

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; providing definitions;  
5           providing duties and powers of the Florida Integrity  
6           Officer and the Auditor General; amending s. 11.45,  
7           F.S.; providing a definition; providing and revising  
8           Auditor General reporting requirements; amending s.  
9           14.32, F.S.; providing definitions; providing  
10          investigative duties of the Chief Inspector General  
11          and agency inspectors general; requiring such  
12          inspectors general to provide a report to the Chief  
13          Financial Officer within a specified timeframe in  
14          certain circumstances; providing liability for certain  
15          officials, contractors, and persons in certain  
16          circumstances; amending s. 17.04, F.S.; authorizing  
17          the Chief Financial Officer to commence an  
18          investigation based on certain complaints or  
19          referrals; authorizing state agency employees and  
20          state contractors to report certain information to the  
21          Chief Financial Officer; amending s. 17.325, F.S.;  
22          requiring certain records to be sent to the Florida  
23          Integrity Officer within a specified timeframe;  
24          amending s. 20.055, F.S.; requiring agency inspectors  
25          general to make certain determinations and reports;

26 | amending s. 110.1245, F.S.; providing requirements for  
27 | awards given to employees who report under the  
28 | Whistle-blower's Act; authorizing expenditures for  
29 | such awards; amending s. 112.3187, F.S.; revising a  
30 | definition; conforming provisions to changes made by  
31 | the act; amending s. 112.324, F.S.; revising  
32 | Commission on Ethics authority to act on a referral;  
33 | amending s. 287.057, F.S.; revising provisions  
34 | relating to contractual services and commodities that  
35 | are not subject to competitive-solicitation  
36 | requirements; requiring certain state contracts to  
37 | include a good faith estimate of gross profit;  
38 | requiring a determination of reasonableness; providing  
39 | definitions; prohibiting certain state employees from  
40 | participating in the negotiation or award of state  
41 | contracts; creating s. 288.00001, F.S.; prohibiting  
42 | tax incentives from being awarded or paid to a state  
43 | contractor or subcontractor; amending s. 1001.20,  
44 | F.S.; requiring the Office of Inspector General of the  
45 | Department of Education to conduct investigations  
46 | relating to waste, fraud, abuse, or mismanagement  
47 | against a district school board or Florida College  
48 | System institution; authorizing the Office of the  
49 | Auditor General to use carryforward funds to fund the  
50 | Florida Integrity Office; amending ss. 112.3188,

51 112.3189, and 112.31895, F.S.; conforming provisions  
 52 to changes made by the act; providing an effective  
 53 date.

54  
 55 Be It Enacted by the Legislature of the State of Florida:

56  
 57 Section 1. Section 11.421, Florida Statutes, is created to  
 58 read:

59 11.421 Florida Integrity Office.—

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

64 (2) The Florida Integrity Officer shall be a legislative  
 65 employee and be appointed by and serve at the pleasure of the  
 66 Auditor General. The Florida Integrity Officer shall oversee the  
 67 efficient operation of the office and report to and be under the  
 68 general supervision of the Auditor General.

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

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

72 (a) "Appropriations project" means a specific  
 73 appropriation or proviso that provides funding for a specified  
 74 entity that is a local government, private entity, or privately  
 75 operated program. The term does not include an appropriation or

76 proviso:

77 1. Specifically authorized by statute;

78 2. That is part of a statewide distribution to local  
79 governments;

80 3. Recommended by a commission, council, or other similar  
81 entity created in statute to make annual funding  
82 recommendations, provided that such appropriation does not  
83 exceed the amount of funding recommended by the commission,  
84 council, or other similar entity;

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

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

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

94 (b) "Office" means the Florida Integrity Office.

95 (5) The Florida Integrity Officer may receive and  
96 investigate a complaint alleging fraud, waste, abuse,  
97 mismanagement, or misconduct in connection with the expenditure  
98 of public funds.

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

101 (a) The President of the Senate.

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

103 (c) The chair of an appropriations committee of the Senate  
104 or the House of Representatives.

105 (d) The Auditor General.

106 (7) (a) Upon receipt of a complaint, the Florida Integrity  
107 Officer shall determine whether the complaint is supported by  
108 sufficient information indicating a reasonable probability of  
109 fraud, waste, abuse, mismanagement, or misconduct. If the  
110 Florida Integrity Officer determines that the complaint is not  
111 supported by sufficient information indicating a reasonable  
112 probability of fraud, waste, abuse, mismanagement, or  
113 misconduct, the Florida Integrity Officer shall notify the  
114 complainant in writing and the complaint shall be closed.

115 (b) If the complaint is supported by sufficient  
116 information indicating a reasonable probability of fraud, waste,  
117 abuse, mismanagement, or misconduct, the Florida Integrity  
118 Officer shall determine whether an investigation into the matter  
119 has already been initiated by a law enforcement agency, the  
120 Commission on Ethics, the Chief Financial Officer, the Office of  
121 Chief Inspector General, or the applicable agency inspector  
122 general. If such an investigation has been initiated, the  
123 Florida Integrity Officer shall notify the complainant in  
124 writing and the complaint may be closed.

125 (c) If the complaint is supported by sufficient

126 information indicating a reasonable probability of fraud, waste,  
127 abuse, mismanagement, or misconduct, and an investigation into  
128 the matter has not already been initiated as described in  
129 paragraph (b), the Florida Integrity Officer shall, within  
130 available resources, conduct an investigation and issue a report  
131 of the investigative findings to the complainant and to the  
132 President of the Senate and the Speaker of the House of  
133 Representatives. The Florida Integrity Officer may refer the  
134 matter to the Auditor General, the appropriate law enforcement  
135 agency, the Commission on Ethics, the Chief Financial Officer,  
136 the Office of the Chief Inspector General, or the applicable  
137 agency inspector general. The Auditor General may provide staff  
138 and other resources to assist the Florida Integrity Officer.

139 (8) (a) The Florida Integrity Officer, or his or her  
140 designee, may inspect and investigate the books, records,  
141 papers, documents, data, operation, and physical location of any  
142 public agency in this state, including any confidential  
143 information, and the public records of any entity that has  
144 received direct appropriations. The Florida Integrity Officer  
145 may agree to retain the confidentiality of confidential  
146 information pursuant to s. 11.0431(2) (a).

147 (b) Upon the request of the Florida Integrity Officer, the  
148 Legislative Auditing Committee or any other committee of the  
149 Legislature may issue subpoenas and subpoenas duces tecum, as  
150 provided in s. 11.143, to compel testimony or the production of

151 evidence when deemed necessary to an investigation authorized by  
152 this section. Consistent with s. 11.143, such subpoenas and  
153 subpoenas duces tecum may be issued as provided by applicable  
154 legislative rules or, in the absence of applicable legislative  
155 rules, by the chair of the Legislative Auditing Committee with  
156 the approval of the Legislative Auditing Committee and the  
157 President of the Senate and the Speaker of the House of  
158 Representatives, or with the approval of the President of the  
159 Senate or the Speaker of the House of Representatives if such  
160 officer alone designated the Legislative Auditing Committee as  
161 defined in s. 1.01.

162 (c) If a witness fails or refuses to comply with a lawful  
163 subpoena or subpoena duces tecum issued pursuant to this  
164 subsection at a time when the Legislature is not in session, the  
165 subpoena or subpoena duces tecum may be enforced as provided in  
166 s. 11.143 and, in addition, the Auditor General, on behalf of  
167 the committee issuing the subpoena or subpoena duces tecum, may  
168 file a complaint before any circuit court of the state to  
169 enforce the subpoena or subpoena duces tecum. Upon the filing of  
170 such complaint, the court shall take jurisdiction of the witness  
171 and the subject matter of the complaint and shall direct the  
172 witness to respond to all lawful questions and to produce all  
173 documentary evidence in the possession of the witness which is  
174 lawfully demanded. The failure of a witness to comply with such  
175 order constitutes a direct and criminal contempt of court, and

176 the court shall punish the witness accordingly.

177 (d) When the Legislature is in session, upon the request  
178 of the Florida Integrity Officer directed to the committee  
179 issuing the subpoena or subpoena duces tecum, either house of  
180 the Legislature may seek compliance with the subpoena or  
181 subpoena duces tecum in accordance with the State Constitution,  
182 general law, the joint rules of the Legislature, or the rules of  
183 the house of the Legislature whose committee issued the subpoena  
184 or subpoena duces tecum.

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

187 (10) (a) Beginning with the 2021-2022 fiscal year, the  
188 Auditor General and the Florida Integrity Officer, within  
189 available resources, shall randomly select and review  
190 appropriations projects appropriated in the prior fiscal year  
191 and, if appropriate, investigate and recommend an audit of such  
192 projects. The review, investigation, or audit may be delayed on  
193 a selected project until a subsequent year if the timeline of  
194 the project warrants such delay. Each review, investigation, or  
195 audit must include, but is not limited to, evaluating whether  
196 the recipient of the appropriations project administered the  
197 project in an efficient and effective manner. When an audit is  
198 recommended by the Florida Integrity Officer under this  
199 subsection, the Auditor General shall determine whether the  
200 audit is appropriate.



201           (b) Beginning with the 2021-2022 fiscal year, the Auditor  
 202 General and the Florida Integrity Officer, within available  
 203 resources, shall select and review, investigate, or audit the  
 204 financial activities of any political subdivision, special  
 205 district, public authority, public hospital, state or local  
 206 council or commission, unit of local government, or public  
 207 education entity in this state, as well as any authority,  
 208 council, commission, direct-support organization, institution,  
 209 foundation, or similar entity created by law or ordinance to  
 210 pursue a public purpose, entitled by law or ordinance to any  
 211 distribution of tax or fee revenues, or organized for the sole  
 212 purpose of supporting one of the public entities listed in this  
 213 paragraph.

214           Section 2. Paragraphs (i) through (m) of subsection (1) of  
 215 section 11.45, Florida Statutes, are redesignated as paragraphs  
 216 (j) through (n), respectively, paragraphs (a) and (e) of  
 217 subsection (1), paragraph (f) of subsection (2), and paragraph  
 218 (j) of subsection (7) are amended, and a new paragraph (i) is  
 219 added to subsection (1) of that section, to read:

220           11.45 Definitions; duties; authorities; reports; rules.—

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

222           (a) "Abuse" means behavior that is deficient or improper  
 223 when compared with behavior that a prudent person would consider  
 224 a reasonable and necessary operational practice given the facts  
 225 and circumstances. The term includes the misuse of authority or

226 | position for personal gain or for the gain of an immediate or  
 227 | close family member or business associate.

228 | (e) "Fraud" means obtaining something of value through  
 229 | willful misrepresentation, including, but not limited to,  
 230 | intentional misstatements or intentional omissions of amounts or  
 231 | disclosures in financial statements to deceive users of  
 232 | financial statements, theft of an entity's assets, bribery, or  
 233 | the use of one's position for personal enrichment through the  
 234 | deliberate misuse or misapplication of an entity's  
 235 | ~~organization's~~ resources.

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

238 | (2) DUTIES.—The Auditor General shall:

239 | (f) At least every 3 years, conduct operational audits of  
 240 | the accounts and records of state agencies, state universities,  
 241 | state colleges, district school boards, the Florida Clerks of  
 242 | Court Operations Corporation, water management districts, and  
 243 | the Florida School for the Deaf and the Blind. At the conclusion  
 244 | of each 3-year cycle, the Auditor General shall publish a report  
 245 | consolidating common operational audit findings for all state  
 246 | agencies, state universities, state colleges, and district  
 247 | school boards.

248 |  
 249 | The Auditor General shall perform his or her duties  
 250 | independently but under the general policies established by the

251 Legislative Auditing Committee. This subsection does not limit  
 252 the Auditor General's discretionary authority to conduct other  
 253 audits or engagements of governmental entities as authorized in  
 254 subsection (3).

255 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

256 (j) The Auditor General shall notify the Legislative  
 257 Auditing Committee of any financial or operational audit report  
 258 prepared pursuant to this section which indicates that a  
 259 district school board, state university, or Florida College  
 260 System institution has failed to take full corrective action in  
 261 response to a recommendation that was included in the two  
 262 preceding financial ~~or operational~~ audit reports or a preceding  
 263 operational audit report.

264 1. The committee may direct the district school board or  
 265 the governing body of the state university or Florida College  
 266 System institution to provide a written statement to the  
 267 committee explaining why full corrective action has not been  
 268 taken or, if the governing body intends to take full corrective  
 269 action, describing the corrective action to be taken and when it  
 270 will occur.

271 2. If the committee determines that the written statement  
 272 is not sufficient, the committee may require the chair of the  
 273 district school board or the chair of the governing body of the  
 274 state university or Florida College System institution, or the  
 275 chair's designee, to appear before the committee.

276 3. If the committee determines that the district school  
 277 board, state university, or Florida College System institution  
 278 has failed to take full corrective action for which there is no  
 279 justifiable reason or has failed to comply with committee  
 280 requests made pursuant to this section, the committee shall  
 281 refer the matter to the State Board of Education or the Board of  
 282 Governors, as appropriate, to proceed in accordance with s.  
 283 1008.32 or s. 1008.322, respectively.

284 Section 3. Subsections (1) through (5) of section 14.32,  
 285 Florida Statutes, are renumbered as subsections (2) through (6),  
 286 respectively, paragraph (g) of present subsection (2) is  
 287 amended, and new subsections (1) and (7) are added to that  
 288 section, to read:

289 14.32 Office of Chief Inspector General.—

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

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

296 (b) "Fraud" means obtaining something of value through  
 297 willful misrepresentation, including, but not limited to, the  
 298 intentional misstatements or intentional omissions of amounts or  
 299 disclosures in financial statements to deceive users of  
 300 financial statements, theft of an entity's assets, bribery, or

301 the use of one's position for personal enrichment through the  
302 deliberate misuse or misapplication of an entity's resources.

303 (c) "Independent contractor" has the same meaning as in s.  
304 112.3187(3) (d) .

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

307 (e) "Waste" means the act of using or expending resources  
308 unreasonably, carelessly, extravagantly, or for no useful  
309 purpose.

310 (3)~~(2)~~ The Chief Inspector General shall:

311 (g) Report expeditiously to and cooperate fully with the  
312 Commission on Ethics, the Department of Law Enforcement, the  
313 Department of Legal Affairs, and other law enforcement agencies  
314 when there are recognizable grounds to believe that there has  
315 been a violation of the code of ethics or criminal law or that a  
316 civil action should be initiated.

317 (7) (a) Within 6 months after the initiation of an  
318 investigation of fraud, waste, abuse, mismanagement, or  
319 misconduct in government, the Chief Inspector General or an  
320 agency inspector general must determine whether there is  
321 reasonable probability that fraud, waste, abuse, mismanagement,  
322 or misconduct in government has occurred. If there has not been  
323 a determination of such reasonable probability and the  
324 investigation continues, a new determination must be made every  
325 3 months until the investigation is closed or such reasonable

326 probability is found to exist.

327 (b) If the Chief Inspector General or an agency inspector  
328 general determines that there is reasonable probability that a  
329 public official, independent contractor, or agency has committed  
330 fraud, waste, abuse, mismanagement, or misconduct in government,  
331 the inspector general shall report such determination to the  
332 Florida Integrity Officer.

333 (c) If the findings of an investigation conducted pursuant  
334 to this subsection conclude that a public official, independent  
335 contractor, or agency has committed fraud, waste, abuse,  
336 mismanagement, or misconduct in government, the Chief Inspector  
337 General or agency inspector general shall report such findings  
338 to the Chief Financial Officer within 30 days after the  
339 investigation is closed. Such public official, independent  
340 contractor, or person responsible within the agency is  
341 personally liable for repayment of the funds that were diverted  
342 or lost as a result of the fraud, waste, abuse, mismanagement,  
343 or misconduct in government. If the person liable fails to repay  
344 such funds voluntarily and the state does not agree to a  
345 settlement, the Chief Financial Officer shall bring a civil  
346 action to recover the funds within 60 days after receipt of such  
347 findings.

348 Section 4. Section 17.04, Florida Statutes, is amended to  
349 read:

350 17.04 To audit and adjust accounts of officers and those

351 indebted to the state.—The Chief Financial Officer, using  
352 generally accepted auditing procedures for testing or sampling,  
353 shall examine, audit, adjust, and settle the accounts of all the  
354 officers of this state, and any other person in anywise  
355 entrusted with, or who may have received any property, funds, or  
356 moneys of this state, or who may be in anywise indebted or  
357 accountable to this state for any property, funds, or moneys,  
358 and require such officer or persons to render full accounts  
359 thereof, and to yield up such property or funds according to  
360 law, or pay such moneys into the treasury of this state, or to  
361 such officer or agent of the state as may be appointed to  
362 receive the same, and on failure so to do, to cause to be  
363 instituted and prosecuted proceedings, criminal or civil, at law  
364 or in equity, against such persons, according to law. The Chief  
365 Financial Officer may conduct investigations within or outside  
366 of this state as it deems necessary to aid in the enforcement of  
367 this section. The Chief Financial Officer may commence an  
368 investigation pursuant to this section based on a complaint or  
369 referral from any source. An employee of a state agency or a  
370 state contractor having knowledge of suspected misuse of state  
371 funds may report such information to the Chief Financial  
372 Officer. If during an investigation the Chief Financial Officer  
373 has reason to believe that any criminal statute of this state  
374 has or may have been violated, the Chief Financial Officer shall  
375 refer any records tending to show such violation to state or

HB 1111

2020

376 federal law enforcement or prosecutorial agencies and shall  
377 provide investigative assistance to those agencies as required.

378 Section 5. Subsections (4) and (5) of section 17.325,  
379 Florida Statutes, are renumbered as subsections (5) and (6),  
380 respectively, and a new subsection (4) is added to that section  
381 to read:

382 17.325 Governmental efficiency hotline; duties of Chief  
383 Financial Officer.—

384 (4) A copy of each suggestion or item of information  
385 received through the hotline or website that is logged pursuant  
386 to this section must be reported to the Florida Integrity  
387 Officer by the 15th of the month following receipt of the  
388 suggestion or item of information.

389 Section 6. Paragraph (c) of subsection (7) of section  
390 20.055, Florida Statutes, is amended, and paragraph (g) is added  
391 to that subsection, to read:

392 20.055 Agency inspectors general.—

393 (7) In carrying out the investigative duties and  
394 responsibilities specified in this section, each inspector  
395 general shall initiate, conduct, supervise, and coordinate  
396 investigations designed to detect, deter, prevent, and eradicate  
397 fraud, waste, mismanagement, misconduct, and other abuses in  
398 state government. For these purposes, each inspector general  
399 shall:

400 (c) Report expeditiously to and cooperate fully with the



401 Commission on Ethics, the Department of Law Enforcement, or  
402 other law enforcement agencies, as appropriate, whenever the  
403 inspector general has reasonable grounds to believe there has  
404 been a violation of the code of ethics or criminal law.

405 (g) Make determinations and reports as required by s.  
406 14.32(7).

407 Section 7. Paragraphs (a) and (b) of subsection (1) and  
408 subsection (2) of section 110.1245, Florida Statutes, are  
409 amended, and subsections (6) and (7) are added to that section,  
410 to read:

411 110.1245 Savings sharing program; bonus payments; other  
412 awards.—

413 (1) (a) The Department of Management Services shall adopt  
414 rules that prescribe procedures and promote a savings sharing  
415 program for an individual or group of employees who propose  
416 procedures or ideas that are adopted and that result in  
417 eliminating or reducing state expenditures, including employees  
418 reporting under the Whistle-blower's Act, if such proposals are  
419 placed in effect and may be implemented under current statutory  
420 authority.

421 (b) Each agency head shall recommend employees  
422 individually or by group to be awarded an amount of money, which  
423 amount shall be directly related to the cost savings realized.  
424 Each proposed award and amount of money must be approved by the  
425 Legislative Budget Commission, except an award issued under

426 subsection (6).

427 (2) In June of each year, bonuses shall be paid to  
 428 employees from funds authorized by the Legislature in an  
 429 appropriation specifically for bonuses. For purposes of this  
 430 subsection, awards issued under subsection (6) are not  
 431 considered bonuses. Each agency shall develop a plan for  
 432 awarding lump-sum bonuses, which plan shall be submitted no  
 433 later than September 15 of each year and approved by the Office  
 434 of Policy and Budget in the Executive Office of the Governor.  
 435 Such plan shall include, at a minimum, but is not limited to:

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

438 (b) Eligibility criteria as follows:

439 1. The employee must have been employed before ~~prior to~~  
 440 July 1 of that fiscal year and have been continuously employed  
 441 through the date of distribution.

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

444 3. The employee must have had no sustained disciplinary  
 445 action during the period beginning July 1 through the date the  
 446 bonus checks are distributed. Disciplinary actions include  
 447 written reprimands, suspensions, dismissals, and involuntary or  
 448 voluntary demotions that were associated with a disciplinary  
 449 action.

450 4. The employee must have demonstrated a commitment to the

451 agency mission by reducing the burden on those served,  
452 continually improving the way business is conducted, producing  
453 results in the form of increased outputs, and working to improve  
454 processes.

455 5. The employee must have demonstrated initiative in work  
456 and have exceeded normal job expectations.

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

460 (c) A periodic evaluation process of the employee's  
461 performance.

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

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

466 (f) A limitation on bonus distributions equal to 35  
467 percent of the agency's total authorized positions. This  
468 requirement may be waived by the Office of Policy and Budget in  
469 the Executive Office of the Governor upon a showing of  
470 exceptional circumstances.

471 (6) Each agency inspector general shall report employees  
472 whose reports under the Whistle-blower's Act resulted in savings  
473 or recovery of public funds in excess of \$1,000. Awards shall be  
474 awarded by each agency to the employee, or his or her designee,  
475 whose report led to the savings or recovery, and each agency

476 head is authorized to incur expenditures to provide such awards.  
477 The award shall be paid from the specific appropriation or trust  
478 fund from which the savings or recovery resulted. The agency  
479 inspector general to whom the report was made or referred shall  
480 certify the savings or recovery resulting from the  
481 investigation. If more than one employee makes a relevant  
482 report, the award shall be shared in proportion to each  
483 employee's contribution to the investigation as certified by the  
484 agency inspector general. Awards shall be made in the following  
485 amounts:

486 (a) A career service employee shall receive 10 percent of  
487 the savings or recovery certified, but not less than \$500 and  
488 not more than a total of \$50,000 for whistle-blower reports in  
489 any 1 year. If the employee had any fault for the misspending or  
490 attempted misspending of public funds identified in the  
491 investigation that resulted in the savings or recovery, the  
492 award may be denied at the discretion of the agency head. If the  
493 award is not denied by the agency head, the award may not exceed  
494 \$500. The agency inspector general shall certify any fault on  
495 the part of the employee.

496 (b) A Senior Management Service employee or an employee in  
497 a select exempt position shall receive 5 percent of the savings  
498 or recovery certified, but not more than a total of \$1,000 for  
499 whistle-blower reports in any 1 year. An employee may not  
500 receive an award under this paragraph if he or she had any fault

501 for the misspending or attempted misspending of public funds  
502 identified in the investigation that resulted in the savings or  
503 recovery. The agency inspector general shall certify any fault  
504 on the part of the employee.

505 (7) Notwithstanding any other provision of law, an  
506 employee whose name or identity is confidential or exempt from  
507 disclosure under state or federal law may participate in the  
508 savings sharing program authorized in this section. To maintain  
509 confidentiality, upon notice of eligibility for an award, such  
510 employee may designate an authorized agent, trustee, or  
511 custodian to accept an award for which the employee is eligible  
512 on behalf of the employee.

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

516 112.3187 Adverse action against employee for disclosing  
517 information of specified nature prohibited; employee remedy and  
518 relief.—

519 (2) LEGISLATIVE INTENT.—It is the intent of the  
520 Legislature to prevent agencies or independent contractors from  
521 taking retaliatory action against an employee who reports to an  
522 appropriate agency violations of law on the part of a public  
523 employer or independent contractor that create a substantial and  
524 specific danger to the public's health, safety, or welfare. It  
525 is further the intent of the Legislature to prevent agencies or

526 independent contractors from taking retaliatory action against  
 527 any person who discloses information to an appropriate agency  
 528 alleging improper use of governmental office, ~~gross~~ waste of  
 529 funds, or any other abuse or ~~gross~~ neglect of duty on the part  
 530 of an agency, public officer, or employee.

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

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

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

540 (b) Any act or suspected act of ~~gross~~ mismanagement,  
 541 malfeasance, misfeasance, ~~gross~~ waste of public funds, suspected  
 542 or actual Medicaid fraud or abuse, or ~~gross~~ neglect of duty  
 543 committed by an employee or agent of an agency or independent  
 544 contractor.

545 Section 9. Paragraph (b) of subsection (1) of section  
 546 112.324, Florida Statutes, is amended to read:

547 112.324 Procedures on complaints of violations and  
 548 referrals; public records and meeting exemptions.—

549 (1) The commission shall investigate an alleged violation  
 550 of this part or other alleged breach of the public trust within

551 the jurisdiction of the commission as provided in s. 8(f), Art.  
552 II of the State Constitution:

553 (b) Upon receipt of a written referral of a possible  
554 violation of this part or other possible breach of the public  
555 trust from the Governor, the Department of Law Enforcement, the  
556 Chief Inspector General or an agency inspector general, a state  
557 attorney, or a United States Attorney which at least six members  
558 of the commission determine is sufficient to indicate a  
559 violation of this part or any other breach of the public trust.

560

561 Within 5 days after receipt of a complaint by the commission or  
562 a determination by at least six members of the commission that  
563 the referral received is deemed sufficient, a copy shall be  
564 transmitted to the alleged violator.

565 Section 10. Paragraph (e) of subsection (3) and subsection  
566 (9) of section 287.057, Florida Statutes, are amended, and  
567 subsections (24) and (25) are added to that section, to read:

568 287.057 Procurement of commodities or contractual  
569 services.—

570 (3) If the purchase price of commodities or contractual  
571 services exceeds the threshold amount provided in s. 287.017 for  
572 CATEGORY TWO, purchase of commodities or contractual services  
573 may not be made without receiving competitive sealed bids,  
574 competitive sealed proposals, or competitive sealed replies  
575 unless:

576 (e) The following contractual services and commodities are  
577 not subject to the competitive-solicitation requirements of this  
578 section:

579 1. Artistic services. As used in this subsection, the term  
580 "artistic services" does not include advertising or typesetting.  
581 As used in this subparagraph, the term "advertising" means the  
582 making of a representation in any form in connection with a  
583 trade, business, craft, or profession in order to promote the  
584 supply of commodities or services by the person promoting the  
585 commodities or contractual services.

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

588 3. Lectures by individuals.

589 4. Legal services, including attorney, paralegal, expert  
590 witness, appraisal, or mediator services.

591 5. Health services involving examination, diagnosis,  
592 treatment, prevention, medical consultation, or administration.  
593 The term also includes, but is not limited to, substance abuse  
594 and mental health services involving examination, diagnosis,  
595 treatment, prevention, or medical consultation if such services  
596 are offered to eligible individuals participating in a specific  
597 program that qualifies multiple providers and uses a standard  
598 payment methodology. Reimbursement of administrative costs for  
599 providers of services purchased in this manner are also exempt.  
600 For purposes of this subparagraph, the term "providers" means



601 health professionals and health facilities, or organizations  
602 that deliver or arrange for the delivery of health services.

603 6. Services provided to persons with mental or physical  
604 disabilities by not-for-profit corporations that have obtained  
605 exemptions under s. 501(c)(3) of the United States Internal  
606 Revenue Code or when such services are governed by Office of  
607 Management and Budget Circular A-122. However, in acquiring such  
608 services, the agency shall consider the ability of the vendor,  
609 past performance, willingness to meet time requirements, and  
610 price.

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

613 8. Family placement services.

614 9. Prevention services related to mental health, including  
615 drug abuse prevention programs, child abuse prevention programs,  
616 and shelters for runaways, operated by not-for-profit  
617 corporations. However, in acquiring such services, the agency  
618 shall consider the ability of the vendor, past performance,  
619 willingness to meet time requirements, and price.

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

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

623 12. Services or commodities provided by governmental  
624 entities.

625 13. ~~Statewide~~ Public service announcement programs that

626 ~~provided by a Florida statewide nonprofit corporation under s.~~  
627 ~~501(c)(6) of the Internal Revenue Code which have a guaranteed~~  
628 ~~documented match of at least \$3 to \$1.~~

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

632 (24) (a) For any contract in excess of \$50,000 that is  
633 awarded through an invitation to negotiate or awarded without  
634 competitive solicitation under paragraph (3)(c), paragraph  
635 (3)(e), or subsection (10), the proposal, offer, or response of  
636 the contractor must include a good faith estimate of gross  
637 profit for each year and renewal year of the proposed contract.  
638 If, in determining the good faith estimate of gross profit, the  
639 contractor includes the cost of products or services expected to  
640 be provided by a participant closely associated with the  
641 contractor, the contractor must also identify such participant,  
642 describe the association, and provide a good faith estimate of  
643 gross profit for such participant for each year and renewal year  
644 of the proposed contract, which must be attested to by an  
645 authorized representative of the participant. The agency must,  
646 before awarding the contract, make a written determination that  
647 the estimated gross profit is not excessive and specify the  
648 reasons for such determination. Notwithstanding any provision of  
649 the contract, a contractor is liable to the agency for three  
650 times the amount or value of any misrepresentation of estimated

651 gross profit as liquidated damages for such misrepresentation.

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

653 1. "Closely associated with the contractor" means the  
654 contractor, a principal of the contractor, or a family member or  
655 business associate of a principal of the contractor is a  
656 principal of the participant. As used in this subparagraph, the  
657 term "principal" means a person who owns at least 5 percent  
658 interest in the business or entity or is a manager of the  
659 business or entity. As used in this subparagraph, the term  
660 "business associate" means a person or entity with whom a  
661 principal of the contractor has substantial investment,  
662 employment, or partnership interests.

663 2. "Good faith estimate of gross profit" means a good  
664 faith estimate of the total receipts expected under the contract  
665 less the cost of providing contracted commodities and services  
666 under the contract and excluding overhead costs. As used in this  
667 subparagraph, the term "overhead costs" means all costs that are  
668 not directly related to contract performance, including, but not  
669 limited to, marketing and administrative expenses.

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

673 (25) Notwithstanding any other provision of law, a state  
674 employee who is registered to lobby the Legislature, other than  
675 an agency head, may not participate in the negotiation or award

676 of any contract required or expressly funded under a specific  
677 legislative appropriation or proviso in an appropriation act.

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

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

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

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

683 Section 11. Section 288.00001, Florida Statutes, is  
684 created to read:

685 288.00001 Use of state or local incentive funds to pay for  
686 services.—Notwithstanding any other provision of law, a tax  
687 incentive may not be awarded or paid to a state contractor or  
688 any subcontractor for services provided or expenditures incurred  
689 pursuant to a state contract.

690 Section 12. Paragraph (e) of subsection (4) of section  
691 1001.20, Florida Statutes, is amended to read:

692 1001.20 Department under direction of state board.—

693 (4) The Department of Education shall establish the  
694 following offices within the Office of the Commissioner of  
695 Education which shall coordinate their activities with all other  
696 divisions and offices:

697 (e) Office of Inspector General.—Organized using existing  
698 resources and funds and responsible for promoting  
699 accountability, efficiency, and effectiveness and detecting  
700 fraud and abuse within school districts, the Florida School for

HB 1111

2020

701 the Deaf and the Blind, and Florida College System institutions  
702 in Florida. If the Commissioner of Education determines that a  
703 district school board, the Board of Trustees for the Florida  
704 School for the Deaf and the Blind, or a Florida College System  
705 institution board of trustees is unwilling or unable to address  
706 substantiated allegations made by any person relating to waste,  
707 fraud, abuse, or financial mismanagement within the school  
708 district, the Florida School for the Deaf and the Blind, or the  
709 Florida College System institution, the office shall conduct,  
710 coordinate, or request investigations into such substantiated  
711 allegations. The office shall investigate allegations or reports  
712 of possible waste, fraud, ~~or~~ abuse, or mismanagement against a  
713 district school board or Florida College System institution made  
714 by any member of the Cabinet, † the presiding officer of either  
715 house of the Legislature, † a chair of a substantive or  
716 appropriations legislative committee with jurisdiction, † or a  
717 member of the board for which an investigation is sought. The  
718 office shall have access to all information and personnel  
719 necessary to perform its duties and shall have all of its  
720 current powers, duties, and responsibilities authorized in s.  
721 20.055.

722 Section 13. The Office of the Auditor General is  
723 authorized to use carryforward funds to fund the establishment  
724 and operations of the Florida Integrity Office as created by  
725 this act.

726 Section 14. Subsection (1) of section 112.3188, Florida  
 727 Statutes, is amended to read:

728 112.3188 Confidentiality of information given to the Chief  
 729 Inspector General, internal auditors, inspectors general, local  
 730 chief executive officers, or other appropriate local officials.—

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

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

740 (b) Has committed an act of ~~gross~~ mismanagement,  
 741 malfeasance, misfeasance, ~~gross~~ waste of public funds, or ~~gross~~  
 742 neglect of duty

743

744 may not be disclosed to anyone other than a member of the Chief  
 745 Inspector General's, agency inspector general's, internal  
 746 auditor's, local chief executive officer's, or other appropriate  
 747 local official's staff without the written consent of the  
 748 individual, unless the Chief Inspector General, internal  
 749 auditor, agency inspector general, local chief executive  
 750 officer, or other appropriate local official determines that:

751 the disclosure of the individual's identity is necessary to  
 752 prevent a substantial and specific danger to the public's  
 753 health, safety, or welfare or to prevent the imminent commission  
 754 of a crime; or the disclosure is unavoidable and absolutely  
 755 necessary during the course of the audit, evaluation, or  
 756 investigation.

757 Section 15. Paragraph (c) of subsection (3), subsection  
 758 (4), and paragraph (a) of subsection (5) of section 112.3189,  
 759 Florida Statutes, are amended to read:

760 112.3189 Investigative procedures upon receipt of whistle-  
 761 blower information from certain state employees.—

762 (3) When a person alleges information described in s.  
 763 112.3187(5), the Chief Inspector General or agency inspector  
 764 general actually receiving such information shall within 20 days  
 765 of receiving such information determine:

766 (c) Whether the information actually disclosed  
 767 demonstrates reasonable cause to suspect that an employee or  
 768 agent of an agency or independent contractor has violated any  
 769 federal, state, or local law, rule, or regulation, thereby  
 770 creating and presenting a substantial and specific danger to the  
 771 public's health, safety, or welfare, or has committed an act of  
 772 ~~gross~~ mismanagement, malfeasance, misfeasance, ~~gross~~ waste of  
 773 public funds, or ~~gross~~ neglect of duty.

774 (4) If the Chief Inspector General or agency inspector  
 775 general under subsection (3) determines that the information

776 disclosed is not the type of information described in s.  
777 112.3187(5), or that the source of the information is not a  
778 person who is an employee or former employee of, or an applicant  
779 for employment with, a state agency, as defined in s. 216.011,  
780 or that the information disclosed does not demonstrate  
781 reasonable cause to suspect that an employee or agent of an  
782 agency or independent contractor has violated any federal,  
783 state, or local law, rule, or regulation, thereby creating and  
784 presenting a substantial and specific danger to the public's  
785 health, safety, or welfare, or has committed an act of ~~gross~~  
786 mismanagement, malfeasance, misfeasance, ~~gross~~ waste of public  
787 funds, or ~~gross~~ neglect of duty, the Chief Inspector General or  
788 agency inspector general shall notify the complainant of such  
789 fact and copy and return, upon request of the complainant, any  
790 documents and other materials that were provided by the  
791 complainant.

792 (5) (a) If the Chief Inspector General or agency inspector  
793 general under subsection (3) determines that the information  
794 disclosed is the type of information described in s.  
795 112.3187(5), that the source of the information is from a person  
796 who is an employee or former employee of, or an applicant for  
797 employment with, a state agency, as defined in s. 216.011, and  
798 that the information disclosed demonstrates reasonable cause to  
799 suspect that an employee or agent of an agency or independent  
800 contractor has violated any federal, state, or local law, rule,



801 or regulation, thereby creating a substantial and specific  
802 danger to the public's health, safety, or welfare, or has  
803 committed an act of ~~gross~~ mismanagement, malfeasance,  
804 misfeasance, ~~gross~~ waste of public funds, or ~~gross~~ neglect of  
805 duty, the Chief Inspector General or agency inspector general  
806 making such determination shall then conduct an investigation,  
807 unless the Chief Inspector General or the agency inspector  
808 general determines, within 30 days after receiving the  
809 allegations from the complainant, that such investigation is  
810 unnecessary. For purposes of this subsection, the Chief  
811 Inspector General or the agency inspector general shall consider  
812 the following factors, but is not limited to only the following  
813 factors, when deciding whether the investigation is not  
814 necessary:

815 1. The gravity of the disclosed information compared to  
816 the time and expense of an investigation.

817 2. The potential for an investigation to yield  
818 recommendations that will make state government more efficient  
819 and effective.

820 3. The benefit to state government to have a final report  
821 on the disclosed information.

822 4. Whether the alleged whistle-blower information  
823 primarily concerns personnel practices that may be investigated  
824 under chapter 110.

825 5. Whether another agency may be conducting an

826 investigation and whether any investigation under this section  
827 could be duplicative.

828 6. The time that has elapsed between the alleged event and  
829 the disclosure of the information.

830 Section 16. Paragraph (a) of subsection (3) of section  
831 112.31895, Florida Statutes, is amended to read:

832 112.31895 Investigative procedures in response to  
833 prohibited personnel actions.—

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

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

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

841 2. Protect employees and applicants for employment with  
842 such agencies from prohibited personnel practices under s.  
843 112.3187.

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

846 4. Recommend disciplinary proceedings pursuant to  
847 investigation and appropriate agency rules and procedures.

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

851 agencies, legislative entities, or the Department of Law  
852 Enforcement disclosures of a violation of any law, rule, or  
853 regulation, or disclosures of ~~gross~~ mismanagement, malfeasance,  
854 misfeasance, nonfeasance, neglect of duty, or ~~gross~~ waste of  
855 public funds.

856 6. Review rules pertaining to personnel matters issued or  
857 proposed by the Department of Management Services, the Public  
858 Employees Relations Commission, and other agencies, and, if the  
859 Florida Commission on Human Relations finds that any rule or  
860 proposed rule, on its face or as implemented, requires the  
861 commission of a prohibited personnel practice, provide a written  
862 comment to the appropriate agency.

863 7. Investigate, request assistance from other governmental  
864 entities, and, if appropriate, bring actions concerning,  
865 allegations of retaliation by state agencies under subparagraph  
866 1.

867 8. Administer oaths, examine witnesses, take statements,  
868 issue subpoenas, order the taking of depositions, order  
869 responses to written interrogatories, and make appropriate  
870 motions to limit discovery, pursuant to investigations under  
871 subparagraph 1.

872 9. Intervene or otherwise participate, as a matter of  
873 right, in any appeal or other proceeding arising under this  
874 section before the Public Employees Relations Commission or any  
875 other appropriate agency, except that the Florida Commission on

HB 1111

2020

876 Human Relations must comply with the rules of the commission or  
877 other agency and may not seek corrective action or intervene in  
878 an appeal or other proceeding without the consent of the person  
879 protected under ss. 112.3187-112.31895.

880 10. Conduct an investigation, in the absence of an  
881 allegation, to determine whether reasonable grounds exist to  
882 believe that a prohibited action or a pattern of prohibited  
883 action has occurred, is occurring, or is to be taken.

884 Section 17. This act shall take effect July 1, 2020.