

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: PCS/CS/SB 826 (487372)

INTRODUCER: Rules Committee (Recommended by Appropriations Subcommittee on Finance and Tax); Governmental Oversight and Accountability Committee; and Senator Hukill

SUBJECT: Taxpayers' Rights Advocate

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Caldwell</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Recommend: Fav/CS</u>
3.	<u>Peacock</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 826 requires the Chief Inspector General to appoint the taxpayers' rights advocate within the Department of Revenue and provides that such advocate may be removed from office only by the Chief Inspector General.

The bill requires the taxpayers' rights advocate to furnish a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before January 1, annually. The report must provide specific information about the work of the taxpayers' rights advocate during the previous year and the upcoming year.

The bill authorizes the Department of Revenue to share confidential taxpayer information with the taxpayers' rights advocate or his or her authorized agent.

The bill will increase the workload of the staff of the taxpayers' rights advocate. The costs of such workload may be absorbed within the department's existing resources.

The bill provides an effective date of July 1, 2018.

II. Present Situation:

Taxpayers' Rights Advocate

The taxpayers' rights advocate located within the Department of Revenue¹ (department) is appointed by and reports to the executive director of the department.² The taxpayers' rights advocate facilitates the resolution of taxpayer complaints and problems that have not been resolved through normal administrative channels within the department, including taxpayer complaints regarding unsatisfactory treatment of taxpayers by department employees.³ The taxpayers' rights advocate may also issue a stay of action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by the department.⁴

Section 213.015, F.S., sets out a Florida Taxpayers' Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessments, collection, and enforcement processes administered under the revenue laws of this state.⁵ Twenty-one rights are compiled in the Taxpayers' Bill of Rights, including the right of assistance from a taxpayers' rights advocate of the department.⁶ The department's executive director is required to designate a taxpayers' rights advocate and adequate staff to administer the taxpayer problem resolution program.⁷

Chief Inspector General

Section 14.32, F.S., creates the Office of Chief Inspector General in the Executive Office of the Governor. The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor.⁸ The Chief Inspector General is appointed by, and serves at the pleasure of, the Governor and serves as the inspector general for the Executive Office of the Governor.⁹ Some of the duties of the Chief Inspector General include:

- Initiating investigations, recommending policies, and carrying out other activities designed to deter, detect, and prevent, fraud, waste, mismanagement, and misconduct in government;
- Investigating and examining records of any agency under the direct supervision of the Governor, and coordinating complaint-handling activities with the agencies;
- Coordinating the activities of the Whistle-blower's Act¹⁰ and maintaining the whistle-blower's hotline;
- Acting as liaison and monitoring the activities of the inspectors general in the agencies under the Governor's jurisdiction; and

¹ Section 20.21, F.S. The head of the Department is the Governor and the Cabinet. Section 20.21(1), F.S.

² Sections 20.21(3) and 213.018(1), F.S.

³ Sections 20.21(3)(a), 213.015(2) and 213.018, F.S.

⁴ Sections 20.21(3)(b) and 213.018(2), F.S.

⁵ See FLA. CONST., ART I, s. 25.

⁶ Section 213.015, F.S. See also http://floridarevenue.com/Pages/taxpayers_bill_of_rights.aspx (last visited on Jan. 18, 2018).

⁷ Section 213.018(1), F.S.

⁸ Section 14.32(1), F.S.

⁹ *Id.*

¹⁰ The Whistle-blower's Act can be found in ss. 112.3187-112.31895, F.S.

- Conducting special investigations and management reviews at the request of the Governor.¹¹

The Chief Inspector General also has various duties relating to public-private partnerships, including advising on internal control and performance measures, conducting audits, investigating complaints of fraud, and monitoring contract compliance.¹²

Department of Revenue Information Sharing

Taxpayer information received by the department is generally confidential and exempt from public records requirements.¹³ This confidential treatment and exemption from public records requirements extends to all information contained in returns, reports, accounts, declarations, investigative reports, and letters of technical advice.¹⁴

The department is authorized to make confidential information available to certain government officials in performance of their official duties.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 20.21, F.S., to require the Chief Inspector General to appoint the taxpayers' rights advocate within the department. The taxpayers' rights advocate remains under the general supervision of the executive director of the department for administrative purposes, but reports to the Chief Inspector General. The bill provides that the taxpayers' rights advocate may be removed from office only by the Chief Inspector General.

The bill further requires the taxpayers' rights advocate to furnish an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Inspector General by January 1 of each year. Such report must include the following:

- The objectives of the taxpayers' rights advocate for the upcoming fiscal year;
- The number of complaints filed in the previous fiscal year;
- A summary of resolutions or outstanding issues from the previous fiscal year report;
- A summary of the most common problems encountered by taxpayers, including a description of the nature of the problems, and the number of complaints for each serious problem;
- The initiatives the taxpayers' rights advocate has taken or is planning to take to improve taxpayer services and the department's responsiveness;
- Recommendations for administrative or legislative action as appropriate to resolve problems encountered by taxpayers; and
- Other information as the taxpayers' rights advocate may deem advisable.

This report must contain a complete and substantive analysis in addition to statistical information.

¹¹ Section 14.32(2), F.S.

¹² Section 14.32(3), F.S.

¹³ Section 213.053(2)(a), F.S.

¹⁴ *Id.*

¹⁵ Section 213.053(7), F.S.

Section 2 amends s. 213.018, F.S., to require the Chief Inspector General to appoint a taxpayers' rights advocate within the department.

Section 3 amends s. 213.053, F.S., to authorize the department to make confidential information available to the taxpayers' rights advocate or his or her agent in performance of his or her official duties.

Section 4 provides that the person serving as the taxpayers' rights advocate as of the effective date of the bill shall continue to serve in that capacity until such person voluntarily leaves the position or is removed by the Chief Inspector General.

Section 5 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The staff of the taxpayers' rights advocate will have additional workload in completing the report required by the bill. The costs of such workload may be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 20.21, 213.018, and 213.053.

The bill creates an undesignated section of Florida law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on February 5, 2018:

The Proposed Committee Substitute:

- Provides that the taxpayer's rights advocate is supervised by the executive director of the department rather than the agency head.
- Provides that the taxpayers' rights advocate's annual report must include the "most common problems" encountered by taxpayers rather than the "most serious problems...."
- Provides that the department may make confidential taxpayer information available to the taxpayers' rights advocate or his or her agent.
- Provides that the person serving as the taxpayers' rights advocate on the effective date of the bill may continue in the position until he or she leaves voluntarily or is removed by the Chief Inspector General.

CS by Governmental Oversight and Accountability on January 10, 2018:

The Committee Substitute requires the Chief Inspector General to appoint the taxpayers' rights advocate within the department.

- B. **Amendments:**

None.