

By Senator Hutson

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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 under the Auditor General; providing
5 definitions; providing duties and powers of the
6 Florida Accountability Officer and the Auditor
7 General; prescribing procedures for the filing and
8 disposition of complaints, investigations, and the
9 issuance of subpoenas; amending s. 11.45, F.S.;
10 providing and revising Auditor General reporting
11 requirements; amending s. 11.47, F.S.; requiring
12 certain officers to provide the Auditor General and
13 the Office of Program Policy Analysis and Government
14 Accountability with access to individuals who have
15 sufficient information for proper audit or
16 examination; providing responsibilities of chief
17 administrative officers; providing criminal penalties
18 for unreasonably delaying an audit; amending s. 14.32,
19 F.S.; providing definitions; providing investigative
20 duties of the Chief Inspector General and agency
21 inspectors general; requiring such inspectors general
22 to provide a report to the Chief Financial Officer
23 within a specified timeframe in certain circumstances;
24 providing liability for certain officials,
25 contractors, and persons in certain circumstances;
26 amending s. 17.04, F.S.; authorizing the Chief
27 Financial Officer to commence an investigation based
28 on certain complaints or referrals; authorizing state
29 agency employees and state contractors to report

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30 certain information to the Chief Financial Officer;
31 amending s. 17.325, F.S.; requiring certain records to
32 be sent to the Florida Accountability Officer within a
33 specified timeframe; amending s. 20.055, F.S.;

34 requiring agency inspectors general to make certain
35 determinations and reports; amending s. 110.1245,
36 F.S.; providing requirements for awards given to
37 employees who report under the Whistle-blower's Act;
38 authorizing expenditures for such awards; amending s.
39 112.3187, F.S.; revising the term "gross
40 mismanagement" to "mismanagement"; conforming
41 provisions to changes made by the act; creating s.
42 286.31, F.S.; requiring specified documentation for
43 certain legal fee claims; providing an exception;
44 amending s. 287.057, F.S.; revising provisions
45 relating to contractual services and commodities that
46 are not subject to competitive-solicitation
47 requirements; requiring certain state contracts to
48 include a good faith estimate of gross profit;
49 requiring a determination of reasonableness; providing
50 definitions; prohibiting certain state employees from
51 participating in the negotiation or award of state
52 contracts; creating s. 288.00001, F.S.; prohibiting
53 tax incentives from being awarded or paid to a state
54 contractor or subcontractor; amending s. 1001.20,
55 F.S.; requiring the Office of Inspector General of the
56 Department of Education to conduct investigations
57 relating to mismanagement, fraud, or abuse against a
58 Florida College System institution; amending s.

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59 1001.65, F.S.; providing responsibilities of Florida
60 College System institution presidents; amending ss.
61 112.3188, 112.3189, and 112.31895, F.S.; conforming
62 provisions to changes made by the act; authorizing the
63 Office of the Auditor General to use carryforward
64 funds to fund the Florida Accountability Office;
65 providing an effective date.
66

67 Be It Enacted by the Legislature of the State of Florida:
68

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

71 11.421 Florida Accountability Office.-

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

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

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

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

86 (a) "Abuse" means behavior that is deficient or improper
87 when compared with behavior that a prudent person would consider

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88 a reasonable and necessary operational practice given the facts
89 and circumstances. The term includes the misuse of authority or
90 position for personal gain.

91 (b) "Appropriations project" means a specific appropriation
92 or proviso that provides funding for a specified entity that is
93 a local government, private entity, or privately operated
94 program. The term does not include an appropriation or proviso:

95 1. Specifically authorized by statute;

96 2. That is part of a statewide distribution to local
97 governments;

98 3. Recommended by a commission, council, or other similar
99 entity created in statute to make annual funding
100 recommendations, provided that such appropriation does not
101 exceed the amount of funding recommended by the commission,
102 council, or other similar entity;

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

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

108 6. For a specified program, research initiative, institute,
109 center, or similar entity at a specific state college or state
110 university recommended by the State Board of Education or by the
111 Board of Governors in its legislative budget request.

112 (c) "Fraud" means obtaining something of value through
113 willful misrepresentation, including, but not limited to, the
114 intentional misstatements or intentional omissions of amounts or
115 disclosures in financial statements to deceive users of
116 financial statements, theft of an organization's assets,

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117 bribery, or the use of one's position for personal enrichment
118 through the deliberate misuse or misapplication of an
119 organization's resources.

120 (d) "Misconduct" means conduct that, though not illegal, is
121 inappropriate for a person in his or her specified position.

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

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

124 (g) "Waste" means the act of using or expending resources
125 unreasonably, carelessly, extravagantly, or for no useful
126 purpose.

127 (5) The Florida Accountability Officer may receive and
128 investigate a complaint alleging fraud, waste, abuse,
129 mismanagement, or misconduct in connection with the expenditure
130 of public funds.

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

133 (a) The President of the Senate.

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

135 (c) The chair of an appropriations committee of the Senate
136 or of the House of Representatives.

137 (d) The Auditor General.

138 (7) (a) Upon receipt of a complaint, the Florida
139 Accountability Officer shall determine whether the complaint is
140 supported by sufficient information indicating a reasonable
141 probability of fraud, waste, abuse, mismanagement, or
142 misconduct. If the Florida Accountability Officer determines
143 that the complaint is not supported by sufficient information
144 indicating a reasonable probability of fraud, waste, abuse,
145 mismanagement, or misconduct, the Florida Accountability Officer

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146 shall notify the complainant in writing and the complaint shall
147 be closed.

148 (b) If the complaint is supported by sufficient information
149 indicating a reasonable probability of fraud, waste, abuse,
150 mismanagement, or misconduct, the Florida Accountability Officer
151 shall determine whether an investigation into the matter has
152 already been initiated by a law enforcement agency, the
153 Commission on Ethics, the Chief Financial Officer, the Office of
154 Chief Inspector General, or the applicable agency inspector
155 general. If such an investigation has been initiated, the
156 Florida Accountability Officer shall notify the complainant in
157 writing and the complaint may be closed.

158 (c) If the complaint is supported by sufficient information
159 indicating a reasonable probability of fraud, waste, abuse,
160 mismanagement, or misconduct, and an investigation into the
161 matter has not already been initiated by a law enforcement
162 agency, the Commission on Ethics, the Chief Financial Officer,
163 the Office of Chief Inspector General, or the applicable agency
164 inspector general, the Florida Accountability Officer shall,
165 within available resources, conduct an investigation and issue a
166 report of the investigative findings to the complainant, the
167 President of the Senate, and the Speaker of the House of
168 Representatives. The Florida Accountability Officer may refer
169 the matter to the Auditor General, the appropriate law
170 enforcement agency, the Commission on Ethics, the Chief
171 Financial Officer, the Office of the Chief Inspector General, or
172 the applicable agency inspector general. The Auditor General may
173 provide staff and other resources to assist the Florida
174 Accountability Officer.

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

180 (b) Upon the request of the Florida Accountability Officer,
181 the Legislative Auditing Committee or any other committee of the
182 Legislature may issue subpoenas and subpoenas duces tecum, as
183 provided in s. 11.143, to compel testimony or the production of
184 evidence when deemed necessary to an investigation authorized by
185 this section. Consistent with s. 11.143, such subpoenas and
186 subpoenas duces tecum may be issued as provided by applicable
187 legislative rules, or, in the absence of applicable legislative
188 rules, by the chair of the Legislative Auditing Committee with
189 the approval of the Legislative Auditing Committee and the
190 President of the Senate and the Speaker of the House of
191 Representatives, or with the approval of the President of the
192 Senate or the Speaker of the House of Representatives if such
193 officer alone designated the Legislative Auditing Committee
194 under s. 1.01(17).

195 (c) If a witness fails to or refuses to comply with a
196 lawful subpoena or subpoena duces tecum issued pursuant to this
197 subsection at a time when the Legislature is not in session, the
198 Florida Accountability Officer may file a complaint before any
199 circuit court of the state to enforce the subpoena or subpoena
200 duces tecum. On the filing of such complaint, the court shall
201 take jurisdiction of the witness and the subject matter of the
202 complaint and shall direct the witness to respond to all lawful
203 questions and to produce all documentary evidence in the

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204 possession of the witness which is lawfully demanded. The
205 failure of a witness to comply with such order constitutes a
206 direct and criminal contempt of court, and the court shall
207 punish the witness accordingly.

208 (d) When the Legislature is in session, upon the request of
209 the Florida Accountability Officer to the committee issuing the
210 subpoena or subpoena duces tecum, either house of the
211 Legislature may seek compliance with the subpoena or subpoena
212 duces tecum in accordance with the State Constitution, general
213 law, the joint rules of the Legislature, or the rules of the
214 house of the Legislature issuing the subpoena.

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

217 (10) (a) Beginning with the 2020-2021 fiscal year, the
218 Auditor General and the Florida Accountability Officer, within
219 available resources, shall randomly select and review
220 appropriations projects appropriated in the prior fiscal year
221 and, if appropriate, investigate and recommend an audit of such
222 projects. The review, investigation, or audit may be delayed on
223 a selected project until a subsequent year if the timeline of
224 the project warrants such a delay. Each investigation or audit
225 must include, but is not limited to, evaluating whether the
226 recipient of the appropriations project administered the project
227 in an efficient and effective manner. When an audit is
228 recommended by the Florida Accountability Officer under this
229 subsection, the Auditor General shall determine whether the
230 audit is appropriate.

231 (b) Beginning with the 2020-2021 fiscal year, the Auditor
232 General and the Florida Accountability Officer, within available

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233 resources, shall select and review, audit, or investigate the
234 financial activities of political subdivisions, special
235 districts, public authorities, public hospitals, state and local
236 councils or commissions, units of local government, or public
237 educational entities in this state, as well as any authorities,
238 councils, commissions, direct-support organizations,
239 institutions, foundations, or similar entities created by law or
240 ordinance to pursue a public purpose, entitled by law or
241 ordinance to any distribution of tax or fee revenues, or
242 organized for the sole purpose of supporting one of the public
243 entities listed in this paragraph.

244 Section 2. Paragraph (f) of subsection (2) and paragraph
245 (j) of subsection (7) of section 11.45, Florida Statutes, are
246 amended to read:

247 11.45 Definitions; duties; authorities; reports; rules.—

248 (2) DUTIES.—The Auditor General shall:

249 (f) At least every 3 years, conduct operational audits of
250 the accounts and records of state agencies, state universities,
251 state colleges, district school boards, the Florida Clerks of
252 Court Operations Corporation, water management districts, and
253 the Florida School for the Deaf and the Blind. At the conclusion
254 of each 3-year cycle, the Auditor General shall publish a report
255 consolidating common operational audit findings for all state
256 agencies, all state universities, all state colleges, and all
257 district school boards.

258
259 The Auditor General shall perform his or her duties
260 independently but under the general policies established by the
261 Legislative Auditing Committee. This subsection does not limit

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262 the Auditor General's discretionary authority to conduct other
263 audits or engagements of governmental entities as authorized in
264 subsection (3).

265 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

266 (j) The Auditor General shall notify the Legislative
267 Auditing Committee of any financial or operational audit report
268 prepared pursuant to this section which indicates that a
269 district school board, state university, or Florida College
270 System institution has failed to take full corrective action in
271 response to a recommendation that was included in the two
272 preceding financial ~~or operational~~ audit reports or a preceding
273 operational audit report.

274 1. The committee may direct the district school board or
275 the governing body of the state university or Florida College
276 System institution to provide a written statement to the
277 committee explaining why full corrective action has not been
278 taken or, if the governing body intends to take full corrective
279 action, describing the corrective action to be taken and when it
280 will occur.

281 2. If the committee determines that the written statement
282 is not sufficient, the committee may require the chair of the
283 district school board or the chair of the governing body of the
284 state university or Florida College System institution, or the
285 chair's designee, to appear before the committee.

286 3. If the committee determines that the district school
287 board, state university, or Florida College System institution
288 has failed to take full corrective action for which there is no
289 justifiable reason or has failed to comply with committee
290 requests made pursuant to this section, the committee shall

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291 refer the matter to the State Board of Education or the Board of
292 Governors, as appropriate, to proceed in accordance with s.
293 1008.32 or s. 1008.322, respectively.

294 Section 3. Subsections (1), (3), and (4) of section 11.47,
295 Florida Statutes, are amended to read:

296 11.47 Penalties; failure to make a proper audit or
297 examination; making a false report; failure to produce documents
298 or information.—

299 (1) (a) All officers whose respective offices the Auditor
300 General or the Office of Program Policy Analysis and Government
301 Accountability is authorized to audit or examine shall enter
302 into their public records sufficient information for proper
303 audit or examination, and shall make the same available to the
304 Auditor General or the Office of Program Policy Analysis and
305 Government Accountability on demand. All such officers shall
306 also make all reasonable efforts to provide the Auditor General
307 or the Office of Program Policy Analysis and Government
308 Accountability with access to individuals who have sufficient
309 information for proper audit or examination.

310 (b) The chief administrative officer whose office the
311 Auditor General or the Office of Program Policy Analysis and
312 Government Accountability is authorized to audit or examine, or
313 such officer's designee, is responsible for the office's
314 cooperation with the audit or examination and is subject to
315 subsections (3) and (4). Before the commencement of the audit or
316 examination, the Auditor General or the Office of Program Policy
317 Analysis and Government Accountability shall inquire of such
318 officer to determine whether he or she intends to delegate the
319 responsibility. If the officer intends to delegate the

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320 responsibility, the officer must report the designee's name and
321 position to the Auditor General or the Office of Program Policy
322 Analysis and Government Accountability upon request.

323 (3) Any person who willfully fails, unreasonably delays, or
324 refuses to furnish or produce any book, record, paper, document,
325 data, or sufficient information necessary to a proper audit or
326 examination which the Auditor General or the Office of Program
327 Policy Analysis and Government Accountability is by law
328 authorized to perform shall be guilty of a misdemeanor of the
329 first degree, punishable as provided in s. 775.082 or s.
330 775.083.

331 (4) Any officer who willfully fails, unreasonably delays,
332 or refuses to furnish or produce any book, record, paper,
333 document, data, or sufficient information necessary to a proper
334 audit or examination which the Auditor General or the Office of
335 Program Policy Analysis and Government Accountability is by law
336 authorized to perform, shall be subject to removal from office.

337 Section 4. Present subsections (1) through (5) of section
338 14.32, Florida Statutes, are renumbered as subsections (2)
339 through (6), respectively, and new subsection (1) and subsection
340 (7) are added to that section, to read:

341 14.32 Office of Chief Inspector General.—

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

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

348 (b) "Fraud" means obtaining something of value through

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349 willful misrepresentation, including, but not limited to, the
350 intentional misstatements or intentional omissions of amounts or
351 disclosures in financial statements to deceive users of
352 financial statements, theft of an organization's assets,
353 bribery, or the use of one's position for personal enrichment
354 through the deliberate misuse or misapplication of an
355 organization's resources.

356 (c) "Independent contractor" has the same meaning as in s.
357 112.3187(3).

358 (d) "Misconduct" means conduct that, though not illegal, is
359 inappropriate for a person in his or her specified position.

360 (e) "Mismanagement" has the same meaning as in s.
361 112.3187(3).

362 (f) "Waste" means the act of using or expending resources
363 unreasonably, carelessly, extravagantly, or for no useful
364 purpose.

365 (7) (a) Within 6 months after the initiation of an
366 investigation of fraud, waste, abuse, mismanagement, or
367 misconduct in government, the Chief Inspector General or an
368 agency inspector general must determine whether there is
369 reasonable probability that fraud, waste, abuse, mismanagement,
370 or misconduct in government has occurred. If there has not been
371 a determination of such reasonable probability and the
372 investigation continues, a new determination must be made every
373 3 months until the investigation is closed or such reasonable
374 probability is found to exist.

375 (b) If the Chief Inspector General or an agency inspector
376 general determines that there is reasonable probability that a
377 public official, an independent contractor, or an agency has

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378 committed fraud, waste, abuse, mismanagement, or misconduct in
379 government, the inspector general shall report such findings to
380 the Florida Accountability Officer and to the Commission on
381 Ethics, the Office of Fiscal Integrity within the Chief
382 Financial Officer's office, or other law enforcement agency, if
383 the commission, the Office of Fiscal Integrity, or the law
384 enforcement agency has jurisdiction over the subject matter.

385 (c) If the findings of an investigation conducted pursuant
386 to this subsection conclude that a public official, an
387 independent contractor, or an agency has committed fraud, waste,
388 abuse, mismanagement, or misconduct in government, the Chief
389 Inspector General or agency inspector general shall report such
390 findings to the Chief Financial Officer within 30 days after the
391 investigation is closed. Such public official, independent
392 contractor, or person responsible within the agency is
393 personally liable for repayment of the funds that were diverted
394 or lost as a result of the fraud, waste, abuse, mismanagement,
395 or misconduct in government. If the person liable fails to repay
396 such funds voluntarily and the state does not agree to a
397 settlement, the Chief Financial Officer shall bring a civil
398 action to recover the funds within 60 days after receipt of such
399 findings.

400 Section 5. Section 17.04, Florida Statutes, is amended to
401 read:

402 17.04 To audit and adjust accounts of officers and those
403 indebted to the state.—The Chief Financial Officer, using
404 generally accepted auditing procedures for testing or sampling,
405 shall examine, audit, adjust, and settle the accounts of all the
406 officers of this state, and any other person in anywise

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407 entrusted with, or who may have received any property, funds, or
408 moneys of this state, or who may be in anywise indebted or
409 accountable to this state for any property, funds, or moneys,
410 and require such officer or persons to render full accounts
411 thereof, and to yield up such property or funds according to
412 law, or pay such moneys into the treasury of this state, or to
413 such officer or agent of the state as may be appointed to
414 receive the same, and on failure so to do, to cause to be
415 instituted and prosecuted proceedings, criminal or civil, at law
416 or in equity, against such persons, according to law. The Chief
417 Financial Officer may conduct investigations within or outside
418 of this state as it deems necessary to aid in the enforcement of
419 this section. The Chief Financial Officer may commence an
420 investigation pursuant to this section based on a complaint or
421 referral from any source. An employee of a state agency or a
422 state contractor having knowledge of suspected misuse of state
423 funds may report such information to the Chief Financial
424 Officer. If during an investigation the Chief Financial Officer
425 has reason to believe that any criminal statute of this state
426 has or may have been violated, the Chief Financial Officer shall
427 refer any records tending to show such violation to state or
428 federal law enforcement or prosecutorial agencies and shall
429 provide investigative assistance to those agencies as required.

430 Section 6. Present subsections (4) and (5) of section
431 17.325, Florida Statutes, are renumbered as subsections (5) and
432 (6), respectively, and a new subsection (4) is added to that
433 section, to read:

434 17.325 Governmental efficiency hotline; duties of Chief
435 Financial Officer.—

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436 (4) A copy of each suggestion or item of information
437 received through the hotline which is logged pursuant to this
438 section must be reported to the Florida Accountability Officer
439 by the 15th of the month following receipt of the suggestion or
440 item of information.

441 Section 7. Paragraph (g) is added to subsection (7) of
442 section 20.055, Florida Statutes, to read:

443 20.055 Agency inspectors general.—

444 (7) In carrying out the investigative duties and
445 responsibilities specified in this section, each inspector
446 general shall initiate, conduct, supervise, and coordinate
447 investigations designed to detect, deter, prevent, and eradicate
448 fraud, waste, mismanagement, misconduct, and other abuses in
449 state government. For these purposes, each inspector general
450 shall:

451 (g) Make determinations and reports as required by s.
452 14.32(7).

453 Section 8. Paragraphs (a) and (b) of subsection (1) and
454 subsection (2) of section 110.1245, Florida Statutes, are
455 amended, and subsection (6) is added to that section, to read:

456 110.1245 Savings sharing program; bonus payments; other
457 awards.—

458 (1) (a) The Department of Management Services shall adopt
459 rules that prescribe procedures and promote a savings sharing
460 program for an individual or group of employees who propose
461 procedures or ideas that are adopted and that result in
462 eliminating or reducing state expenditures, including employees
463 reporting under the Whistle-blower's Act, if such proposals are
464 placed in effect and may be implemented under current statutory

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465 authority.

466 (b) Each agency head shall recommend employees individually
467 or by group to be awarded an amount of money, which amount shall
468 be directly related to the cost savings realized. Each proposed
469 award and amount of money must be approved by the Legislative
470 Budget Commission, except an award issued under subsection (6).

471 (2) In June of each year, bonuses shall be paid to
472 employees from funds authorized by the Legislature in an
473 appropriation specifically for bonuses. For purposes of this
474 subsection, awards issued under subsection (6) are not
475 considered bonuses. Each agency shall develop a plan for
476 awarding lump-sum bonuses, which plan shall be submitted no
477 later than September 15 of each year and approved by the Office
478 of Policy and Budget in the Executive Office of the Governor.
479 Such plan shall include, at a minimum, but is not limited to:

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

482 (b) Eligibility criteria as follows:

483 1. The employee must have been employed before ~~prior to~~
484 July 1 of that fiscal year and have been continuously employed
485 through the date of distribution.

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

488 3. The employee must have had no sustained disciplinary
489 action during the period beginning July 1 through the date the
490 bonus checks are distributed. Disciplinary actions include
491 written reprimands, suspensions, dismissals, and involuntary or
492 voluntary demotions that were associated with a disciplinary
493 action.

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494 4. The employee must have demonstrated a commitment to the
495 agency mission by reducing the burden on those served,
496 continually improving the way business is conducted, producing
497 results in the form of increased outputs, and working to improve
498 processes.

499 5. The employee must have demonstrated initiative in work
500 and have exceeded normal job expectations.

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

504 (c) A periodic evaluation process of the employee's
505 performance.

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

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

510 (f) A limitation on bonus distributions equal to 35 percent
511 of the agency's total authorized positions. This requirement may
512 be waived by the Office of Policy and Budget in the Executive
513 Office of the Governor upon a showing of exceptional
514 circumstances.

515 (6) Each agency inspector general shall report employees
516 whose reports under the Whistle-blower's Act resulted in savings
517 or recovery of public funds in excess of \$1,000 to the agency
518 head. Whistle-blower awards shall be awarded by each agency, and
519 each agency head is authorized to incur expenditures to provide
520 such awards. The award shall be paid from the specific
521 appropriation or trust fund from which the savings or recovery
522 resulted. The agency inspector general to whom the whistle-

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523 blower report was made or referred shall certify the identity of
524 the employee and, along with the agency head or his or her
525 designee, the savings or recovery resulting from the
526 investigation. If more than one employee makes a relevant
527 report, the award shall be shared in proportion to each
528 employee's contribution to the investigation as certified by the
529 agency inspector general. Whistle-blower awards shall be made in
530 the following amounts:

531 (a) A career service employee shall receive 10 percent of
532 the savings or recovery certified, but not less than \$500 and
533 not more than a total of \$50,000 for whistle-blower reports in
534 any 1 year. If the employee had any fault for the misspending or
535 attempted misspending of public funds identified in the
536 investigation that resulted in the savings or recovery, the
537 award may be denied at the discretion of the agency head. If the
538 award is not denied by the agency head, the award may not exceed
539 \$500. The agency inspector general shall certify any fault on
540 the part of the employee.

541 (b) A Senior Management Service employee or an employee in
542 a select exempt position shall receive 5 percent of the savings
543 or recovery certified, but not more than a total of \$1,000 for
544 whistle-blower reports in any 1 year. An employee may not
545 receive an award under this paragraph if he or she had any fault
546 for the misspending or attempted misspending of public funds
547 identified in the investigation that resulted in the savings or
548 recovery. The agency inspector general shall certify any fault
549 on the part of the employee.

550 Section 9. Subsection (2), paragraph (e) of subsection (3),
551 and paragraph (b) of subsection (5) of section 112.3187, Florida

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552 Statutes, are amended to read:

553 112.3187 Adverse action against employee for disclosing
554 information of specified nature prohibited; employee remedy and
555 relief.—

556 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
557 to prevent agencies or independent contractors from taking
558 retaliatory action against an employee who reports to an
559 appropriate agency violations of law on the part of a public
560 employer or independent contractor that create a substantial and
561 specific danger to the public's health, safety, or welfare. It
562 is further the intent of the Legislature to prevent agencies or
563 independent contractors from taking retaliatory action against
564 any person who discloses information to an appropriate agency
565 alleging improper use of governmental office, ~~gross~~ waste of
566 funds, or any other abuse or ~~gross~~ neglect of duty on the part
567 of an agency, public officer, or employee.

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

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

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

577 (b) Any act or suspected act of ~~gross~~ mismanagement,
578 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
579 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
580 committed by an employee or agent of an agency or independent

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581 contractor.

582 Section 10. Section 286.31, Florida Statutes, is created to
583 read:

584 286.31 Use of state or local funds to pay legal fees.—
585 Notwithstanding any other provision of law, a claim for legal
586 fees under any provision of law to be compensated, credited, or
587 approved, in whole or in part, by any state or local agency
588 shall be documented with reasonable particularity of the
589 services provided, including, for each date services were
590 rendered, an itemization of each task performed and the time
591 expended on each task. If such compensation is pursuant to a
592 retainer agreement for contractual legal services provided to a
593 state or local agency and compensation is due before the end of
594 the contract period invoiced, the documentation required by this
595 section may be satisfied by documenting the contractual services
596 rendered in the immediately preceding contract period, provided
597 the agreement and related invoices are public records accessible
598 to the general public. If a contractor refuses in writing to
599 provide such documentation without an amendment to the contract,
600 this section does not apply to compensation under the contract
601 until July 1, 2020.

602 Section 11. Paragraph (e) of subsection (3) and subsection
603 (9) of section 287.057, Florida Statutes, are amended, and
604 subsections (24) and (25) are added to that section, to read:

605 287.057 Procurement of commodities or contractual
606 services.—

607 (3) If the purchase price of commodities or contractual
608 services exceeds the threshold amount provided in s. 287.017 for
609 CATEGORY TWO, purchase of commodities or contractual services

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610 may not be made without receiving competitive sealed bids,
611 competitive sealed proposals, or competitive sealed replies
612 unless:

613 (e) The following contractual services and commodities are
614 not subject to the competitive-solicitation requirements of this
615 section:

616 1. Artistic services. As used in this subsection, the term
617 "artistic services" does not include advertising or typesetting.
618 As used in this subparagraph, the term "advertising" means the
619 making of a representation in any form in connection with a
620 trade, business, craft, or profession in order to promote the
621 supply of commodities or services by the person promoting the
622 commodities or contractual services.

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

625 3. Lectures by individuals.

626 4. Legal services, including attorney, paralegal, expert
627 witness, appraisal, or mediator services.

628 5. Health services involving examination, diagnosis,
629 treatment, prevention, medical consultation, or administration.
630 The term also includes, but is not limited to, substance abuse
631 and mental health services involving examination, diagnosis,
632 treatment, prevention, or medical consultation if such services
633 are offered to eligible individuals participating in a specific
634 program that qualifies multiple providers and uses a standard
635 payment methodology. Reimbursement of administrative costs for
636 providers of services purchased in this manner are also exempt.
637 For purposes of this subparagraph, the term "providers" means
638 health professionals and health facilities, or organizations

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639 that deliver or arrange for the delivery of health services.

640 6. Services provided to persons with mental or physical
641 disabilities by not-for-profit corporations that have obtained
642 exemptions under s. 501(c)(3) of the United States Internal
643 Revenue Code or when such services are governed by Office of
644 Management and Budget Circular A-122. However, in acquiring such
645 services, the agency shall consider the ability of the vendor,
646 past performance, willingness to meet time requirements, and
647 price.

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

650 8. Family placement services.

651 9. Prevention services related to mental health, including
652 drug abuse prevention programs, child abuse prevention programs,
653 and shelters for runaways, operated by not-for-profit
654 corporations. However, in acquiring such services, the agency
655 shall consider the ability of the vendor, past performance,
656 willingness to meet time requirements, and price.

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

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

660 12. Services or commodities provided by governmental
661 entities.

662 13. ~~Statewide~~ Public service announcement programs that
663 ~~provided by a Florida statewide nonprofit corporation under s.~~
664 ~~501(e)(6) of the Internal Revenue Code which~~ have a guaranteed
665 documented match of at least \$3 to \$1.

666 (9) An agency shall not divide the solicitation of
667 commodities or contractual services so as to avoid the

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668 requirements of subsections (1)-(3) or subsection (24).

669 (24) (a) For any contract in excess of \$50,000 which is
670 awarded through an invitation to negotiate or awarded without
671 competitive solicitation under paragraph (3) (c), paragraph
672 (3) (e), or subsection (10), the proposal, offer, or response of
673 the contractor must include a good faith estimate of gross
674 profit for each year and renewal year of the proposed contract.
675 If, in determining the good faith estimate of gross profit, the
676 contractor includes the cost of products or services expected to
677 be provided by a participant closely associated with the
678 contractor, the contractor must also identify such participant,
679 describe the association, and provide a good faith estimate of
680 gross profit for such participant for each year and renewal year
681 of the proposed contract, which must be attested to by an
682 authorized representative of the participant. The agency must,
683 before awarding the contract, make a written determination that
684 the estimated gross profit is not excessive and specify the
685 reasons for such determination. Notwithstanding any provision of
686 the contract, a contractor is liable to the agency for three
687 times the amount or value of any misrepresentation of estimated
688 gross profit as liquidated damages for such misrepresentation.

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

690 1. "Closely associated with the contractor" means the
691 contractor, a principal of the contractor, or a family member or
692 business associate of a principal of the contractor is a
693 principal of the participant. As used in this subparagraph, the
694 term "principal" means a person who owns at least 5 percent
695 interest in the business or entity or who is a manager of the
696 business or entity. As used in this subparagraph, the term

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697 "business associate" means a person or an entity with whom a
698 principal of the contractor has substantial investment,
699 employment, or partnership interests.

700 2. "Good faith estimate of gross profit" means a good faith
701 estimate of the total receipts expected under the contract less
702 the cost of providing contracted commodities and services under
703 the contract and excluding overhead costs. As used in this
704 subparagraph, the term "overhead costs" means all costs that are
705 not directly related to contract performance, including, but not
706 limited to, marketing and administrative expenses.

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

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

715 Section 12. Section 288.00001, Florida Statutes, is created
716 to read:

717 288.00001 Use of state or local incentive funds to pay for
718 services.—Notwithstanding any other provision of law, a tax
719 incentive may not be awarded or paid to a state contractor or
720 any subcontractor for services provided or expenditures incurred
721 pursuant to a state contract.

722 Section 13. Paragraph (e) of subsection (4) of section
723 1001.20, Florida Statutes, as amended by section 4 of chapter
724 2018-5, Laws of Florida, is amended to read:

725 1001.20 Department under direction of state board.—

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726 (4) The Department of Education shall establish the
727 following offices within the Office of the Commissioner of
728 Education which shall coordinate their activities with all other
729 divisions and offices:

730 (e) *Office of Inspector General.*—Organized using existing
731 resources and funds and responsible for promoting
732 accountability, efficiency, and effectiveness and detecting
733 fraud and abuse within school districts, the Florida School for
734 the Deaf and the Blind, and Florida College System institutions
735 in Florida. If the Commissioner of Education determines that a
736 district school board, the Board of Trustees for the Florida
737 School for the Deaf and the Blind, or a Florida College System
738 institution board of trustees is unwilling or unable to address
739 substantiated allegations made by any person relating to waste,
740 fraud, or financial mismanagement within the school district,
741 the Florida School for the Deaf and the Blind, or the Florida
742 College System institution, the office shall conduct,
743 coordinate, or request investigations into such substantiated
744 allegations. The office shall investigate allegations or reports
745 of possible mismanagement, fraud, or abuse against a district
746 school board or Florida College System institution made by any
747 member of the Cabinet, † the presiding officer of either house of
748 the Legislature, † a chair of a substantive or appropriations
749 legislative committee with jurisdiction, † or a member of the
750 board for which an investigation is sought. The office shall
751 have access to all information and personnel necessary to
752 perform its duties and shall have all of its current powers,
753 duties, and responsibilities authorized in s. 20.055.

754 Section 14. Subsection (25) is added to section 1001.65,

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755 Florida Statutes, to read:

756 1001.65 Florida College System institution presidents;
757 powers and duties.—The president is the chief executive officer
758 of the Florida College System institution, shall be corporate
759 secretary of the Florida College System institution board of
760 trustees, and is responsible for the operation and
761 administration of the Florida College System institution. Each
762 Florida College System institution president shall:

763 (25) Have ultimate responsibility for the Florida College
764 System institution's cooperation with an audit conducted
765 pursuant to s. 11.45 and be subject to s. 11.47.

766 Section 15. Subsection (1) of section 112.3188, Florida
767 Statutes, is amended to read:

768 112.3188 Confidentiality of information given to the Chief
769 Inspector General, internal auditors, inspectors general, local
770 chief executive officers, or other appropriate local officials.—

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

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

780 (b) Has committed an act of ~~gross~~ mismanagement,
781 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
782 neglect of duty

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784 may not be disclosed to anyone other than a member of the Chief
785 Inspector General's, agency inspector general's, internal
786 auditor's, local chief executive officer's, or other appropriate
787 local official's staff without the written consent of the
788 individual, unless the Chief Inspector General, internal
789 auditor, agency inspector general, local chief executive
790 officer, or other appropriate local official determines that:
791 the disclosure of the individual's identity is necessary to
792 prevent a substantial and specific danger to the public's
793 health, safety, or welfare or to prevent the imminent commission
794 of a crime; or the disclosure is unavoidable and absolutely
795 necessary during the course of the audit, evaluation, or
796 investigation.

797 Section 16. Subsections (3) and (4) and paragraph (a) of
798 subsection (5) of section 112.3189, Florida Statutes, are
799 amended to read:

800 112.3189 Investigative procedures upon receipt of whistle-
801 blower information from certain state employees.—

802 (3) When a person alleges information described in s.
803 112.3187(5), the Chief Inspector General or agency inspector
804 general actually receiving such information shall within 20 days
805 after ~~of~~ receiving such information determine:

806 (a) Whether the information disclosed is the type of
807 information described in s. 112.3187(5).

808 (b) Whether the source of the information is a person who
809 is an employee or former employee of, or an applicant for
810 employment with, a state agency, as defined in s. 216.011.

811 (c) Whether the information actually disclosed demonstrates
812 reasonable cause to suspect that an employee or agent of an

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813 agency or independent contractor has violated any federal,
814 state, or local law, rule, or regulation, thereby creating and
815 presenting a substantial and specific danger to the public's
816 health, safety, or welfare, or has committed an act of ~~gross~~
817 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
818 funds, or ~~gross~~ neglect of duty.

819 (4) If the Chief Inspector General or agency inspector
820 general under subsection (3) determines that the information
821 disclosed is not the type of information described in s.
822 112.3187(5), or that the source of the information is not a
823 person who is an employee or former employee of, or an applicant
824 for employment with, a state agency, as defined in s. 216.011,
825 or that the information disclosed does not demonstrate
826 reasonable cause to suspect that an employee or agent of an
827 agency or independent contractor has violated any federal,
828 state, or local law, rule, or regulation, thereby creating and
829 presenting a substantial and specific danger to the public's
830 health, safety, or welfare, or has committed an act of ~~gross~~
831 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
832 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
833 agency inspector general shall notify the complainant of such
834 fact and copy and return, upon request of the complainant, any
835 documents and other materials that were provided by the
836 complainant.

837 (5) (a) If the Chief Inspector General or agency inspector
838 general under subsection (3) determines that the information
839 disclosed is the type of information described in s.
840 112.3187(5), that the source of the information is from a person
841 who is an employee or former employee of, or an applicant for

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842 employment with, a state agency, as defined in s. 216.011, and
843 that the information disclosed demonstrates reasonable cause to
844 suspect that an employee or agent of an agency or independent
845 contractor has violated any federal, state, or local law, rule,
846 or regulation, thereby creating a substantial and specific
847 danger to the public's health, safety, or welfare, or has
848 committed an act of ~~gross~~ mismanagement, malfeasance,
849 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of
850 duty, the Chief Inspector General or agency inspector general
851 making such determination shall then conduct an investigation,
852 unless the Chief Inspector General or the agency inspector
853 general determines, within 30 days after receiving the
854 allegations from the complainant, that such investigation is
855 unnecessary. For purposes of this subsection, the Chief
856 Inspector General or the agency inspector general shall consider
857 the following factors, but is not limited to only the following
858 factors, when deciding whether the investigation is not
859 necessary:

860 1. The gravity of the disclosed information compared to the
861 time and expense of an investigation.

862 2. The potential for an investigation to yield
863 recommendations that will make state government more efficient
864 and effective.

865 3. The benefit to state government to have a final report
866 on the disclosed information.

867 4. Whether the alleged whistle-blower information primarily
868 concerns personnel practices that may be investigated under
869 chapter 110.

870 5. Whether another agency may be conducting an

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871 investigation and whether any investigation under this section
872 could be duplicative.

873 6. The time that has elapsed between the alleged event and
874 the disclosure of the information.

875 Section 17. Paragraph (a) of subsection (3) of section
876 112.31895, Florida Statutes, is amended to read:

877 112.31895 Investigative procedures in response to
878 prohibited personnel actions.—

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

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

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

886 2. Protect employees and applicants for employment with
887 such agencies from prohibited personnel practices under s.
888 112.3187.

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

891 4. Recommend disciplinary proceedings pursuant to
892 investigation and appropriate agency rules and procedures.

893 5. Coordinate with the Chief Inspector General in the
894 Executive Office of the Governor and the Florida Commission on
895 Human Relations to receive, review, and forward to appropriate
896 agencies, legislative entities, or the Department of Law
897 Enforcement disclosures of a violation of any law, rule, or
898 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,
899 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of

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900 public funds.

901 6. Review rules pertaining to personnel matters issued or
902 proposed by the Department of Management Services, the Public
903 Employees Relations Commission, and other agencies, and, if the
904 Florida Commission on Human Relations finds that any rule or
905 proposed rule, on its face or as implemented, requires the
906 commission of a prohibited personnel practice, provide a written
907 comment to the appropriate agency.

908 7. Investigate, request assistance from other governmental
909 entities, and, if appropriate, bring actions concerning,
910 allegations of retaliation by state agencies under subparagraph
911 1.

912 8. Administer oaths, examine witnesses, take statements,
913 issue subpoenas, order the taking of depositions, order
914 responses to written interrogatories, and make appropriate
915 motions to limit discovery, pursuant to investigations under
916 subparagraph 1.

917 9. Intervene or otherwise participate, as a matter of
918 right, in any appeal or other proceeding arising under this
919 section before the Public Employees Relations Commission or any
920 other appropriate agency, except that the Florida Commission on
921 Human Relations must comply with the rules of the commission or
922 other agency and may not seek corrective action or intervene in
923 an appeal or other proceeding without the consent of the person
924 protected under ss. 112.3187-112.31895.

925 10. Conduct an investigation, in the absence of an
926 allegation, to determine whether reasonable grounds exist to
927 believe that a prohibited action or a pattern of prohibited
928 action has occurred, is occurring, or is to be taken.

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929 Section 18. The Office of the Auditor General is authorized
930 to use carryforward funds to fund the establishment and
931 operations of the Florida Accountability Office as created by
932 this act.

933 Section 19. This act shall take effect July 1, 2019.