

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

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BILL: CS/SB 826

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hukill

SUBJECT: Taxpayers' Rights Advocate

DATE: February 2, 2018      REVISED: \_\_\_\_\_

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

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 826 requires the Chief Inspector General to appoint the taxpayers' rights advocate within the Department of Revenue, revises the supervisory authority over the taxpayers' rights advocate 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 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 Revenue<sup>1</sup> (department) is appointed by and reports to the executive director of the department.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> Twenty-one rights are compiled in the Taxpayers' Bill of Rights, including the right of assistance from a taxpayers' rights advocate of the department.<sup>6</sup> The department's executive director is required to designate a taxpayers' rights advocate and adequate staff to administer the taxpayer problem resolution program.<sup>7</sup>

### 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.<sup>8</sup> 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.<sup>9</sup> 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 Act<sup>10</sup> 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

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

<sup>2</sup> Sections 20.21(3) and 213.018(1), F.S.

<sup>3</sup> Sections 20.21(3)(a), 213.015(2) and 213.018, F.S.

<sup>4</sup> Sections 20.21(3)(b) and 213.018(2), F.S.

<sup>5</sup> See FLA. CONST., ART I, s. 25.

<sup>6</sup> Section 213.015, F.S. See also [http://floridarevenue.com/Pages/taxpayers\\_bill\\_of\\_rights.aspx](http://floridarevenue.com/Pages/taxpayers_bill_of_rights.aspx) (last visited on Jan. 18, 2018).

<sup>7</sup> Section 213.018(1), F.S.

<sup>8</sup> Section 14.32(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup>

### 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 agency head 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 serious 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.

**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** 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.

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<sup>11</sup> Section 14.32(2), F.S.

<sup>12</sup> Section 14.32(3), F.S.

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:**

The bill does not indicate whether the current taxpayers' rights advocate may continue in the position or whether the Chief Inspector General must make an appointment upon the effective date of the bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.21 and 213.018.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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