entity with whom the
658 contractor expects to subcontract with for services or
659 commodities in carrying out a contract with an agency.

660 (25) Notwithstanding any other provision of law, a state
661 employee who is registered to lobby the Legislature, other than
662 an agency head, may not participate in the negotiation or award
663 of any contract required or expressly funded under a specific
664 legislative appropriation or proviso in an appropriation act.

665 Section 11. The Office of the Auditor General is
666 authorized to use carryforward funds to fund the establishment
667 and operations of the Florida Accountability Office as created
668 by this act.

669 Section 12. This act shall take effect July 1, 2018.