

By Senator Brandes

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1 A bill to be entitled
2 An act relating to inspectors general; amending s.
3 14.32, F.S.; revising the Chief Inspector General's
4 subpoena authority to include issuing and serving
5 subpoenas for all executive branch agencies;
6 authorizing the Chief Inspector General to appoint
7 certified law enforcement officers; specifying the
8 qualifications, powers, and focus of such officers;
9 amending s. 20.055, F.S.; providing that agency
10 inspectors general report to the Chief Inspector
11 General; removing an agency head's supervisory
12 authority over the inspector general; authorizing the
13 inspector general to independently procure services
14 and hire or remove law enforcement staff; revising
15 procedures, and providing additional limitations,
16 regarding the removal or transfer of an agency
17 inspector general; authorizing the inspector general
18 to present written objections to such removal or
19 transfer to additional officers within a certain
20 timeframe; prohibiting a Cabinet officer from
21 preventing or prohibiting the inspector general from
22 taking action on an audit or investigation; providing
23 requirements regarding the compensation of the
24 inspector general; modifying powers and requirements
25 as to the auditing and investigatory duties of the
26 inspector general; revising requirements for the
27 inspector general's annual report; providing that
28 complaints or allegations regarding the office of
29 inspector general be submitted to the Chief Inspector

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30 General, rather than the agency head; authorizing each
31 agency inspector general to issue and serve subpoenas;
32 authorizing the inspector general to petition the
33 circuit court in the event of noncompliance with a
34 subpoena; providing an effective date.

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

37
38 Section 1. Paragraph (b) of subsection (5) of section
39 14.32, Florida Statutes, is amended, and paragraph (d) is added
40 to that subsection, to read:

41 14.32 Office of Chief Inspector General.—

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

44 (b) Issue and serve subpoenas and subpoenas duces tecum,
45 for executive branch agencies ~~under the jurisdiction of the~~
46 ~~Governor~~, to compel the attendance of witnesses and the
47 production of documents, reports, answers, records, accounts,
48 and other data in any medium.

49 (d) Appoint duly constituted certified law enforcement
50 officers who meet the qualifications of law enforcement officers
51 established by chapter 943 under the job classification of
52 "CIG/EOG Law Enforcement Inspector." An officer who is appointed
53 pursuant to this paragraph is subject to chapter 901, and has
54 the same arrest, jurisdiction, and other authority provided for
55 state law enforcement officers in that chapter. Each officer has
56 the same right and authority to carry firearms as other state
57 law enforcement officers. These law enforcement powers include,
58 but are not limited to, the ability to make arrests; serve

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59 search warrants, subpoenas, or writs; collect or seize evidence;
60 analyze evidence; conduct interviews; conduct physical
61 surveillance and prepare reports and exhibits; and assist
62 prosecutors in the preparation and presentation of criminal
63 cases to include testimony in courts. The focus of such officers
64 is to detect, deter, and investigate waste, fraud, abuse, and
65 misconduct in a state commission, an agency under the
66 jurisdiction of the Governor, or the Executive Office of the
67 Governor, and to promote economy and efficiency in those
68 entity's programs through administrative or criminal
69 investigations, reviews, and inspections.

70
71 In the event of noncompliance with a subpoena issued pursuant to
72 this subsection, the Chief Inspector General may petition the
73 circuit court of the county in which the person subpoenaed
74 resides or has his or her principal place of business for an
75 order requiring the subpoenaed person to appear and testify and
76 to produce documents, reports, answers, records, accounts, or
77 other data as specified in the subpoena.

78 Section 2. Paragraphs (b), (c), and (d) of subsection (3),
79 paragraphs (c) and (f) of subsection (6), subsection (7),
80 paragraph (c) of subsection (8), and subsection (9) of section
81 20.055, Florida Statutes, are amended, paragraph (e) is added to
82 subsection (3) of that section, and subsection (11) is added to
83 that section, to read:

84 20.055 Agency inspectors general.—

85 (3)

86 (b) The inspector general shall report to the Chief
87 Inspector General ~~and be under the general supervision of the~~

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88 ~~agency head~~ and is not subject to supervision by the agency head
89 or any other employee of the state agency in which the office is
90 established. For state agencies under the jurisdiction of the
91 Governor, the inspector general shall be under the general
92 budget supervision of the agency in which the office is
93 established head for administrative purposes, shall report to
94 the Chief Inspector General, and may hire and remove staff
95 within the office of the inspector general in consultation with
96 the Chief Inspector General but independently of the agency. The
97 inspector general may procure services necessary to perform the
98 office's mission, independently of the agency in which the
99 office is established, and may hire and remove staff within the
100 office who are duly constituted law enforcement officers who
101 meet the qualifications of chapter 943.

102 (c) For state agencies under the jurisdiction of the
103 Cabinet or the Governor and Cabinet, the inspector general may
104 only be removed from office by the Chief Inspector General, or
105 transferred to another position with the Chief Inspector
106 General's approval ~~agency head~~. For state agencies under the
107 jurisdiction of the Governor, the inspector general may only be
108 removed from office or transferred to another position by the
109 Chief Inspector General for cause, including ~~concerns regarding~~
110 ~~performance~~, malfeasance, misfeasance, misconduct, or failure to
111 carry out his or her duties under this section. The Chief
112 Inspector General shall notify the Governor in writing of his or
113 her intention to remove or transfer the inspector general at
114 least 21 days before the removal. For state agencies under the
115 jurisdiction of the Governor and Cabinet, the agency head may
116 only remove or transfer the inspector general for cause,

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117 including malfeasance, misfeasance, misconduct, or failure to
118 carry out his or her duties under this section. The agency head
119 shall notify the Governor and Cabinet in writing of his or her
120 intention to remove the inspector general at least 21 days
121 before the removal. For agencies under the Governor, the
122 Governor and Cabinet, or a Cabinet officer, if the inspector
123 general disagrees with the removal or transfer, the inspector
124 general may present objections in writing to the Governor, each
125 Cabinet officer, the President of the Senate, the Speaker of the
126 House of Representatives, and the Majority and Minority Leaders
127 of both houses of the Legislature within 30 days of the
128 notification ~~the 21-day period.~~

129 (d) The Governor, the Governor and Cabinet, a Cabinet
130 officer, the agency head, or agency staff may not prevent or
131 prohibit the inspector general from initiating, carrying out, or
132 completing any audit or investigation.

133 (e) The inspector general must be compensated at the same
134 rate as other senior management officials within the agency.

135 (6) In carrying out the auditing duties and
136 responsibilities of this act, each inspector general shall
137 review and evaluate internal controls necessary to ensure the
138 fiscal accountability of the state agency. The inspector general
139 shall conduct financial, compliance, electronic data processing,
140 and performance audits of the agency and prepare audit reports
141 of his or her findings. The scope and assignment of the audits
142 shall be determined by the inspector general; however, the
143 agency head may at any time request the inspector general to
144 perform an audit of a special program, function, or
145 organizational unit. The performance of the audit shall be under

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146 the direction of the inspector general, except that if the
147 inspector general does not possess the qualifications specified
148 in subsection (4), the director of auditing shall perform the
149 functions listed in this subsection.

150 (c) The inspector general and the staff shall have access
151 to any records, data, and other information or staff of the
152 state agency he or she deems necessary to carry out his or her
153 duties. The inspector general may also request such information
154 or assistance as may be necessary from the state agency or from
155 any federal, state, or local government entity.

156 (f) The inspector general shall submit the final report to
157 the agency head, the Auditor General, and, for state agencies
158 under the jurisdiction of the Governor, the Chief Inspector
159 General. Final audit reports must be posted to the applicable
160 agency's website within 5 business days after the report becomes
161 final.

162 (7) In carrying out the administrative or criminal
163 investigative duties and responsibilities specified in this
164 section, each inspector general shall initiate, conduct,
165 supervise, and coordinate investigations designed to detect,
166 deter, prevent, and eradicate fraud, waste, mismanagement,
167 misconduct, and other abuses in state government. For these
168 purposes, each inspector general shall:

169 (a) Receive complaints and coordinate all activities of the
170 agency as required by the Whistle-blower's Act pursuant to ss.
171 112.3187-112.31895.

172 (b) Receive and consider the complaints which do not meet
173 the criteria for an investigation under the Whistle-blower's Act
174 and conduct, supervise, or coordinate such inquiries,

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175 investigations, or reviews as the inspector general deems
176 appropriate.

177 (c) Report expeditiously to the Department of Law
178 Enforcement or other law enforcement agencies, as appropriate,
179 whenever the inspector general has reasonable grounds to believe
180 there has been a violation of criminal law.

181 (d) Conduct all types of investigations and other inquiries
182 free of actual or perceived impairment to the independence of
183 the inspector general or the inspector general's office. This
184 shall include freedom from any interference with investigations
185 and timely access to records and other sources of information.

186 (e) At the conclusion of each investigation in which the
187 subject of the investigation is a specific entity contracting
188 with the state or an individual substantially affected as
189 defined by this section, and if the investigation is not
190 confidential or otherwise exempt from disclosure by law, the
191 inspector general shall, consistent with s. 119.07(1), submit
192 findings to the subject that is a specific entity contracting
193 with the state or an individual substantially affected, who
194 shall be advised in writing that they may submit a written
195 response within 20 working days after receipt of the findings.
196 Such response and the inspector general's rebuttal to the
197 response, if any, shall be included in the final investigative
198 report.

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

203 (8)

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204 (c) The final reports prepared pursuant to paragraphs (a)
205 and (b) shall be provided to the heads of the respective
206 agencies and, for state agencies under the jurisdiction of the
207 Governor, the Chief Inspector General. Such reports shall
208 include, but need not be limited to:

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

211 2. A description of significant abuses and deficiencies
212 relating to the administration of programs and operations of the
213 agency disclosed by investigations, audits, reviews, or other
214 activities during the reporting period.

215 3. A description of the recommendations for corrective
216 action made by the inspector general during the reporting period
217 with respect to significant problems, abuses, or deficiencies
218 identified.

219 4. The identification of each significant recommendation
220 described in previous annual reports on which corrective action
221 has not been completed.

222 5. A summary of each audit and investigation completed
223 during the reporting period.

224 6. A summary of the budget of the office of inspector
225 general, including a statement concerning whether the budget is
226 sufficient to address and achieve the office's mission.

227 7. A description of whether the agency has interfered with,
228 or attempted to interfere with, the independence of the office
229 and whether the agency has responded timely to requests for
230 information, testimony, and records.

231 (9) The inspector general in each state agency shall
232 provide to the Chief Inspector General ~~agency head~~, upon

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233 receipt, all written complaints concerning the duties and
234 responsibilities in this section or any allegation of misconduct
235 related to the office of the inspector general or its employees,
236 if received from subjects of audits or investigations who are
237 individuals substantially affected or entities contracting with
238 the state, as defined in this section. The Chief Inspector
239 General may investigate such complaints or allegations as he or
240 she deems appropriate or take other appropriate action ~~For state~~
241 ~~agencies under the jurisdiction of the Governor, the inspector~~
242 ~~general shall also provide the complaint to the Chief Inspector~~
243 ~~General.~~

244 (11) Each agency inspector general may issue and serve
245 subpoenas and subpoenas duces tecum to compel the attendance of
246 witnesses and the production of documents, reports, answers,
247 records, accounts, and other data in any medium. In the event of
248 noncompliance with a subpoena or a subpoena duces tecum issued
249 pursuant to this section, the inspector general may petition the
250 circuit court of the county in which the person subpoenaed
251 resides or has his or her principal place of business for an
252 order requiring the subpoenaed person to appear and testify and
253 to produce documents, reports, answers, records, accounts, or
254 other data as specified in the subpoena or subpoena duces tecum.

255 Section 3. This act shall take effect July 1, 2019.