

26 | made by the act; creating s. 286.31, F.S.; requiring
27 | certain claims for legal fees to be documented with
28 | reasonable particularity of the services provided;
29 | amending s. 287.057, F.S.; requiring certain state
30 | contracts to include a good faith estimate of gross
31 | profit; requiring a determination of reasonableness;
32 | prohibiting certain state employees from participating
33 | in the negotiation or award of state contracts;
34 | providing definitions; revising the list of
35 | contractual services and commodities that are not
36 | subject to competitive-solicitation requirements;
37 | creating s. 288.00001, F.S.; prohibiting tax incentive
38 | funds from being paid to a state contractor or
39 | subcontractor; amending s. 1001.42, F.S.; providing
40 | that an individual school board member shall receive
41 | certain documents upon request; requiring certain
42 | school districts to employ an internal auditor;
43 | providing the duties of such internal auditor;
44 | amending ss. 112.3188, 112.3189, and 112.31895, F.S.;
45 | conforming provisions to changes made by the act;
46 | authorizing the Office of the Auditor General to use
47 | carryforward funds to fund the Florida Accountability
48 | Office; providing an effective date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75

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

11.421 Florida Accountability Office.—

(1) There is created under the Auditor General the Florida Accountability Office for the purpose of ensuring accountability and integrity in state and local government and facilitating the elimination of fraud, waste, abuse, mismanagement, and misconduct in government.

(2) The Florida Accountability Officer shall be a legislative employee and be appointed by and serve at the pleasure of the Auditor General. The Florida Accountability Officer shall oversee the efficient operation of the office and report to and be under the general supervision of the Auditor General.

(3) The Auditor General shall employ qualified individuals for the office pursuant to s. 11.42.

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

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

(b) "Appropriations project" means a specific appropriation or proviso that provides funding for a specified

76 entity that is a local government, private entity, or privately-
 77 operated program. The term does not include an appropriation or
 78 proviso:

79 1. Specifically authorized by statute;

80 2. That is part of a statewide distribution to local
 81 governments;

82 3. Recommended by a commission, council, or other similar
 83 entity created in statute to make annual funding
 84 recommendations, provided that such appropriation does not
 85 exceed the amount of funding recommended by the commission,
 86 council, or other similar entity;

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

90 5. For an education fixed capital outlay project that is
 91 submitted pursuant to s. 1013.60 or s. 1013.64; or

92 6. For a specified program, research initiative,
 93 institute, center, or similar entity at a specific state college
 94 or university recommended by the Board of Governors or the State
 95 Board of Education in its Legislative Budget Request.

96 (c) "Fraud" means obtaining something of value through
 97 willful misrepresentation, including, but not limited to, the
 98 intentional misstatements or intentional omissions of amounts or
 99 disclosures in financial statements to deceive users of
 100 financial statements, theft of an organization's assets,

101 bribery, or the use of one's position for personal enrichment
102 through the deliberate misuse or misapplication of an
103 organization's resources.

104 (d) "Mismanagement" has the same meaning as in s.
105 112.3187.

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

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

109 (g) "Waste" means the act of using or expending resources
110 unreasonably, carelessly, extravagantly, or for no useful
111 purpose.

112 (5) The Florida Accountability Officer may receive and
113 investigate a complaint alleging fraud, waste, abuse,
114 mismanagement, or misconduct in connection with the expenditure
115 of public funds.

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

118 (a) The President of the Senate.

119 (b) The Speaker of the House of Representatives.

120 (c) The chair of an appropriations committee in the Senate
121 or House of Representatives.

122 (d) The Auditor General.

123 (7) (a) Upon receipt of a complaint, the Florida
124 Accountability Officer shall determine whether the complaint is
125 supported by sufficient information indicating a reasonable

126 probability of fraud, waste, abuse, mismanagement, or
127 misconduct. If the Florida Accountability Officer determines
128 that the complaint is not supported by sufficient information
129 indicating a reasonable probability of fraud, waste, abuse,
130 mismanagement, or misconduct, the Florida Accountability Officer
131 shall notify the complainant in writing and the complaint shall
132 be closed.

133 (b) If the complaint is supported by sufficient
134 information indicating a reasonable probability of fraud, waste,
135 abuse, mismanagement, or misconduct, the Florida Accountability
136 Officer shall determine whether an investigation into the matter
137 has already been initiated by a law enforcement agency, the
138 Commission on Ethics, the Chief Financial Officer, the Office of
139 Chief Inspector General, or the applicable agency inspector
140 general. If such an investigation has been initiated, the
141 Florida Accountability Officer shall notify the complainant in
142 writing and the complaint may be closed.

143 (c) If the complaint is supported by sufficient
144 information indicating a reasonable probability of fraud, waste,
145 abuse, mismanagement, or misconduct, and an investigation into
146 the matter has not already been initiated by a law enforcement
147 agency, the Commission on Ethics, the Chief Financial Officer,
148 the Office of Chief Inspector General, or the applicable agency
149 inspector general, the Florida Accountability Officer shall,
150 within available resources, conduct an investigation and issue a

151 report of the investigative findings to the complainant and to
152 the President of the Senate and the Speaker of the House of
153 Representatives. The Florida Accountability Officer may refer
154 the matter to the Auditor General, the appropriate law
155 enforcement agency, the Commission on Ethics, the Chief
156 Financial Officer, the Office of the Chief Inspector General, or
157 the applicable agency inspector general. The Auditor General may
158 provide staff and other resources to assist the Florida
159 Accountability Officer.

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

165 (b) Upon the request of the Florida Accountability
166 Officer, the Legislative Auditing Committee or any other
167 committee of the Legislature may issue subpoenas and subpoenas
168 duces tecum, as provided in s. 11.143, to compel testimony or
169 the production of evidence when deemed necessary to an
170 investigation authorized by this section. Consistent with s.
171 11.143, such subpoenas and subpoenas duces tecum may be issued
172 as provided by applicable legislative rules, or in the absence
173 of applicable rules, by the chair of the Legislative Auditing
174 Committee with the approval of the Legislative Auditing
175 Committee and of the President of the Senate and the Speaker of

176 the House of Representatives, or either the President or Speaker
177 if such officer alone designated the Legislative Auditing
178 Committee under s. 1.01(17).

179 (c) If a witness fails or refuses to comply with a lawful
180 subpoena or subpoena duces tecum issued pursuant to this
181 subsection at a time when the Legislature is not in session, the
182 Florida Accountability Officer may file a complaint before any
183 circuit court of the state to enforce the subpoena or subpoena
184 duces tecum. On the filing of such complaint, the court shall
185 take jurisdiction of the witness and the subject matter of the
186 complaint and shall direct the witness to respond to all lawful
187 questions and to produce all documentary evidence in the
188 possession of the witness which is lawfully demanded. The
189 failure of a witness to comply with such order constitutes a
190 direct and criminal contempt of court, and the court shall
191 punish the witness accordingly.

192 (d) When the Legislature is in session, upon the request
193 of the Florida Accountability Officer to the committee issuing
194 the subpoena or subpoena duces tecum, either house of the
195 Legislature may seek compliance with the subpoena and subpoena
196 duces tecum in accordance with the state constitution, general
197 law, the joint rules of the Legislature, or the rules of the
198 house issuing the subpoena.

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

201 (10) (a) Beginning with the 2019-2020 fiscal year, the
 202 Auditor General and the Florida Accountability Officer, within
 203 available resources, shall randomly select and review
 204 appropriations projects appropriated in the prior fiscal year
 205 and, if appropriate, investigate and recommend an audit of such
 206 projects. The review, investigation, or audit may be delayed on
 207 a selected project until a subsequent year if the timeline of
 208 the project warrants such a delay. Each investigation or audit
 209 must include, but is not limited to, evaluating whether the
 210 recipient of the appropriations project administered the project
 211 in an efficient and effective manner. When an audit is
 212 recommended by the Florida Accountability Officer under this
 213 subsection, the Auditor General shall determine whether the
 214 audit is appropriate.

215 (b) Beginning with the 2019-2020 fiscal year, the Auditor
 216 General and the Florida Accountability Officer, within available
 217 resources, shall select and review, audit, or investigate the
 218 financial activities of political subdivisions, special
 219 districts, public authorities, public hospitals, state and local
 220 councils or commissions, units of local government, or public
 221 education entities in this state; as well as any authorities,
 222 councils, commissions, direct-support organizations,
 223 institutions, foundations, or similar entities created by law or
 224 ordinance to pursue a public purpose, entitled by law or
 225 ordinance to any distribution of tax or fee revenues, or

226 organized for the sole purpose of supporting one of the public
227 entities listed in this paragraph.

228 Section 2. Subsections (1) through (5) of section 14.32,
229 Florida Statutes, are renumbered as subsections (2) through (6),
230 respectively, and new subsections (1) and (7) are added to that
231 section, to read:

232 14.32 Office of Chief Inspector General.—

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

234 (a) "Abuse" means behavior that is deficient or improper
235 when compared with behavior that a prudent person would consider
236 a reasonable and necessary operational practice given the facts
237 and circumstances. The term includes the misuse of authority or
238 position for personal gain.

239 (b) "Fraud" means obtaining something of value through
240 willful misrepresentation, including, but not limited to, the
241 intentional misstatements or intentional omissions of amounts or
242 disclosures in financial statements to deceive users of
243 financial statements, theft of an organization's assets,
244 bribery, or the use of one's position for personal enrichment
245 through the deliberate misuse or misapplication of an
246 organization's resources.

247 (c) "Independent contractor" has the same meaning as in s.
248 112.3187.

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

251 (e) "Mismanagement" has the same meaning as in s.
252 112.3187.

253 (f) "Waste" means the act of using or expending resources
254 unreasonably, carelessly, extravagantly, or for no useful
255 purpose.

256 (7) (a) Within 6 months of the initiation of an
257 investigation of fraud, waste, abuse, mismanagement, or
258 misconduct in government, the Chief Inspector General or an
259 agency inspector general must determine whether there is
260 reasonable probability to believe that fraud, waste, abuse,
261 mismanagement, or misconduct in government has occurred. If the
262 determination is that a reasonable probability that fraud,
263 waste, abuse, mismanagement, or misconduct in government has not
264 been found to exist and the investigation continues, a new
265 determination must be made every 3 months until the
266 investigation is closed or reasonable probability is found to
267 exist.

268 (b) If the Chief Inspector General or an agency inspector
269 general determines that there is reasonable probability to
270 believe a public official, independent contractor, or agency has
271 committed fraud, waste, abuse, mismanagement, or misconduct in
272 government, the inspector general shall report such findings to
273 the Florida Accountability Officer and to the Commission on
274 Ethics, Office of Fiscal Integrity within the Chief Financial
275 Officer's office, or other proper law enforcement agency, if the

276 commission, Office of Fiscal Integrity, or law enforcement
277 agency has jurisdiction over the subject matter.

278 (c) If the findings of an investigation conducted pursuant
279 to this subsection conclude that a public official, independent
280 contractor, or agency has committed fraud, waste, abuse,
281 mismanagement, or misconduct in government, the Chief Inspector
282 General or agency inspector general shall report such findings
283 to the Chief Financial Officer within 30 days after the
284 investigation is closed. Such public official, independent
285 contractor, or person responsible within the agency is
286 personally liable for repayment of the funds that were diverted
287 or lost as a result of the fraud, waste, abuse, mismanagement,
288 or misconduct in government. If the person liable fails to repay
289 such funds voluntarily and the state does not agree to a
290 settlement, the Chief Financial Officer shall bring a civil
291 action to recover the funds within 60 days after receipt of such
292 findings.

293 Section 3. Section 17.04, Florida Statutes, is amended to
294 read:

295 17.04 To audit and adjust accounts of officers and those
296 indebted to the state.—The Chief Financial Officer, using
297 generally accepted auditing procedures for testing or sampling,
298 shall examine, audit, adjust, and settle the accounts of all the
299 officers of this state, and any other person in anywise
300 entrusted with, or who may have received any property, funds, or

301 moneys of this state, or who may be in anywise indebted or
302 accountable to this state for any property, funds, or moneys,
303 and require such officer or persons to render full accounts
304 thereof, and to yield up such property or funds according to
305 law, or pay such moneys into the treasury of this state, or to
306 such officer or agent of the state as may be appointed to
307 receive the same, and on failure so to do, to cause to be
308 instituted and prosecuted proceedings, criminal or civil, at law
309 or in equity, against such persons, according to law. The Chief
310 Financial Officer may conduct investigations within or outside
311 of this state as it deems necessary to aid in the enforcement of
312 this section. The Chief Financial Officer may commence an
313 investigation pursuant to this section based on a complaint or
314 referral from any source. An employee of a state agency or a
315 state contractor having knowledge of suspected misuse of state
316 funds may report such information to the Chief Financial
317 Officer. If during an investigation the Chief Financial Officer
318 has reason to believe that any criminal statute of this state
319 has or may have been violated, the Chief Financial Officer shall
320 refer any records tending to show such violation to state or
321 federal law enforcement or prosecutorial agencies and shall
322 provide investigative assistance to those agencies as required.

323 Section 4. Subsections (4) and (5) of section 17.325,
324 Florida Statutes, are renumbered as subsections (5) and (6),
325 respectively, and a new subsection (4) is added to that section,

326 to read:

327 17.325 Governmental efficiency hotline; duties of Chief
328 Financial Officer.—

329 (4) A copy of each suggestion or item of information
330 received through the hotline that is logged pursuant to this
331 section must be provided to the Florida Accountability Officer
332 by the 15th of the month following receipt of the suggestion or
333 item of information.

334 Section 5. Paragraph (g) is added to subsection (7) of
335 section 20.055, Florida Statutes, to read:

336 20.055 Agency inspectors general.—

337 (7) In carrying out the investigative duties and
338 responsibilities specified in this section, each inspector
339 general shall initiate, conduct, supervise, and coordinate
340 investigations designed to detect, deter, prevent, and eradicate
341 fraud, waste, mismanagement, misconduct, and other abuses in
342 state government. For these purposes, each inspector general
343 shall:

344 (g) Make determinations and reports as required by s.
345 14.32(7).

346 Section 6. Paragraphs (a) and (b) of subsection (1) and
347 subsection (2) of section 110.1245, Florida Statutes, are
348 amended, and a new subsection (6) is added to that section, to
349 read:

350 110.1245 Savings sharing program; bonus payments; other

351 awards.—

352 (1) (a) The Department of Management Services shall adopt
353 rules that prescribe procedures and promote a savings sharing
354 program for an individual or group of employees who propose
355 procedures or ideas that are adopted and that result in
356 eliminating or reducing state expenditures, including employees
357 reporting under the Whistle-blower's Act, if such proposals are
358 placed in effect and may be implemented under current statutory
359 authority.

360 (b) Each agency head shall recommend employees
361 individually or by group to be awarded an amount of money, which
362 amount shall be directly related to the cost savings realized.
363 Each proposed award and amount of money must be approved by the
364 Legislative Budget Commission, except an award under subsection
365 (6).

366 (2) In June of each year, bonuses shall be paid to
367 employees from funds authorized by the Legislature in an
368 appropriation specifically for bonuses. For purposes of this
369 subsection, awards issued under subsection (6) are not
370 considered bonuses. Each agency shall develop a plan for
371 awarding lump-sum bonuses, which plan shall be submitted no
372 later than September 15 of each year and approved by the Office
373 of Policy and Budget in the Executive Office of the Governor.
374 Such plan shall include, at a minimum, but is not limited to:

375 (a) A statement that bonuses are subject to specific

376 appropriation by the Legislature.

377 (b) Eligibility criteria as follows:

378 1. The employee must have been employed before ~~prior to~~
379 July 1 of that fiscal year and have been continuously employed
380 through the date of distribution.

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

383 3. The employee must have had no sustained disciplinary
384 action during the period beginning July 1 through the date the
385 bonus checks are distributed. Disciplinary actions include
386 written reprimands, suspensions, dismissals, and involuntary or
387 voluntary demotions that were associated with a disciplinary
388 action.

389 4. The employee must have demonstrated a commitment to the
390 agency mission by reducing the burden on those served,
391 continually improving the way business is conducted, producing
392 results in the form of increased outputs, and working to improve
393 processes.

394 5. The employee must have demonstrated initiative in work
395 and have exceeded normal job expectations.

396 6. The employee must have modeled the way for others by
397 displaying agency values of fairness, cooperation, respect,
398 commitment, honesty, excellence, and teamwork.

399 (c) A periodic evaluation process of the employee's
400 performance.

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

403 (e) A division of the agency by work unit for purposes of
404 peer input and bonus distribution.

405 (f) A limitation on bonus distributions equal to 35
406 percent of the agency's total authorized positions. This
407 requirement may be waived by the Office of Policy and Budget in
408 the Executive Office of the Governor upon a showing of
409 exceptional circumstances.

410 (6) Each agency inspector general shall report employees
411 whose reports under the Whistle-blower's Act resulted in savings
412 or recovery of public funds in excess of \$1,000 to the agency
413 head. Whistle-blower awards shall be awarded by each agency, and
414 each agency head is authorized to incur expenditures to provide
415 such awards. The award shall be paid from the specific
416 appropriation or trust fund from which the savings or recovery
417 resulted. The agency inspector general to whom the whistle-
418 blower report was made or referred shall certify the identity of
419 the employee and, along with the agency head or his or her
420 designee, the savings or recovery resulting from the
421 investigation. If more than one employee makes a relevant
422 report, the award shall be shared in proportion to each
423 employee's contribution to the investigation as certified by the
424 agency inspector general. Whistle-blower awards shall be made in
425 the following amounts:

426 (a) A career service employee shall receive 10 percent of
427 the savings or recovery certified, but not less than \$500 and
428 not more than a total of \$50,000 for whistle-blower reports in
429 any 1 year. If the employee had any fault for the misspending or
430 attempted misspending of public funds identified in the
431 investigation that resulted in the savings, the award may be
432 denied at the discretion of the agency head. If the award is not
433 denied by the agency head, the award may not exceed \$500. The
434 agency inspector general shall certify any fault on the part of
435 the employee.

436 (b) A Senior Management Service employee or employee in a
437 select exempt position shall receive 5 percent of the savings or
438 recovery certified, but not more than a total of \$1,000 for
439 whistle-blower reports in any 1 year. An employee may not
440 receive an award under this subsection if he or she had any
441 fault for the misspending or attempted misspending of public
442 funds identified in the investigation that resulted in the
443 savings or recovery. The agency inspector general shall certify
444 any fault on the part of the employee.

445 Section 7. Subsection (2), paragraph (e) of subsection
446 (3), and paragraph (b) of subsection (5) of section 112.3187,
447 Florida Statutes, are amended to read:

448 112.3187 Adverse action against employee for disclosing
449 information of specified nature prohibited; employee remedy and
450 relief.—

451 (2) LEGISLATIVE INTENT.—It is the intent of the
452 Legislature to prevent agencies or independent contractors from
453 taking retaliatory action against an employee who reports to an
454 appropriate agency violations of law on the part of a public
455 employer or independent contractor that create a substantial and
456 specific danger to the public's health, safety, or welfare. It
457 is further the intent of the Legislature to prevent agencies or
458 independent contractors from taking retaliatory action against
459 any person who discloses information to an appropriate agency
460 alleging improper use of governmental office, ~~gross~~ waste of
461 funds, or any other abuse or ~~gross~~ neglect of duty on the part
462 of an agency, public officer, or employee.

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

466 (e) "~~Gross~~ Mismanagement" means a continuous pattern of
467 managerial abuses, wrongful or arbitrary and capricious actions,
468 or fraudulent or criminal conduct which may have a substantial
469 adverse economic impact.

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

472 (b) Any act or suspected act of ~~gross~~ mismanagement,
473 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
474 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
475 committed by an employee or agent of an agency or independent

476 contractor.

477 Section 8. Subsection (1) of section 112.3188, Florida
 478 Statutes, is amended to read:

479 112.3188 Confidentiality of information given to the Chief
 480 Inspector General, internal auditors, inspectors general, local
 481 chief executive officers, or other appropriate local officials.—

482 (1) The name or identity of any individual who discloses
 483 in good faith to the Chief Inspector General or an agency
 484 inspector general, a local chief executive officer, or other
 485 appropriate local official information that alleges that an
 486 employee or agent of an agency or independent contractor:

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

491 (b) Has committed an act of ~~gross~~ mismanagement,
 492 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
 493 neglect of duty

494
 495 may not be disclosed to anyone other than a member of the Chief
 496 Inspector General's, agency inspector general's, internal
 497 auditor's, local chief executive officer's, or other appropriate
 498 local official's staff without the written consent of the
 499 individual, unless the Chief Inspector General, internal
 500 auditor, agency inspector general, local chief executive

501 officer, or other appropriate local official determines that:
 502 the disclosure of the individual's identity is necessary to
 503 prevent a substantial and specific danger to the public's
 504 health, safety, or welfare or to prevent the imminent commission
 505 of a crime; or the disclosure is unavoidable and absolutely
 506 necessary during the course of the audit, evaluation, or
 507 investigation.

508 Section 9. Paragraph (c) of subsection (3), subsection
 509 (4), and paragraph (a) of subsection (5) of section 112.3189,
 510 Florida Statutes, are amended to read:

511 112.3189 Investigative procedures upon receipt of whistle-
 512 blower information from certain state employees.—

513 (3) When a person alleges information described in s.
 514 112.3187(5), the Chief Inspector General or agency inspector
 515 general actually receiving such information shall within 20 days
 516 of receiving such information determine:

517 (c) Whether the information actually disclosed
 518 demonstrates reasonable cause to suspect that an employee or
 519 agent of an agency or independent contractor has violated any
 520 federal, state, or local law, rule, or regulation, thereby
 521 creating and presenting a substantial and specific danger to the
 522 public's health, safety, or welfare, or has committed an act of
 523 ~~gross~~ mismanagement, malfeasance, misfeasance, ~~gross~~ waste of
 524 public funds, or ~~gross~~ neglect of duty.

525 (4) If the Chief Inspector General or agency inspector

526 | general under subsection (3) determines that the information
527 | disclosed is not the type of information described in s.
528 | 112.3187(5), or that the source of the information is not a
529 | person who is an employee or former employee of, or an applicant
530 | for employment with, a state agency, as defined in s. 216.011,
531 | or that the information disclosed does not demonstrate
532 | reasonable cause to suspect that an employee or agent of an
533 | agency or independent contractor has violated any federal,
534 | state, or local law, rule, or regulation, thereby creating and
535 | presenting a substantial and specific danger to the public's
536 | health, safety, or welfare, or has committed an act of ~~gross~~
537 | mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
538 | funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
539 | agency inspector general shall notify the complainant of such
540 | fact and copy and return, upon request of the complainant, any
541 | documents and other materials that were provided by the
542 | complainant.

543 | (5) (a) If the Chief Inspector General or agency inspector
544 | general under subsection (3) determines that the information
545 | disclosed is the type of information described in s.
546 | 112.3187(5), that the source of the information is from a person
547 | who is an employee or former employee of, or an applicant for
548 | employment with, a state agency, as defined in s. 216.011, and
549 | that the information disclosed demonstrates reasonable cause to
550 | suspect that an employee or agent of an agency or independent

551 contractor has violated any federal, state, or local law, rule,
552 or regulation, thereby creating a substantial and specific
553 danger to the public's health, safety, or welfare, or has
554 committed an act of ~~gross~~ mismanagement, malfeasance,
555 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of
556 duty, the Chief Inspector General or agency inspector general
557 making such determination shall then conduct an investigation,
558 unless the Chief Inspector General or the agency inspector
559 general determines, within 30 days after receiving the
560 allegations from the complainant, that such investigation is
561 unnecessary. For purposes of this subsection, the Chief
562 Inspector General or the agency inspector general shall consider
563 the following factors, but is not limited to only the following
564 factors, when deciding whether the investigation is not
565 necessary:

- 566 1. The gravity of the disclosed information compared to
567 the time and expense of an investigation.
- 568 2. The potential for an investigation to yield
569 recommendations that will make state government more efficient
570 and effective.
- 571 3. The benefit to state government to have a final report
572 on the disclosed information.
- 573 4. Whether the alleged whistle-blower information
574 primarily concerns personnel practices that may be investigated
575 under chapter 110.

576 5. Whether another agency may be conducting an
 577 investigation and whether any investigation under this section
 578 could be duplicative.

579 6. The time that has elapsed between the alleged event and
 580 the disclosure of the information.

581 Section 10. Paragraph (a) of subsection (3) of section
 582 112.31895, Florida Statutes, is amended to read:

583 112.31895 Investigative procedures in response to
 584 prohibited personnel actions.—

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

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

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

592 2. Protect employees and applicants for employment with
 593 such agencies from prohibited personnel practices under s.
 594 112.3187.

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

597 4. Recommend disciplinary proceedings pursuant to
 598 investigation and appropriate agency rules and procedures.

599 5. Coordinate with the Chief Inspector General in the
 600 Executive Office of the Governor and the Florida Commission on

601 Human Relations to receive, review, and forward to appropriate
602 agencies, legislative entities, or the Department of Law
603 Enforcement disclosures of a violation of any law, rule, or
604 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,
605 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of
606 public funds.

607 6. Review rules pertaining to personnel matters issued or
608 proposed by the Department of Management Services, the Public
609 Employees Relations Commission, and other agencies, and, if the
610 Florida Commission on Human Relations finds that any rule or
611 proposed rule, on its face or as implemented, requires the
612 commission of a prohibited personnel practice, provide a written
613 comment to the appropriate agency.

614 7. Investigate, request assistance from other governmental
615 entities, and, if appropriate, bring actions concerning,
616 allegations of retaliation by state agencies under subparagraph
617 1.

618 8. Administer oaths, examine witnesses, take statements,
619 issue subpoenas, order the taking of depositions, order
620 responses to written interrogatories, and make appropriate
621 motions to limit discovery, pursuant to investigations under
622 subparagraph 1.

623 9. Intervene or otherwise participate, as a matter of
624 right, in any appeal or other proceeding arising under this
625 section before the Public Employees Relations Commission or any

626 other appropriate agency, except that the Florida Commission on
627 Human Relations must comply with the rules of the commission or
628 other agency and may not seek corrective action or intervene in
629 an appeal or other proceeding without the consent of the person
630 protected under ss. 112.3187-112.31895.

631 10. Conduct an investigation, in the absence of an
632 allegation, to determine whether reasonable grounds exist to
633 believe that a prohibited action or a pattern of prohibited
634 action has occurred, is occurring, or is to be taken.

635 Section 11. Section 286.31, Florida Statutes, is created
636 to read:

637 286.31 Use of state or local funds to pay legal fees.—
638 Notwithstanding any other provision of law, a claim for legal
639 fees under any provision of law to be compensated, credited, or
640 approved, in whole or in part, by any state or local agency
641 shall be documented with reasonable particularity of the
642 services provided, including for each date services were
643 rendered, an itemization of each task performed and the time
644 expended on each task.

645 Section 12. Paragraph (e) of subsection (3) and subsection
646 (9) of section 287.057, Florida Statutes, are amended, and new
647 subsections (24) and (25) are added to that section, to read:

648 287.057 Procurement of commodities or contractual
649 services.—

650 (3) If the purchase price of commodities or contractual

651 services exceeds the threshold amount provided in s. 287.017 for
 652 CATEGORY TWO, purchase of commodities or contractual services
 653 may not be made without receiving competitive sealed bids,
 654 competitive sealed proposals, or competitive sealed replies
 655 unless:

656 (e) The following contractual services and commodities are
 657 not subject to the competitive-solicitation requirements of this
 658 section:

659 1. Artistic services. As used in this subsection, the term
 660 "artistic services" does not include advertising or typesetting.
 661 As used in this subparagraph, the term "advertising" means the
 662 making of a representation in any form in connection with a
 663 trade, business, craft, or profession in order to promote the
 664 supply of commodities or services by the person promoting the
 665 commodities or contractual services.

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

668 3. Lectures by individuals.

669 4. Legal services, including attorney, paralegal, expert
 670 witness, appraisal, or mediator services.

671 5. Health services involving examination, diagnosis,
 672 treatment, prevention, medical consultation, or administration.
 673 The term also includes, but is not limited to, substance abuse
 674 and mental health services involving examination, diagnosis,
 675 treatment, prevention, or medical consultation if such services

676 are offered to eligible individuals participating in a specific
677 program that qualifies multiple providers and uses a standard
678 payment methodology. Reimbursement of administrative costs for
679 providers of services purchased in this manner are also exempt.
680 For purposes of this subparagraph, the term "providers" means
681 health professionals and health facilities, or organizations
682 that deliver or arrange for the delivery of health services.

683 6. Services provided to persons with mental or physical
684 disabilities by not-for-profit corporations that have obtained
685 exemptions under s. 501(c)(3) of the United States Internal
686 Revenue Code or when such services are governed by Office of
687 Management and Budget Circular A-122. However, in acquiring such
688 services, the agency shall consider the ability of the vendor,
689 past performance, willingness to meet time requirements, and
690 price.

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

693 8. Family placement services.

694 9. Prevention services related to mental health, including
695 drug abuse prevention programs, child abuse prevention programs,
696 and shelters for runaways, operated by not-for-profit
697 corporations. However, in acquiring such services, the agency
698 shall consider the ability of the vendor, past performance,
699 willingness to meet time requirements, and price.

700 10. Training and education services provided to injured

701 employees pursuant to s. 440.491(6).

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

703 12. Services or commodities provided by governmental
704 entities.

705 13. ~~Statewide~~ Public service announcement programs
706 ~~provided by a Florida statewide nonprofit corporation under s.~~
707 ~~501(c)(6) of the Internal Revenue Code~~ which have a guaranteed
708 documented match of at least \$3 to \$1.

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

712 (24) (a) For any contract in excess of \$50,000 that is
713 awarded through an invitation to negotiate or awarded without
714 competitive solicitation under paragraph (3)(c) or paragraph
715 (3)(e) or subsection (10), the proposal, offer, or response of
716 the contractor must include a good faith estimate of gross
717 profit for each year of the proposed contract, including renewal
718 years. If, in determining the good faith estimate of gross
719 profit, the contractor includes the cost of products or services
720 expected to be provided by a participant closely associated with
721 the contractor, the contractor must also identify such
722 participant, describe the association, and provide a good faith
723 estimate of gross profit for such participant for each year of
724 the contract, which must be attested to by an authorized
725 representative of the participant. The agency must, before

726 awarding the contract, make a written determination that the
727 estimated gross profit is not excessive and specify the reasons
728 for such determination. Notwithstanding any provision of the
729 contract, a contractor is liable to the agency for three times
730 the amount or value of any misrepresentation of estimated gross
731 profit as liquidated damages for such misrepresentation.

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

733 1. "Closely associated with the contractor" means the
734 contractor, a principal of the contractor, or a family member or
735 business associate of a principal of the contractor is a
736 principal of the participant. "Principal" means a person who
737 owns at least 5 percent interest in the business or entity or is
738 a manager of the business or entity. "Business associate" means
739 a person or entity with whom a principal of the contractor has
740 substantial investment, employment, or partnership interests.

741 2. "Good faith estimate of gross profit" means a good
742 faith estimate of the total receipts expected under the contract
743 less the cost of providing contracted commodities and services
744 under the contract, not including overhead costs. "Overhead
745 costs" means all costs not directly related to contract
746 performance, including, but not limited to, marketing and
747 administrative expenses.

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

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

756 Section 13. Section 288.00001, Florida Statutes, is
757 created to read:

758 288.00001 Use of state or local incentive funds to pay for
759 services.—Notwithstanding any other provision of law, a tax
760 incentive may not be awarded or paid to a state contractor or
761 any subcontractor for services provided or expenditures incurred
762 pursuant to a state contract.

763 Section 14. Paragraphs (b) and (1) of subsection (12) of
764 section 1001.42, Florida Statutes, are amended to read:

765 1001.42 Powers and duties of district school board.—The
766 district school board, acting as a board, shall exercise all
767 powers and perform all duties listed below:

768 (12) FINANCE.—Take steps to assure students adequate
769 educational facilities through the financial procedure
770 authorized in chapters 1010 and 1011 and as prescribed below:

771 (b) Annual budget.—

772 1. Cause to be prepared, adopted, and have submitted to the
773 Department of Education as required by law and rules of the
774 State Board of Education, the annual school budget, such budget
775 to be so prepared and executed as to promote the improvement of

776 the district school system.

777 2. If requested, an individual school board member shall
778 receive any proposed, tentative, or official budget documents,
779 including all supporting and background information.

780 (1) Internal auditor.—May or, in the case of a school
781 district receiving annual federal, state, and local funds in
782 excess of \$500 million, shall employ an internal auditor. The
783 scope of the internal auditor may not be restricted and must
784 include every functional and program area of the school system.

785 1. The internal auditor shall ~~to~~ perform ongoing financial
786 verification of the financial records of the school district, a
787 comprehensive risk assessment of all areas of the school system
788 every 5 years, and other audits and reviews as the district
789 school board directs for determining:-

790 a. The adequacy of internal controls designed to prevent
791 and detect fraud, waste, and abuse.

792 b. Compliance with applicable laws, rules, contracts,
793 grant agreements, district school board-approved policies, and
794 best practices.

795 c. The efficiency of operations.

796 d. The reliability of financial records and reports.

797 e. The safeguarding of assets.

798 f. Financial solvency.

799 g. Projected revenues and expenditures.

800 h. The rate of change in the general fund balance.

801 2. The internal auditor shall prepare audit reports of his
802 or her findings and report directly to the district school board
803 or its designee.

804 3. Any person responsible for furnishing or producing any
805 book, record, paper, document, data, or sufficient information
806 necessary to conduct an authorized audit or examination by the
807 internal auditor is subject to the provisions of s. 11.47(3) and
808 (4).

809 Section 15. The Office of the Auditor General is
810 authorized to use carryforward funds to fund the establishment
811 and operations of the Florida Accountability Office as created
812 by this act.

813 Section 16. This act shall take effect July 1, 2018.