

By Senator Martin

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1 A bill to be entitled
2 An act relating to clerks of the circuit court;
3 creating s. 28.51, F.S.; providing that the clerk of
4 the circuit court is the county auditor with the duty
5 and power to guard against illegal use of county
6 funds; authorizing the county auditor to perform
7 specified actions; requiring the county auditor to
8 perform specified duties; requiring that reports be
9 published upon the completion of an audit; authorizing
10 third-party financial institutions to rely on
11 specified provisions to provide specified records and
12 documents to county auditors without requiring
13 additional processes or court orders; authorizing
14 third-party contractors to rely on specified
15 provisions and provide county auditors requested
16 information under specified conditions; providing
17 construction; providing that the clerk of the circuit
18 court has legal standing to pursue the recovery of
19 certain funds in a circuit court action; creating s.
20 28.52, F.S.; authorizing county auditors to obtain a
21 certain credential to be designated as the county
22 inspector general; providing that the county inspector
23 general has specified authority; requiring county
24 inspectors general to perform specified actions;
25 authorizing the inspector general to engage in
26 specified actions in furtherance of his or her duties;
27 providing construction; amending s. 129.09, F.S.;
28 making technical changes; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Section 28.51, Florida Statutes, is created to
33 read:

34 28.51 Clerk as county auditor.—

35 (1) COUNTY AUDITOR.—Unless the duties of the clerk of the
36 circuit court are divided by special law approved by a vote of
37 the electors pursuant to s. 1(d), Art. VIII of the State
38 Constitution or pursuant to s. 16, Art. V of the State
39 Constitution, the clerk of the circuit court is the county
40 auditor of all county funds and has the duty and power to guard
41 against the illegal use of such funds.

42 (2) AUTHORITY.—The county auditor may:

43 (a) To avoid the payment of any illegal expenditure as set
44 forth in s. 129.09, perform any audit of anticipated or proposed
45 county expenditures, including, but not limited to, current or
46 anticipated procurement records.

47 (b) Conduct post-payment audits to ensure expenditures of
48 county funds comply with applicable federal and state laws and
49 county policies and procedures.

50 (c) Perform any level of audit and use any type of audit
51 necessary, including financial, operational, or other
52 performance audits.

53 (d) Request access to any records of the county, county
54 officers and constitutional officers, district school board,
55 dependent and independent special districts, a community college
56 district board of trustees, or any other agency or political
57 subdivision of the county. If the county auditor makes such a
58 request, the county, county officers and constitutional

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59 officers, district school board, dependent and independent
60 special districts, community college district board of trustees,
61 or other agency or political subdivision of the county must
62 grant the county auditor access to the records. If the county,
63 county officers or constitutional officers, district school
64 board, dependent and independent special districts, community
65 college district board of trustees, or other agency or political
66 subdivision provides access to records that are exempt or
67 confidential and exempt, the county auditor must maintain the
68 exempt or confidential and exempt status of such records. The
69 officer or governmental entity may not require the county
70 auditor to submit a public records request or seek an order of
71 the court.

72 (e) Issue and serve subpoenas and subpoenas duces tecum to
73 third parties which compel the attendance of witnesses and the
74 production of documents, reports, answers, records, accounts,
75 and other data in any format or medium.

76 (f) Require or allow a person to file a statement, in
77 writing and under oath, as to all the facts and circumstances
78 concerning the matter to be audited, examined, or investigated.

79 (g) In the event of noncompliance with a subpoena issued
80 pursuant to this section, petition the circuit court of the
81 county in which the subpoenaed party resides or has his or her
82 principal place of business for an order requiring the
83 subpoenaed person to appear and testify and to produce any
84 document, report, answer, record, account, or other data as
85 specified in the subpoena.

86 (3) DUTIES AND RESPONSIBILITIES.—The county auditor shall
87 perform all of the following actions:

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88 (a) Inspect and examine all funds, accounts, and financial
89 records of the county and its agencies and governmental
90 subdivisions at all times, including, but not limited to, county
91 funds, the funds of all county and constitutional officers, the
92 funds of the district school board, the funds of all dependent
93 and independent special districts, and funds of the community
94 college district board of trustees.

95 (b) If performing an audit, work with the county, its
96 agencies, officers, managers, and, if applicable, elected
97 officials to identify areas of risk that are most likely to
98 benefit from an audit.

99 (c) Upon completion of the audit, publish the final audit
100 report on the county auditor's publicly accessible website.

101 (4) REQUESTING RECORDS.-

102 (a) A third-party financial institution may rely upon this
103 subsection and provide a county auditor with requested financial
104 records and information and may not require any additional
105 process or a court order.

106 (b) A third-party contractor may rely upon this subsection
107 and provide a county auditor with requested information in
108 accordance with s. 119.0701.

109 (5) AUTHORITY TO ACT AS COUNTY AUDITOR.-A county's use of
110 external auditors or audit committees has no effect upon the
111 authority of the clerk of the circuit court to act as county
112 auditor.

113 (6) RECOVERY OF FUNDS.-If the clerk of the circuit court,
114 in the performance of his or her duties as county auditor, finds
115 evidence that public funds were unlawfully expended, the clerk
116 has legal standing in a circuit court action to pursue the

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117 recovery of funds that were paid unlawfully, as reflected in a
118 post-payment audit.

119 Section 2. Section 28.52, Florida Statutes, is created to
120 read:

121 28.52 Clerk as county inspector general.—

122 (1) In addition to the duties and responsibilities detailed
123 in s. 28.51, a county auditor may obtain accreditation from the
124 Commission for Florida Law Enforcement Accreditation to be
125 designated as a county inspector general. The county inspector
126 general has the authority to conduct fraud, waste, and abuse
127 investigations relating to county funds, the funds of all county
128 officers and constitutional officers, the district school board,
129 and all dependent and independent special districts.

130 (2) A county inspector general shall:

131 (a) Initiate, supervise, and coordinate investigations,
132 recommend policies, and carry out other activities designed to
133 deter, detect, prevent, and eradicate fraud, waste, abuse,
134 mismanagement, and misconduct in the county government.

135 (b) Investigate, upon receipt of a complaint for cause, any
136 administrative action or expenditure of any county agency,
137 regardless of the finality of the administrative action or
138 expenditure.

139 (c) Request and examine the records and reports of any
140 county agency.

141 (d) Coordinate complaint-handling activities of county
142 agencies.

143 (e) Coordinate the activities of the Whistle-blowers Act
144 pursuant to chapter 112 and maintain the whistle-blower's
145 hotline to receive complaints and information concerning the

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146 possible violation of law or administrative rules; fraud, waste,
147 abuse, mismanagement, or malfeasance; or substantial or specific
148 danger to the health, welfare, or safety of the residents of
149 that county.

150 (f) Report expeditiously to and cooperate fully with county
151 law enforcement agencies if there are recognizable grounds to
152 believe that there has been a violation of criminal law or that
153 a civil action should be initiated.

154 (g) Act as the liaison with outside agencies and the state
155 and the Federal Government to promote accountability, integrity,
156 and efficiency in county government.

157 (h) Conduct special investigations and management reviews
158 at the request of the Board of County Commissioners or elected
159 county officials.

160 (3) A county inspector general, in furtherance of his or
161 her duties, may:

162 (a) Issue and serve subpoenas and subpoenas duces tecum for
163 agencies under the jurisdiction of the county to compel the
164 attendance of witnesses and the production of documents,
165 reports, answers, records, accounts, or other data in any
166 medium.

167 (b) Require or allow a person to file a statement, in
168 writing and under oath or otherwise, as to all the facts and
169 circumstances concerning the matter to be audited, examined, or
170 investigated.

171 (c) In the event of noncompliance with a subpoena issued
172 under this subsection, petition the circuit court of the county
173 in which the person subject to the subpoena resides or has his
174 or her principal place of business for an order requiring such

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175 person to appear and testify or to produce documents, reports,
 176 answers, records, accounts, or other data in any medium as
 177 specified in such subpoena.

178 (4) A county that has a separate and independently created
 179 Office of the Inspector General has no effect upon the authority
 180 of the clerk of the circuit court to act as the county inspector
 181 general.

182 Section 3. Section 129.09, Florida Statutes, is amended to
 183 read:

184 129.09 County auditor not to sign illegal warrants.—

185 (1) A ~~Any~~ clerk of the circuit court, acting as county
 186 auditor, may not willfully and knowingly sign a ~~who shall sign~~
 187 any warrant.

188 (a) For the payment of any claim or bill or indebtedness
 189 against any county funds in excess of the expenditure allowed by
 190 law ~~or county ordinance.~~

191 (b) To pay any illegal charge against the county ~~or~~

192 (c) To pay any claim against the county not authorized by
 193 law ~~or county ordinance.~~

194 (2) A clerk who violates subsection (1) is ~~shall be~~
 195 personally liable for the ~~such~~ amount of the warrant and
 196 commits, ~~and if he or she shall sign such warrant willfully and~~
 197 ~~knowingly he or she shall be guilty of a misdemeanor of the~~
 198 ~~second degree, punishable as provided in s. 775.082 or s.~~
 199 ~~775.083.~~

200 Section 4. This act shall take effect July 1, 2025.