

By Senator Gruters

23-01206B-20

20201538__

1 A bill to be entitled
2 An act relating to government integrity; creating s.
3 11.421, F.S.; creating the Florida Integrity Office
4 under the Auditor General; specifying the purpose of
5 the office; providing for the appointment of the
6 Florida Integrity Officer; requiring the Auditor
7 General to employ qualified individuals for the
8 office; providing definitions; providing procedures
9 for the submission and investigation of certain
10 complaints; authorizing the Florida Integrity Officer
11 to take certain action in response to complaints
12 received; authorizing legislative committees to compel
13 testimony or production of evidence under certain
14 circumstances; providing for the enforcement of
15 subpoenas; requiring the Florida Integrity Officer to
16 receive copies of certain reports; providing
17 procedures with respect to the review of
18 appropriations projects and specified public entities;
19 amending s. 11.45, F.S.; providing a definition;
20 providing and revising Auditor General reporting
21 requirements; amending s. 14.32, F.S.; providing
22 definitions; providing investigative duties of the
23 Chief Inspector General and agency inspectors general;
24 requiring such inspectors general to provide a report
25 to the Chief Financial Officer within a specified
26 timeframe in certain circumstances; providing
27 liability for certain officials, contractors, and
28 persons in certain circumstances; amending s. 17.04,
29 F.S.; authorizing the Chief Financial Officer to

23-01206B-20

20201538__

30 commence an investigation based on certain complaints
31 or referrals; authorizing state agency employees and
32 state contractors to report certain information to the
33 Chief Financial Officer; amending s. 17.325, F.S.;
34 requiring the Chief Financial Officer to transmit
35 certain information received through the Government
36 Efficiency Hotline to the Florida Integrity Officer
37 within a specified timeframe; amending s. 20.055,
38 F.S.; requiring agency inspectors general to make
39 certain determinations and reports; amending s.
40 110.1245, F.S.; providing requirements for awards
41 given to employees who report under the Whistle-
42 blower's Act; authorizing expenditures for such
43 awards; amending s. 112.3187, F.S.; revising a
44 definition; conforming provisions to changes made by
45 the act; amending s. 287.057, F.S.; revising
46 provisions relating to contractual services and
47 commodities that are not subject to competitive-
48 solicitation requirements; requiring certain state
49 contracts to include a good faith estimate of gross
50 profit; requiring a determination of reasonableness;
51 providing definitions; prohibiting certain state
52 employees from participating in the negotiation or
53 award of state contracts; creating s. 288.00001, F.S.;
54 prohibiting tax incentives from being awarded or paid
55 to a state contractor or subcontractor; amending s.
56 1001.20, F.S.; requiring the Office of Inspector
57 General of the Department of Education to conduct
58 investigations relating to waste, fraud, abuse, or

23-01206B-20

20201538__

59 mismanagement against a district school board or
60 Florida College System institution; authorizing the
61 Office of the Auditor General to use carryforward
62 funds to fund the Florida Integrity Office; amending
63 ss. 112.3188, 112.3189, and 112.31895, F.S.;
64 conforming provisions to changes made by the act;
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 Integrity Office.-

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

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

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

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

84 (a) "Appropriations project" means a specific appropriation
85 or proviso that provides funding for a specified entity that is
86 a local government, private entity, or privately operated
87 program. The term does not include an appropriation or proviso:

23-01206B-20

20201538__

- 88 1. Specifically authorized by statute;
89 2. That is part of a statewide distribution to local
90 governments;
91 3. Recommended by a commission, council, or other similar
92 entity created in statute to make annual funding
93 recommendations, provided that such appropriation does not
94 exceed the amount of funding recommended by the commission,
95 council, or other similar entity;
96 4. For a specific transportation facility that is part of
97 the Department of Transportation's 5-year work program submitted
98 pursuant to s. 339.135;
99 5. For an education fixed capital outlay project that is
100 submitted pursuant to s. 1013.60 or s. 1013.64; or
101 6. For a specified program, a research initiative, an
102 institute, a center, or a similar entity at a specific state
103 college or university recommended by the Board of Governors or
104 the State Board of Education in its legislative budget request.
105 (b) "Office" means the Florida Integrity Office.
106 (5) The Florida Integrity Officer may receive and
107 investigate a complaint alleging fraud, waste, abuse,
108 mismanagement, or misconduct in connection with the expenditure
109 of public funds.
110 (6) A complaint may be submitted to the office by any of
111 the following persons:
112 (a) The President of the Senate.
113 (b) The Speaker of the House of Representatives.
114 (c) The chair of an appropriations committee of the Senate
115 or the House of Representatives.
116 (d) The Auditor General.

23-01206B-20

20201538__

117 (7) (a) Upon receipt of a complaint, the Florida Integrity
118 Officer shall determine whether the complaint is supported by
119 sufficient information indicating a reasonable probability of
120 fraud, waste, abuse, mismanagement, or misconduct. If the
121 Florida Integrity Officer determines that the complaint is not
122 supported by sufficient information indicating a reasonable
123 probability of fraud, waste, abuse, mismanagement, or
124 misconduct, the Florida Integrity Officer shall notify the
125 complainant in writing and the complaint shall be closed.

126 (b) If the complaint is supported by sufficient information
127 indicating a reasonable probability of fraud, waste, abuse,
128 mismanagement, or misconduct, the Florida Integrity Officer
129 shall determine whether an investigation into the matter has
130 already been initiated by a law enforcement agency, the
131 Commission on Ethics, the Chief Financial Officer, the Office of
132 Chief Inspector General, or the applicable agency inspector
133 general. If such an investigation has been initiated, the
134 Florida Integrity Officer shall notify the complainant in
135 writing and the complaint may be closed.

136 (c) If the complaint is supported by sufficient information
137 indicating a reasonable probability of fraud, waste, abuse,
138 mismanagement, or misconduct, and an investigation into the
139 matter has not already been initiated as described in paragraph
140 (b), the Florida Integrity Officer shall, within available
141 resources, conduct an investigation and issue a report of the
142 investigative findings to the complainant and to the President
143 of the Senate and the Speaker of the House of Representatives.
144 The Florida Integrity Officer may refer the matter to the
145 Auditor General, the appropriate law enforcement agency, the

23-01206B-20

20201538__

146 Commission on Ethics, the Chief Financial Officer, the Office of
147 the Chief Inspector General, or the applicable agency inspector
148 general. The Auditor General may provide staff and other
149 resources to assist the Florida Integrity Officer.

150 (8) (a) The Florida Integrity Officer, or his or her
151 designee, may inspect and investigate the books, records,
152 papers, documents, data, operation, and physical location of any
153 public agency in this state, including any confidential
154 information, and the public records of any entity that has
155 received direct appropriations. The Florida Integrity Officer
156 may agree to retain the confidentiality of confidential
157 information pursuant to s. 11.0431(2) (a).

158 (b) Upon the request of the Florida Integrity Officer, the
159 Legislative Auditing Committee or any other committee of the
160 Legislature may issue subpoenas and subpoenas duces tecum, as
161 provided in s. 11.143, to compel testimony or the production of
162 evidence when deemed necessary to an investigation authorized by
163 this section. Consistent with s. 11.143, such subpoenas and
164 subpoenas duces tecum may be issued as provided by applicable
165 legislative rules or, in the absence of applicable legislative
166 rules, by the chair of the Legislative Auditing Committee with
167 the approval of the Legislative Auditing Committee and the
168 President of the Senate and the Speaker of the House of
169 Representatives, or with the approval of the President of the
170 Senate or the Speaker of the House of Representatives if such
171 officer alone designated the Legislative Auditing Committee as
172 defined in s. 1.01.

173 (c) If a witness fails or refuses to comply with a lawful
174 subpoena or subpoena duces tecum issued pursuant to this

23-01206B-20

20201538__

175 subsection at a time when the Legislature is not in session, the
176 subpoena or subpoena duces tecum may be enforced as provided in
177 s. 11.143 and, in addition, the Auditor General, on behalf of
178 the committee issuing the subpoena or subpoena duces tecum, may
179 file a complaint before any circuit court of the state to
180 enforce the subpoena or subpoena duces tecum. Upon the filing of
181 such complaint, the court shall take jurisdiction of the witness
182 and the subject matter of the complaint and shall direct the
183 witness to respond to all lawful questions and to produce all
184 documentary evidence in the possession of the witness which is
185 lawfully demanded. The failure of a witness to comply with such
186 order constitutes a direct and criminal contempt of court, and
187 the court shall punish the witness accordingly.

188 (d) When the Legislature is in session, upon the request of
189 the Florida Integrity Officer directed to the committee issuing
190 the subpoena or subpoena duces tecum, either house of the
191 Legislature may seek compliance with the subpoena or subpoena
192 duces tecum in accordance with the State Constitution, general
193 law, the joint rules of the Legislature, or the rules of the
194 house of the Legislature whose committee issued the subpoena or
195 subpoena duces tecum.

196 (9) The Florida Integrity Officer shall receive copies of
197 all reports required by ss. 14.32, 17.325, and 20.055.

198 (10) (a) Beginning with the 2021-2022 fiscal year, the
199 Auditor General and the Florida Integrity Officer, within
200 available resources, shall randomly select and review
201 appropriations projects appropriated in the prior fiscal year
202 and, if appropriate, investigate and recommend an audit of such
203 projects. The review, investigation, or audit may be delayed on

23-01206B-20

20201538__

204 a selected project until a subsequent year if the timeline of
205 the project warrants such delay. Each review, investigation, or
206 audit must include, but is not limited to, evaluating whether
207 the recipient of the appropriations project administered the
208 project in an efficient and effective manner. When an audit is
209 recommended by the Florida Integrity Officer under this
210 subsection, the Auditor General shall determine whether the
211 audit is appropriate.

212 (b) Beginning with the 2021-2022 fiscal year, the Auditor
213 General and the Florida Integrity Officer, within available
214 resources, shall select and review, investigate, or audit the
215 financial activities of any political subdivision, special
216 district, public authority, public hospital, state or local
217 council or commission, unit of local government, or public
218 education entity in this state, as well as any authority,
219 council, commission, direct-support organization, institution,
220 foundation, or similar entity created by law or ordinance to
221 pursue a public purpose, entitled by law or ordinance to any
222 distribution of tax or fee revenues, or organized for the sole
223 purpose of supporting one of the public entities listed in this
224 paragraph.

225 Section 2. Present paragraphs (i) through (m) of subsection
226 (1) of section 11.45, Florida Statutes, are redesignated as
227 paragraphs (j) through (n), respectively, a new paragraph (i) is
228 added to that subsection, and paragraphs (a) and (e) of
229 subsection (1), paragraph (f) of subsection (2), and paragraph
230 (j) of subsection (7) of that section are amended, to read:

231 11.45 Definitions; duties; authorities; reports; rules.—

232 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

23-01206B-20

20201538__

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

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

247 (i) "Misconduct" means conduct which, though not illegal,
248 is inappropriate for a person in his or her specified position.

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

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

259

260 The Auditor General shall perform his or her duties
261 independently but under the general policies established by the

23-01206B-20

20201538__

262 Legislative Auditing Committee. This subsection does not limit
263 the Auditor General's discretionary authority to conduct other
264 audits or engagements of governmental entities as authorized in
265 subsection (3).

266 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

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

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

23-01206B-20

20201538__

291 requests made pursuant to this section, the committee shall
292 refer the matter to the State Board of Education or the Board of
293 Governors, as appropriate, to proceed in accordance with s.
294 1008.32 or s. 1008.322, respectively.

295 Section 3. Present subsections (1) through (5) of section
296 14.32, Florida Statutes, are renumbered as subsections (2)
297 through (6), respectively, paragraph (g) of present subsection
298 (2) is amended, and a new subsection (1) and subsection (7) are
299 added to that section, to read:

300 14.32 Office of Chief Inspector General.—

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

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

307 (b) "Fraud" means obtaining something of value through
308 willful misrepresentation, including, but not limited to, the
309 intentional misstatements or intentional omissions of amounts or
310 disclosures in financial statements to deceive users of
311 financial statements, theft of an entity's assets, bribery, or
312 the use of one's position for personal enrichment through the
313 deliberate misuse or misapplication of an entity's resources.

314 (c) "Independent contractor" has the same meaning as in s.
315 112.3187(3) (d) .

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

318 (e) "Waste" means the act of using or expending resources
319 unreasonably, carelessly, extravagantly, or for no useful

23-01206B-20

20201538__

320 purpose.

321 (3)~~(2)~~ The Chief Inspector General shall:

322 (g) Report expeditiously to and cooperate fully with the
323 Commission on Ethics, the Department of Law Enforcement, the
324 Department of Legal Affairs, and other law enforcement agencies
325 when there are recognizable grounds to believe that there has
326 been a violation of the Code of Ethics for Public Officers and
327 Employees or criminal law or that a civil action should be
328 initiated.

329 (7) (a) Within 6 months after the initiation of an
330 investigation of fraud, waste, abuse, mismanagement, or
331 misconduct in government, the Chief Inspector General or an
332 agency inspector general must determine whether there is
333 reasonable probability that fraud, waste, abuse, mismanagement,
334 or misconduct in government has occurred. If there has not been
335 a determination of such reasonable probability and the
336 investigation continues, a new determination must be made every
337 3 months until the investigation is closed or such reasonable
338 probability is found to exist.

339 (b) If the Chief Inspector General or an agency inspector
340 general determines that there is reasonable probability that a
341 public official, an independent contractor, or an agency has
342 committed fraud, waste, abuse, mismanagement, or misconduct in
343 government, the inspector general shall report such
344 determination to the Florida Integrity Officer.

345 (c) If the findings of an investigation conducted pursuant
346 to this subsection conclude that a public official, an
347 independent contractor, or an agency has committed fraud, waste,
348 abuse, mismanagement, or misconduct in government, the Chief

23-01206B-20

20201538__

349 Inspector General or agency inspector general shall report such
350 findings to the Chief Financial Officer within 30 days after the
351 investigation is closed. Such public official, independent
352 contractor, or person responsible within the agency is
353 personally liable for repayment of the funds that were diverted
354 or lost as a result of the fraud, waste, abuse, mismanagement,
355 or misconduct in government. If the person liable fails to repay
356 such funds voluntarily and the state does not agree to a
357 settlement, the Chief Financial Officer shall bring a civil
358 action to recover the funds within 60 days after receipt of such
359 findings.

360 Section 4. Section 17.04, Florida Statutes, is amended to
361 read:

362 17.04 To audit and adjust accounts of officers and those
363 indebted to the state.—The Chief Financial Officer, using
364 generally accepted auditing procedures for testing or sampling,
365 shall examine, audit, adjust, and settle the accounts of all the
366 officers of this state, and any other person in anywise
367 entrusted with, or who may have received any property, funds, or
368 moneys of this state, or who may be in anywise indebted or
369 accountable to this state for any property, funds, or moneys,
370 and require such officer or persons to render full accounts
371 thereof, and to yield up such property or funds according to
372 law, or pay such moneys into the treasury of this state, or to
373 such officer or agent of the state as may be appointed to
374 receive the same, and on failure so to do, to cause to be
375 instituted and prosecuted proceedings, criminal or civil, at law
376 or in equity, against such persons, according to law. The Chief
377 Financial Officer may conduct investigations within or outside

23-01206B-20

20201538__

378 of this state as it deems necessary to aid in the enforcement of
379 this section. The Chief Financial Officer may commence an
380 investigation pursuant to this section based on a complaint or
381 referral from any source. An employee of a state agency or a
382 state contractor having knowledge of suspected misuse of state
383 funds may report such information to the Chief Financial
384 Officer. If during an investigation the Chief Financial Officer
385 has reason to believe that any criminal statute of this state
386 has or may have been violated, the Chief Financial Officer shall
387 refer any records tending to show such violation to state or
388 federal law enforcement or prosecutorial agencies and shall
389 provide investigative assistance to those agencies as required.

390 Section 5. Present subsections (4) and (5) of section
391 17.325, Florida Statutes, are renumbered as subsections (5) and
392 (6), respectively, and a new subsection (4) is added to that
393 section, to read:

394 17.325 Governmental efficiency hotline; duties of Chief
395 Financial Officer.—

396 (4) A copy of each suggestion or item of information
397 received through the hotline or website that is logged pursuant
398 to this section must be reported to the Florida Integrity
399 Officer by the 15th of the month following receipt of the
400 suggestion or item of information.

401 Section 6. Paragraph (c) of subsection (7) of section
402 20.055, Florida Statutes, is amended, and paragraph (g) is added
403 to that subsection, to read:

404 20.055 Agency inspectors general.—

405 (7) In carrying out the investigative duties and
406 responsibilities specified in this section, each inspector

23-01206B-20

20201538__

407 general shall initiate, conduct, supervise, and coordinate
408 investigations designed to detect, deter, prevent, and eradicate
409 fraud, waste, mismanagement, misconduct, and other abuses in
410 state government. For these purposes, each inspector general
411 shall:

412 (c) Report expeditiously to and cooperate fully with the
413 Commission on Ethics, the Department of Law Enforcement, or
414 other law enforcement agencies, as appropriate, whenever the
415 inspector general has reasonable grounds to believe there has
416 been a violation of the code of ethics or criminal law.

417 (g) Make determinations and reports as required by s.
418 14.32(7).

419 Section 7. Paragraphs (a) and (b) of subsection (1) and
420 subsection (2) of section 110.1245, Florida Statutes, are
421 amended, and subsections (6) and (7) are added to that section,
422 to read:

423 110.1245 Savings sharing program; bonus payments; other
424 awards.—

425 (1) (a) The Department of Management Services shall adopt
426 rules that prescribe procedures and promote a savings sharing
427 program for an individual or group of employees who propose
428 procedures or ideas that are adopted and that result in
429 eliminating or reducing state expenditures, including employees
430 reporting under the Whistle-blower's Act, if such proposals are
431 placed in effect and may be implemented under current statutory
432 authority.

433 (b) Each agency head shall recommend employees individually
434 or by group to be awarded an amount of money, which amount shall
435 be directly related to the cost savings realized. Each proposed

23-01206B-20

20201538__

436 award and amount of money must be approved by the Legislative
437 Budget Commission, except an award issued under subsection (6).

438 (2) In June of each year, bonuses shall be paid to
439 employees from funds authorized by the Legislature in an
440 appropriation specifically for bonuses. For purposes of this
441 subsection, awards issued under subsection (6) are not
442 considered bonuses. Each agency shall develop a plan for
443 awarding lump-sum bonuses, which plan shall be submitted no
444 later than September 15 of each year and approved by the Office
445 of Policy and Budget in the Executive Office of the Governor.
446 Such plan shall include, at a minimum, but is not limited to:

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

449 (b) Eligibility criteria as follows:

450 1. The employee must have been employed before ~~prior to~~
451 July 1 of that fiscal year and have been continuously employed
452 through the date of distribution.

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

455 3. The employee must have had no sustained disciplinary
456 action during the period beginning July 1 through the date the
457 bonus checks are distributed. Disciplinary actions include
458 written reprimands, suspensions, dismissals, and involuntary or
459 voluntary demotions that were associated with a disciplinary
460 action.

461 4. The employee must have demonstrated a commitment to the
462 agency mission by reducing the burden on those served,
463 continually improving the way business is conducted, producing
464 results in the form of increased outputs, and working to improve

23-01206B-20

20201538__

465 processes.

466 5. The employee must have demonstrated initiative in work
467 and have exceeded normal job expectations.

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

471 (c) A periodic evaluation process of the employee's
472 performance.

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

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

477 (f) A limitation on bonus distributions equal to 35 percent
478 of the agency's total authorized positions. This requirement may
479 be waived by the Office of Policy and Budget in the Executive
480 Office of the Governor upon a showing of exceptional
481 circumstances.

482 (6) Each agency inspector general shall report employees
483 whose reports under the Whistle-blower's Act resulted in savings
484 or recovery of public funds in excess of \$1,000. Awards shall be
485 awarded by each agency to the employee, or his or her designee,
486 whose report led to the savings or recovery, and each agency
487 head is authorized to incur expenditures to provide such awards.
488 The award shall be paid from the specific appropriation or trust
489 fund from which the savings or recovery resulted. The agency
490 inspector general to whom the report was made or referred shall
491 certify the savings or recovery resulting from the
492 investigation. If more than one employee makes a relevant
493 report, the award shall be shared in proportion to each

23-01206B-20

20201538__

494 employee's contribution to the investigation as certified by the
495 agency inspector general. Awards shall be made in the following
496 amounts:

497 (a) A career service employee shall receive 10 percent of
498 the savings or recovery certified, but not less than \$500 and
499 not more than a total of \$50,000 for whistle-blower reports in
500 any 1 year. If the employee had any fault for the misspending or
501 attempted misspending of public funds identified in the
502 investigation that resulted in the savings or recovery, the
503 award may be denied at the discretion of the agency head. If the
504 award is not denied by the agency head, the award may not exceed
505 \$500. The agency inspector general shall certify any fault on
506 the part of the employee.

507 (b) A Senior Management Service employee or an employee in
508 a select exempt position shall receive 5 percent of the savings
509 or recovery certified, but not more than a total of \$1,000 for
510 whistle-blower reports in any 1 year. An employee may not
511 receive an award under this paragraph if he or she had any fault
512 for the misspending or attempted misspending of public funds
513 identified in the investigation that resulted in the savings or
514 recovery. The agency inspector general shall certify any fault
515 on the part of the employee.

516 (7) Notwithstanding any other provision of law, an employee
517 whose name or identity is confidential or exempt from disclosure
518 under state or federal law may participate in the savings
519 sharing program authorized in this section. To maintain
520 confidentiality, upon notice of eligibility for an award, such
521 employee may designate an authorized agent, trustee, or
522 custodian to accept an award for which the employee is eligible

23-01206B-20

20201538__

523 on behalf of the employee.

524 Section 8. Subsection (2), paragraph (e) of subsection (3),
525 and paragraph (b) of subsection (5) of section 112.3187, Florida
526 Statutes, are amended to read:

527 112.3187 Adverse action against employee for disclosing
528 information of specified nature prohibited; employee remedy and
529 relief.—

530 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
531 to prevent agencies or independent contractors from taking
532 retaliatory action against an employee who reports to an
533 appropriate agency violations of law on the part of a public
534 employer or independent contractor that create a substantial and
535 specific danger to the public's health, safety, or welfare. It
536 is further the intent of the Legislature to prevent agencies or
537 independent contractors from taking retaliatory action against
538 any person who discloses information to an appropriate agency
539 alleging improper use of governmental office, ~~gross~~ waste of
540 funds, or any other abuse or ~~gross~~ neglect of duty on the part
541 of an agency, public officer, or employee.

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

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

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

551 (b) Any act or suspected act of ~~gross~~ mismanagement,

23-01206B-20

20201538__

552 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected
553 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty
554 committed by an employee or agent of an agency or independent
555 contractor.

556 Section 9. Paragraph (e) of subsection (3) and subsection
557 (9) of section 287.057, Florida Statutes, are amended, and
558 subsections (24) and (25) are added to that section, to read:

559 287.057 Procurement of commodities or contractual
560 services.—

561 (3) If the purchase price of commodities or contractual
562 services exceeds the threshold amount provided in s. 287.017 for
563 CATEGORY TWO, purchase of commodities or contractual services
564 may not be made without receiving competitive sealed bids,
565 competitive sealed proposals, or competitive sealed replies
566 unless:

567 (e) The following contractual services and commodities are
568 not subject to the competitive-solicitation requirements of this
569 section:

570 1. Artistic services. As used in this subsection, the term
571 "artistic services" does not include advertising or typesetting.
572 As used in this subparagraph, the term "advertising" means the
573 making of a representation in any form in connection with a
574 trade, business, craft, or profession in order to promote the
575 supply of commodities or services by the person promoting the
576 commodities or contractual services.

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

579 3. Lectures by individuals.

580 4. Legal services, including attorney, paralegal, expert

23-01206B-20

20201538__

581 witness, appraisal, or mediator services.

582 5. Health services involving examination, diagnosis,
583 treatment, prevention, medical consultation, or administration.
584 The term also includes, but is not limited to, substance abuse
585 and mental health services involving examination, diagnosis,
586 treatment, prevention, or medical consultation if such services
587 are offered to eligible individuals participating in a specific
588 program that qualifies multiple providers and uses a standard
589 payment methodology. Reimbursement of administrative costs for
590 providers of services purchased in this manner are also exempt.
591 For purposes of this subparagraph, the term "providers" means
592 health professionals and health facilities, or organizations
593 that deliver or arrange for the delivery of health services.

594 6. Services provided to persons with mental or physical
595 disabilities by not-for-profit corporations that have obtained
596 exemptions under s. 501(c)(3) of the United States Internal
597 Revenue Code or when such services are governed by Office of
598 Management and Budget Circular A-122. However, in acquiring such
599 services, the agency shall consider the ability of the vendor,
600 past performance, willingness to meet time requirements, and
601 price.

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

604 8. Family placement services.

605 9. Prevention services related to mental health, including
606 drug abuse prevention programs, child abuse prevention programs,
607 and shelters for runaways, operated by not-for-profit
608 corporations. However, in acquiring such services, the agency
609 shall consider the ability of the vendor, past performance,

23-01206B-20

20201538__

610 willingness to meet time requirements, and price.

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

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

614 12. Services or commodities provided by governmental
615 entities.

616 13. ~~Statewide~~ Public service announcement programs that
617 ~~provided by a Florida statewide nonprofit corporation under s.~~
618 ~~501(c)(6) of the Internal Revenue Code which~~ have a guaranteed
619 documented match of at least \$3 to \$1.

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

623 (24) (a) For any contract in excess of \$50,000 that is
624 awarded through an invitation to negotiate or awarded without
625 competitive solicitation under paragraph (3) (c), paragraph
626 (3) (e), or subsection (10), the proposal, offer, or response of
627 the contractor must include a good faith estimate of gross
628 profit for each year and renewal year of the proposed contract.
629 If, in determining the good faith estimate of gross profit, the
630 contractor includes the cost of products or services expected to
631 be provided by a participant closely associated with the
632 contractor, the contractor must also identify such participant,
633 describe the association, and provide a good faith estimate of
634 gross profit for such participant for each year and renewal year
635 of the proposed contract, which must be attested to by an
636 authorized representative of the participant. The agency must,
637 before awarding the contract, make a written determination that
638 the estimated gross profit is not excessive and specify the

23-01206B-20

20201538__

639 reasons for such determination. Notwithstanding any provision of
640 the contract, a contractor is liable to the agency for three
641 times the amount or value of any misrepresentation of estimated
642 gross profit as liquidated damages for such misrepresentation.

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

644 1. "Closely associated with the contractor" means the
645 contractor, a principal of the contractor, or a family member or
646 business associate of a principal of the contractor is a
647 principal of the participant. As used in this subparagraph, the
648 term "principal" means a person who owns at least 5 percent
649 interest in the business or entity or is a manager of the
650 business or entity. As used in this subparagraph, the term
651 "business associate" means a person or entity with whom a
652 principal of the contractor has substantial investment,
653 employment, or partnership interests.

654 2. "Good faith estimate of gross profit" means a good faith
655 estimate of the total receipts expected under the contract less
656 the cost of providing contracted commodities and services under
657 the contract and excluding overhead costs. As used in this
658 subparagraph, the term "overhead costs" means all costs that are
659 not directly related to contract performance, including, but not
660 limited to, marketing and administrative expenses.

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

664 (25) Notwithstanding any other provision of law, a state
665 employee who is registered to lobby the Legislature, other than
666 an agency head, may not participate in the negotiation or award
667 of any contract required or expressly funded under a specific

23-01206B-20

20201538__

668 legislative appropriation or proviso in an appropriation act.

669 This subsection does not apply to a state employee who is:

670 (a) Registered to lobby the Legislature, but whose primary
671 job responsibilities do not involve lobbying.

672 (b) Employed by the Executive Office of the Governor.

673 (c) Employed by the Office of Policy and Budget.

674 Section 10. Section 288.00001, Florida Statutes, is created
675 to read:

676 288.00001 Use of state or local incentive funds to pay for
677 services.—Notwithstanding any other provision of law, a tax
678 incentive may not be awarded or paid to a state contractor or
679 any subcontractor for services provided or expenditures incurred
680 pursuant to a state contract.

681 Section 11. Paragraph (e) of subsection (4) of section
682 1001.20, Florida Statutes, is amended to read:

683 1001.20 Department under direction of state board.—

684 (4) The Department of Education shall establish the
685 following offices within the Office of the Commissioner of
686 Education which shall coordinate their activities with all other
687 divisions and offices:

688 (e) *Office of Inspector General.*—Organized using existing
689 resources and funds and responsible for promoting
690 accountability, efficiency, and effectiveness and detecting
691 fraud and abuse within school districts, the Florida School for
692 the Deaf and the Blind, and Florida College System institutions
693 in Florida. If the Commissioner of Education determines that a
694 district school board, the Board of Trustees for the Florida
695 School for the Deaf and the Blind, or a Florida College System
696 institution board of trustees is unwilling or unable to address

23-01206B-20

20201538__

697 substantiated allegations made by any person relating to waste,
 698 fraud, abuse, or financial mismanagement within the school
 699 district, the Florida School for the Deaf and the Blind, or the
 700 Florida College System institution, the office shall conduct,
 701 coordinate, or request investigations into such substantiated
 702 allegations. The office shall investigate allegations or reports
 703 of possible waste, fraud, ~~or~~ abuse, or mismanagement against a
 704 district school board or Florida College System institution made
 705 by any member of the Cabinet, † the presiding officer of either
 706 house of the Legislature, † a chair of a substantive or
 707 appropriations legislative committee with jurisdiction, † or a
 708 member of the board for which an investigation is sought. The
 709 office shall have access to all information and personnel
 710 necessary to perform its duties and shall have all of its
 711 current powers, duties, and responsibilities authorized in s.
 712 20.055.

713 Section 12. The Office of the Auditor General is authorized
 714 to use carryforward funds to fund the establishment and
 715 operations of the Florida Integrity Office as created by this
 716 act.

717 Section 13. Subsection (1) of section 112.3188, Florida
 718 Statutes, is amended to read:

719 112.3188 Confidentiality of information given to the Chief
 720 Inspector General, internal auditors, inspectors general, local
 721 chief executive officers, or other appropriate local officials.—

722 (1) The name or identity of any individual who discloses in
 723 good faith to the Chief Inspector General or an agency inspector
 724 general, a local chief executive officer, or other appropriate
 725 local official information that alleges that an employee or

23-01206B-20

20201538__

726 agent of an agency or independent contractor:

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

731 (b) Has committed an act of ~~gross~~ mismanagement,
732 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~
733 neglect of duty

734

735 may not be disclosed to anyone other than a member of the Chief
736 Inspector General's, agency inspector general's, internal
737 auditor's, local chief executive officer's, or other appropriate
738 local official's staff without the written consent of the
739 individual, unless the Chief Inspector General, internal
740 auditor, agency inspector general, local chief executive
741 officer, or other appropriate local official determines that:
742 the disclosure of the individual's identity is necessary to
743 prevent a substantial and specific danger to the public's
744 health, safety, or welfare or to prevent the imminent commission
745 of a crime; or the disclosure is unavoidable and absolutely
746 necessary during the course of the audit, evaluation, or
747 investigation.

748 Section 14. Paragraph (c) of subsection (3), subsection
749 (4), and paragraph (a) of subsection (5) of section 112.3189,
750 Florida Statutes, are amended to read:

751 112.3189 Investigative procedures upon receipt of whistle-
752 blower information from certain state employees.-

753 (3) When a person alleges information described in s.
754 112.3187(5), the Chief Inspector General or agency inspector

23-01206B-20

20201538__

755 general actually receiving such information shall within 20 days
756 of receiving such information determine:

757 (c) Whether the information actually disclosed demonstrates
758 reasonable cause to suspect that an employee or agent of an
759 agency or independent contractor has violated any federal,
760 state, or local law, rule, or regulation, thereby creating and
761 presenting a substantial and specific danger to the public's
762 health, safety, or welfare, or has committed an act of ~~gross~~
763 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
764 funds, or ~~gross~~ neglect of duty.

765 (4) If the Chief Inspector General or agency inspector
766 general under subsection (3) determines that the information
767 disclosed is not the type of information described in s.
768 112.3187(5), or that the source of the information is not a
769 person who is an employee or former employee of, or an applicant
770 for employment with, a state agency, as defined in s. 216.011,
771 or that the information disclosed does not demonstrate
772 reasonable cause to suspect that an employee or agent of an
773 agency or independent contractor has violated any federal,
774 state, or local law, rule, or regulation, thereby creating and
775 presenting a substantial and specific danger to the public's
776 health, safety, or welfare, or has committed an act of ~~gross~~
777 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public
778 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or
779 agency inspector general shall notify the complainant of such
780 fact and copy and return, upon request of the complainant, any
781 documents and other materials that were provided by the
782 complainant.

783 (5) (a) If the Chief Inspector General or agency inspector

23-01206B-20

20201538__

784 general under subsection (3) determines that the information
785 disclosed is the type of information described in s.
786 112.3187(5), that the source of the information is from a person
787 who is an employee or former employee of, or an applicant for
788 employment with, a state agency, as defined in s. 216.011, and
789 that the information disclosed demonstrates reasonable cause to
790 suspect that an employee or agent of an agency or independent
791 contractor has violated any federal, state, or local law, rule,
792 or regulation, thereby creating a substantial and specific
793 danger to the public's health, safety, or welfare, or has
794 committed an act of ~~gross~~ mismanagement, malfeasance,
795 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of
796 duty, the Chief Inspector General or agency inspector general
797 making such determination shall then conduct an investigation,
798 unless the Chief Inspector General or the agency inspector
799 general determines, within 30 days after receiving the
800 allegations from the complainant, that such investigation is
801 unnecessary. For purposes of this subsection, the Chief
802 Inspector General or the agency inspector general shall consider
803 the following factors, but is not limited to only the following
804 factors, when deciding whether the investigation is not
805 necessary:

806 1. The gravity of the disclosed information compared to the
807 time and expense of an investigation.

808 2. The potential for an investigation to yield
809 recommendations that will make state government more efficient
810 and effective.

811 3. The benefit to state government to have a final report
812 on the disclosed information.

23-01206B-20

20201538__

813 4. Whether the alleged whistle-blower information primarily
814 concerns personnel practices that may be investigated under
815 chapter 110.

816 5. Whether another agency may be conducting an
817 investigation and whether any investigation under this section
818 could be duplicative.

819 6. The time that has elapsed between the alleged event and
820 the disclosure of the information.

821 Section 15. Paragraph (a) of subsection (3) of section
822 112.31895, Florida Statutes, is amended to read:

823 112.31895 Investigative procedures in response to
824 prohibited personnel actions.—

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

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

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

832 2. Protect employees and applicants for employment with
833 such agencies from prohibited personnel practices under s.
834 112.3187.

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

837 4. Recommend disciplinary proceedings pursuant to
838 investigation and appropriate agency rules and procedures.

839 5. Coordinate with the Chief Inspector General in the
840 Executive Office of the Governor and the Florida Commission on
841 Human Relations to receive, review, and forward to appropriate

23-01206B-20

20201538__

842 agencies, legislative entities, or the Department of Law
843 Enforcement disclosures of a violation of any law, rule, or
844 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,
845 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of
846 public funds.

847 6. Review rules pertaining to personnel matters issued or
848 proposed by the Department of Management Services, the Public
849 Employees Relations Commission, and other agencies, and, if the
850 Florida Commission on Human Relations finds that any rule or
851 proposed rule, on its face or as implemented, requires the
852 commission of a prohibited personnel practice, provide a written
853 comment to the appropriate agency.

854 7. Investigate, request assistance from other governmental
855 entities, and, if appropriate, bring actions concerning,
856 allegations of retaliation by state agencies under subparagraph
857 1.

858 8. Administer oaths, examine witnesses, take statements,
859 issue subpoenas, order the taking of depositions, order
860 responses to written interrogatories, and make appropriate
861 motions to limit discovery, pursuant to investigations under
862 subparagraph 1.

863 9. Intervene or otherwise participate, as a matter of
864 right, in any appeal or other proceeding arising under this
865 section before the Public Employees Relations Commission or any
866 other appropriate agency, except that the Florida Commission on
867 Human Relations must comply with the rules of the commission or
868 other agency and may not seek corrective action or intervene in
869 an appeal or other proceeding without the consent of the person
870 protected under ss. 112.3187-112.31895.

23-01206B-20

20201538__

871 10. Conduct an investigation, in the absence of an
872 allegation, to determine whether reasonable grounds exist to
873 believe that a prohibited action or a pattern of prohibited
874 action has occurred, is occurring, or is to be taken.

875 Section 16. This act shall take effect July 1, 2020.