

By the Committee on Governmental Oversight and Productivity;
and Senator Rossin

302-1884-99

1 A bill to be entitled
2 An act relating to legislative oversight of
3 governmental programs; amending ss. 11.42,
4 11.45, F.S.; defining the term "operational
5 audit"; revising the duties of the Auditor
6 General; transferring the Division of Public
7 Assistance Fraud from the Auditor General to
8 the Department of Law Enforcement;
9 transferring, renumbering, and amending s.
10 11.50, F.S.; conforming provisions to the
11 transfer of the Division of Public Assistance
12 Fraud; amending ss. 402.3015, 414.33, 414.34,
13 414.39, 414.40, 951.28, F.S.; conforming
14 provisions to the transfer of the Division of
15 Public Assistance Fraud; amending ss. 373.589,
16 195.096, 232.44, 946.516, 283.31, F.S.;
17 revising the duties of the Auditor General;
18 providing for audits by independent certified
19 public accountants; amending s. 944.719, F.S.;
20 transferring duties from the Auditor General to
21 the Office of Program Policy Analysis and
22 Government Accountability; amending ss. 11.511,
23 11.513, F.S.; revising the duties of the Office
24 of Program Policy Analysis and Government
25 Accountability; amending ss. 112.3187,
26 112.3188, 112.31895, F.S.; eliminating the
27 Public Counsel's responsibilities associated
28 with the Whistle-blower's Act; amending s.
29 985.401, F.S.; providing for the composition of
30 the Juvenile Justice Accountability Board;
31 reassigning the board from the Joint

1 Legislative Auditing Committee to the
2 Department of Juvenile Justice; amending s.
3 218.502, F.S.; redefining the term "local
4 governmental entity"; repealing s. 284.50(4),
5 F.S., which provides for the Auditor General to
6 audit state agency loss-prevention programs;
7 repealing s. 475.045(1)(f), F.S., which
8 provides for the Auditor General to audit the
9 financial transactions of the Florida Real
10 Estate Commission Education and Research
11 Foundation; repealing s. 985.07, F.S., which
12 provides for the Auditor General to examine
13 some information-sharing efforts; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsections (3), (6), (8), and (9) of
19 section 11.42, Florida Statutes, are amended to read:

20 11.42 The Auditor General.--

21 (3)(a) To carry out her or his duties the Auditor
22 General shall make all spending decisions within the annual
23 operating budget approved by the President of the Senate and
24 the Speaker of the House of Representatives. The Auditor
25 General shall employ qualified persons necessary for the
26 efficient operation of the Auditor General's office and shall
27 fix their duties and compensation and, with the approval of
28 the Legislative Auditing Committee, shall adopt and administer
29 a uniform personnel, job classification, and pay plan for such
30 employees.

31

1 (b)1. No person shall be employed as a financial
2 auditor who does not possess the qualifications to take the
3 examination for a certificate as certified public accountant
4 under the laws of this state, and no person shall be employed
5 or retained as legal adviser, on either a full-time or a
6 part-time basis, who is not a member of The Florida Bar.

7 2. Notwithstanding the provisions of subparagraph 1.,
8 employees in the positions associated with the Florida
9 Education Finance Program full-time enrollment verification
10 function that is assigned to the Auditor General pursuant to
11 s. 229.565(2) may continue to meet the job qualifications that
12 existed prior to such transfer for a period of 3 years after
13 such transfer. Thereafter, they shall meet the requirements of
14 subparagraph 1. This subparagraph is repealed on July 1, 1998.

15 (6)(a) The headquarters of the Auditor General shall
16 be at the state capital, but to facilitate auditing and to
17 eliminate unnecessary traveling the Auditor General may
18 establish divisions and assign auditors to each division and
19 determine their duties and the areas of the state to be served
20 by the respective divisions. The Auditor General shall be
21 provided with adequate quarters to carry out the position's
22 functions in the state capital and in other areas of the
23 state.

24 (b) All payrolls and vouchers ~~prepared by the Auditor~~
25 ~~General~~ for the operations of the Auditor General's ~~her or his~~
26 office shall be submitted directly to the Comptroller and, if
27 found to be correct, state warrants shall be issued therefor.

28 (c) The Auditor General shall transmit to the
29 President of the Senate and the Speaker of the House of
30 Representatives by January 1 of each year a list of statutory
31 and fiscal changes recommended by audit reports. The

1 recommendations should be presented in two categories: one
2 addressing substantive law and policy issues and the other
3 addressing budget issues. The Auditor General may also
4 transmit recommendations at other times of the year when the
5 information would be timely and useful for the Legislature.

6 ~~(8) When authorized to audit the administrative~~
7 ~~services functions of any state agency, the Auditor General~~
8 ~~shall include, as a part of that review, a statement regarding~~
9 ~~agency compliance with the minority business enterprise~~
10 ~~procurement goals set forth in s. 287.0945.~~

11 (8)(9) No officer or full-time employee of the office
12 of Auditor General shall actively engage in any other business
13 or profession; serve as the representative of any political
14 party or on any executive committee or other governing body
15 thereof; serve as an executive, officer, or employee of any
16 political party committee, organization, or association; or be
17 engaged on behalf of any candidate for public office in the
18 solicitation of votes or other activities in behalf of such
19 candidacy. Neither the Auditor General nor any employee of the
20 Auditor General shall become a candidate for election to
21 public office unless she or he shall first resign from office
22 or employment.

23 Section 2. Subsections (1) and (3) and paragraph (f)
24 of subsection (7) of section 11.45, Florida Statutes, are
25 amended to read:

26 11.45 Definitions; duties; audits; reports.--

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

28 (a) "County agency," for the exclusive purposes of
29 this section, means a board of county commissioners or other
30 legislative and governing body of a county, however styled,
31 including that of a consolidated or metropolitan government, a

1 clerk of the circuit court, a separate or ex officio clerk of
2 the county court, a sheriff, a property appraiser, a tax
3 collector, a supervisor of elections, or any other officer in
4 whom any portion of the fiscal duties of the above are under
5 law separately placed. Each county agency is a local
6 governmental entity for purposes of subparagraph (3)(a)4.

7 (b) "Financial audit" means an examination of
8 financial statements in order to express an opinion on the
9 fairness with which they present financial position, results
10 of operations, and changes in financial position in conformity
11 with generally accepted accounting principles and an
12 examination to determine whether operations are properly
13 conducted in accordance with legal and regulatory
14 requirements. Financial audits must be conducted in accordance
15 with generally accepted auditing standards and governmental
16 auditing standards as adopted by the Board of Accountancy.

17 (c) "Governmental entity" means a state agency, a
18 county agency, or any other entity, however styled, that
19 independently exercises any type of state or local
20 governmental function.

21 (d) "Local governmental entity" means a county agency,
22 municipality, or special district as defined in s. 189.403,
23 but does not include any housing authority established under
24 chapter 421.

25 (e) "Management letter" means a statement of the
26 auditor's comments and recommendations.

27 (f) "Operational audit" means a financial-related
28 audit whose purpose is to evaluate management's performance in
29 administering assigned responsibilities in accordance with
30 applicable laws, administrative rules, and other guidelines
31 and to determine the extent to which the internal control, as

1 designed and placed in operation, promotes and encourages the
2 achievement of management's control objectives in the
3 categories of compliance, economic and efficient operations,
4 reliability of financial records and reports, and safeguarding
5 of assets.

6 (g)~~(f)~~ "Performance audit" means an examination of a
7 program, activity, or function of a governmental entity,
8 conducted in accordance with applicable government auditing
9 standards or auditing and evaluation standards of other
10 appropriate authoritative bodies. The term includes an
11 examination of issues related to:

12 1. Economy, efficiency, or effectiveness of the
13 program.

14 2. Structure or design of the program to accomplish
15 its goals and objectives.

16 3. Adequacy of the program to meet the needs
17 identified by the Legislature or governing body.

18 4. Alternative methods of providing program services
19 or products.

20 5. Goals, objectives, and performance measures used by
21 the agency to monitor and report program accomplishments.

22 6. The accuracy or adequacy of public documents,
23 reports, or requests prepared under the program by state
24 agencies.

25 7. Compliance of the program with appropriate
26 policies, rules, or laws.

27 8. Any other issues related to governmental entities
28 as directed by the Legislative Auditing Committee.

29 (h)~~(g)~~ "Political subdivision" means a separate agency
30 or unit of local government created or established by law and
31 includes, but is not limited to, the following and the

1 officers thereof: authority, board, branch, bureau, city,
2 commission, consolidated government, county, department,
3 district, institution, metropolitan government, municipality,
4 office, officer, public corporation, town, or village.

5 (i)~~(h)~~ "State agency" means a separate agency or unit
6 of state government created or established by law and
7 includes, but is not limited to, the following and the
8 officers thereof: authority, board, branch, bureau,
9 commission, department, division, institution, office,
10 officer, or public corporation, as the case may be, except any
11 such agency or unit other than the Florida Public Service
12 Commission within the legislative branch of state government.

13 (3)(a)1. The Auditor General shall annually make
14 financial audits of the accounts and records of all state
15 agencies, as defined in this section, of all district school
16 boards, and of all district boards of trustees of community
17 colleges. This section does not limit the Auditor General's
18 discretionary authority to conduct performance audits of these
19 governmental entities as authorized in subparagraph 2. A
20 district school board may select an independent auditor to
21 perform a financial audit as defined in paragraph (1)(b)
22 notwithstanding the notification provisions of this section.
23 In addition, a district school board may employ an internal
24 auditor to perform ongoing financial verification of the
25 financial records of a school district who must report
26 directly to the district school board or its designee.

27 2. Each charter school established under s. 228.056
28 shall have an annual financial audit of its accounts and
29 records completed within 12 months after the end of its fiscal
30 year by an independent certified public accountant retained by
31 it and paid from its funds. The independent certified public

1 accountant who is selected to perform an annual financial
2 audit of the charter school shall provide a copy of the audit
3 to the district school board, the Department of Education, and
4 the Auditor General. A management letter must be prepared and
5 included as a part of each financial audit report.

6 ~~3.2.~~ The Auditor General may at any time make
7 financial audits and performance audits of the accounts and
8 records of all governmental entities created pursuant to law.
9 The audits referred to in this subparagraph must be made
10 whenever determined by the Auditor General, whenever directed
11 by the Legislative Auditing Committee, or whenever otherwise
12 required by law or concurrent resolution. A district school
13 board, expressway authority, or bridge authority may require
14 that the annual financial audit of its accounts and records be
15 completed within 12 months after the end of its fiscal year.
16 If the Auditor General is unable to meet that requirement, the
17 Auditor General shall notify the school board, the expressway
18 authority, or the bridge authority pursuant to subparagraph 5.
19 ~~4.~~

20 ~~4.3.~~ The Office of Program Policy Analysis and
21 Government Accountability within the Office of the Auditor
22 General shall maintain a schedule of performance audits of
23 state programs. In conducting a performance audit of a state
24 program, the Office of Program Policy Analysis and Government
25 Accountability, when appropriate, shall identify and comment
26 upon alternatives for accomplishing the goals of the program
27 being audited. Such alternatives may include funding
28 techniques and, if appropriate, must describe how other states
29 or governmental units accomplish similar goals.

30 ~~5.4.~~ If by July 1 in any fiscal year a district school
31 board or local governmental entity has not been notified that

1 a financial audit for that fiscal year will be performed by
2 the Auditor General pursuant to subparagraph 3.2, each
3 municipality with either revenues or expenditures of more than
4 \$100,000, each special district with either revenues or
5 expenditures of more than \$50,000, and each county agency
6 shall, and each district school board may, require that an
7 annual financial audit of its accounts and records be
8 completed, within 12 months after the end of its respective
9 fiscal year, by an independent certified public accountant
10 retained by it and paid from its public funds. An independent
11 certified public accountant who is selected to perform an
12 annual financial audit of a school district must report
13 directly to the district school board or its designee. A
14 management letter must be prepared and included as a part of
15 each financial audit report. Each local government finance
16 commission, board, or council, and each municipal power
17 corporation, created as a separate legal or administrative
18 entity by interlocal agreement under s. 163.01(7), shall
19 provide the Auditor General, within 12 months after the end of
20 its fiscal year, with an annual financial audit report of its
21 accounts and records and a written statement or explanation or
22 rebuttal concerning the auditor's comments, including
23 corrective action to be taken. The county audit shall be one
24 document that includes a separate audit of each county agency.
25 The county audit must include an audit of the deposits into
26 and expenditures from the Public Records Modernization Trust
27 Fund. The Auditor General shall tabulate the results of the
28 audits of the Public Records Modernization Trust Fund and
29 report a summary of the audits to the Legislature annually.
30 6.5. The governing body of a municipality, ~~or a~~
31 special district, or charter school must establish an auditor

1 selection committee and competitive auditor selection
2 procedures. The governing board may elect to use its own
3 competitive auditor selection procedures or the procedures
4 outlined in subparagraph 7.6.

5 7.6. The governing body of a noncharter county or
6 district school board that elects to use a certified public
7 accountant other than the Auditor General is responsible for
8 selecting an independent certified public accountant to audit
9 the county agencies of the county or district school board
10 according to the following procedure:

11 a. For each noncharter county, an auditor selection
12 committee must be established, consisting of the county
13 officers elected pursuant to s. 1(d), Art. VIII of the State
14 Constitution, and one member of the board of county
15 commissioners or its designee.

16 b. The committee shall publicly announce, in a uniform
17 and consistent manner, each occasion when auditing services
18 are required to be purchased. Public notice must include a
19 general description of the audit and must indicate how
20 interested certified public accountants can apply for
21 consideration.

22 c. The committee shall encourage firms engaged in the
23 lawful practice of public accounting who desire to provide
24 professional services to submit annually a statement of
25 qualifications and performance data.

26 d. Any certified public accountant desiring to provide
27 auditing services must first be qualified pursuant to law. The
28 committee shall make a finding that the firm or individual to
29 be employed is fully qualified to render the required
30 services. Among the factors to be considered in making this
31

1 finding are the capabilities, adequacy of personnel, past
2 record, and experience of the firm or individual.

3 e. The committee shall adopt procedures for the
4 evaluation of professional services, including, but not
5 limited to, capabilities, adequacy of personnel, past record,
6 experience, results of recent external quality control
7 reviews, and such other factors as may be determined by the
8 committee to be applicable to its particular requirements.

9 f. The public must not be excluded from the
10 proceedings under this subparagraph.

11 g. The committee shall evaluate current statements of
12 qualifications and performance data on file with the
13 committee, together with those that may be submitted by other
14 firms regarding the proposed audit, and shall conduct
15 discussions with, and may require public presentations by, no
16 fewer than three firms regarding their qualifications,
17 approach to the audit, and ability to furnish the required
18 services.

19 h. The committee shall select no fewer than three
20 firms deemed to be the most highly qualified to perform the
21 required services after considering such factors as the
22 ability of professional personnel; past performance;
23 willingness to meet time requirements; location; recent,
24 current, and projected workloads of the firms; and the volume
25 of work previously awarded to the firm by the agency, with the
26 object of effecting an equitable distribution of contracts
27 among qualified firms, provided such distribution does not
28 violate the principle of selection of the most highly
29 qualified firms. If fewer than three firms desire to perform
30 the services, the committee shall recommend such firms as it
31 determines to be qualified.

1 i. If the governing board receives more than one
2 proposal for the same engagement, the board may rank, in order
3 of preference, the firms to perform the engagement. The firm
4 ranked first may then negotiate a contract with the board
5 giving, among other things, a basis of its fee for that
6 engagement. If the board is unable to negotiate a
7 satisfactory contract with that firm, negotiations with that
8 firm shall be formally terminated, and the board shall then
9 undertake negotiations with the second-ranked firm. Failing
10 accord with the second-ranked firm, negotiations shall then be
11 terminated with that firm and undertaken with the third-ranked
12 firm. Negotiations with the other ranked firms shall be
13 undertaken in the same manner. The board, in negotiating with
14 firms, may reopen formal negotiations with any one of the
15 three top-ranked firms, but it may not negotiate with more
16 than one firm at a time. The board shall also negotiate on the
17 scope and quality of services. In making such determination,
18 the board shall conduct a detailed analysis of the cost of the
19 professional services required in addition to considering
20 their scope and complexity. For contracts over \$50,000, the
21 board shall require the firm receiving the award to execute a
22 truth-in-negotiation certificate stating that the rates of
23 compensation and other factual unit costs supporting the
24 compensation are accurate, complete, and current at the time
25 of contracting. Such certificate shall also contain a
26 description and disclosure of any understanding that places a
27 limit on current or future years' audit contract fees,
28 including any arrangements under which fixed limits on fees
29 will not be subject to reconsideration if unexpected
30 accounting or auditing issues are encountered. Such
31 certificate shall also contain a description of any services

1 rendered by the certified public accountant or firm of
2 certified public accountants at rates or terms that are not
3 customary. Any auditing service contract under which such a
4 certificate is required must contain a provision that the
5 original contract price and any additions thereto shall be
6 adjusted to exclude any significant sums by which the board
7 determines the contract price was increased due to inaccurate
8 or incomplete factual unit costs. All such contract
9 adjustments shall be made within 1 year following the end of
10 the contract.

11 j. If the board is unable to negotiate a satisfactory
12 contract with any of the selected firms, the committee shall
13 select additional firms, and the board shall continue
14 negotiations in accordance with this subsection until an
15 agreement is reached.

16 ~~8.7.~~ At the conclusion of the audit field work, the
17 independent certified public accountant shall discuss with the
18 head of each local governmental entity or the chair's designee
19 or with the chair of the district school board or the chair's
20 designee, or with the chair of the board of the charter school
21 or the chair's designee, as appropriate, all of the auditor's
22 comments that will be included in the audit report. If the
23 officer is not available to discuss the auditor's comments,
24 their discussion is presumed when the comments are delivered
25 in writing to his or her office. The auditor shall notify each
26 member of the governing body of a local governmental entity
27 for which deteriorating financial conditions exist which may
28 cause a condition described in s. 218.503(1) to occur if
29 actions are not taken to address such conditions.

30 ~~9.8.~~ The officer's written statement of explanation or
31 rebuttal concerning the auditor's comments, including

1 corrective action to be taken, must be filed with the
2 governing body of the local governmental entity, ~~or~~ district
3 school board, or charter school within 30 days after the
4 delivery of the financial audit report.

5 ~~10.9.~~ The Auditor General, in consultation with the
6 Board of Accountancy, shall adopt rules for the form and
7 conduct of all financial audits subject to this section and
8 conducted by independent certified public accountants local
9 ~~governmental entity audits~~. The rules for audits of local
10 governmental entities and district school boards must include,
11 but are not limited to, requirements for the reporting of
12 information necessary to carry out the purposes of the Local
13 Government Financial Emergencies Act as stated in s. 218.501.

14 ~~11.10.~~ Any local governmental entity or district
15 school board financial audit report required under
16 subparagraph ~~5.4.~~ or charter school financial audit report
17 required under subparagraph 2. and the officer's written
18 statement of explanation or rebuttal concerning the auditor's
19 comments, including corrective action to be taken, must be
20 submitted to the Auditor General within 45 days after delivery
21 of the audit report to the local governmental entity, ~~or~~
22 district school board, or charter school, but no later than 12
23 months after the end of the fiscal year. If the Auditor
24 General does not receive the financial audit report within the
25 prescribed period, he or she must notify the Legislative
26 Auditing Committee that the governmental entity has not
27 complied with this subparagraph. Following notification of
28 failure to submit the required audit report or items required
29 by rule adopted by the Auditor General, a hearing must be
30 scheduled by rule of the committee. After the hearing, the
31 committee shall determine which local governmental entities

1 will be subjected to further state action. If it finds that
2 one or more local governmental entities should be subjected to
3 further state action, the committee shall:

4 a. In the case of a local governmental entity, request
5 the Department of Revenue and the Department of Banking and
6 Finance to withhold any funds payable to such governmental
7 entity until the required financial audit is received by the
8 Auditor General.

9 b. In the case of a special district, notify the
10 Department of Community Affairs that the special district has
11 failed to provide the required audits. Upon receipt of
12 notification, the Department of Community Affairs shall
13 proceed pursuant to ss. 189.421 and 189.422.

14 ~~12.11~~a. The Auditor General, in consultation with the
15 Board of Accountancy, shall review all audit reports submitted
16 by local governmental entities or district school boards
17 pursuant to subparagraph ~~10.9~~. The Auditor General shall
18 request any significant items that were omitted in violation
19 of a rule adopted by the Auditor General. The items must be
20 provided within 45 days after the date of the request. If the
21 Auditor General does not receive the requested items, he or
22 she shall notify the Joint Legislative Auditing Committee.

23 b. The Auditor General shall notify the Governor and
24 the Joint Legislative Auditing Committee of any audit report
25 reviewed by the Auditor General which contains a statement
26 that the local governmental entity or district school board is
27 in a state of financial emergency as provided in s. 218.503.
28 If the Auditor General, in reviewing any audit report,
29 identifies additional information which indicates that the
30 local governmental entity or district school board may be in a
31 state of financial emergency as provided in s. 218.503, the

1 Auditor General shall request appropriate clarification from
2 the local governmental entity or district school board. The
3 requested clarification must be provided within 45 days after
4 the date of the request. If the Auditor General does not
5 receive the requested clarification, he or she shall notify
6 the Joint Legislative Auditing Committee. If, after obtaining
7 the requested clarification, the Auditor General determines
8 that the local governmental entity or district school board is
9 in a state of financial emergency as provided in s. 218.503,
10 he or she shall notify the Governor and the Joint Legislative
11 Auditing Committee.

12 c. The Auditor General shall annually compile and
13 transmit to the President of the Senate, the Speaker of the
14 House of Representatives, and the Joint Legislative Auditing
15 Committee a summary of significant findings and financial
16 trends identified in audits of local government entities
17 performed by the independent certified public accountants.

18 ~~13.12.~~ In conducting a performance audit of any
19 agency, the Auditor General shall use the Agency Strategic
20 Plan of the agency in evaluating the performance of the
21 agency.

22 (b) The Legislative Auditing Committee ~~may authorize~~
23 ~~and direct the Auditor General to make a financial audit of~~
24 ~~any municipality or independent agency or authority of any~~
25 ~~municipality within the state, and the committee shall direct~~
26 the Auditor General to make a financial audit of any
27 municipality ~~such audit~~ whenever petitioned to do so by at
28 least 20 percent of the electors of that ~~any~~ municipality.
29 The supervisor of elections of the county in which the
30 municipality is located shall certify whether or not the
31 petition contains the signatures of at least 20 percent of the

1 electors of the municipality. After the completion of the
2 audit, the auditor General shall determine whether the
3 municipality has the fiscal resources necessary to pay the
4 cost of the audit. The municipality shall pay the cost of the
5 audit within 90 days after the Auditor General's determination
6 that the municipality has the available resources. If ~~The~~
7 ~~expenses of such audit shall be paid by the municipality and,~~
8 ~~in the event~~ the municipality fails to pay the cost of the
9 audit, the Department of Revenue shall, upon certification of
10 the Auditor General, withhold from that portion of the
11 municipal financial assistance trust fund for municipalities
12 which is derived from the cigarette tax imposed under chapter
13 210, and which is distributable to such municipality, a sum
14 sufficient to pay the cost of the audit and shall deposit that
15 sum into the General Revenue Fund of the state.

16 (c) The Auditor General shall at least every 2 years
17 make a performance audit of the local government financial
18 reporting system, which, for the purpose of this chapter,
19 means the reporting provisions of this subsection and
20 subsection (4); s. 27.3455(1) and (2); part VII of chapter
21 112; s. 163.05; s. 166.241; chapter 189; parts III and V of
22 chapter 218; and s. 925.037(5). The performance audit shall
23 analyze each component of the reporting system separately and
24 analyze the reporting system as a whole. The purpose of such
25 an audit is to determine the accuracy, efficiency, and
26 effectiveness of the reporting system in achieving its goals
27 and objectives and to make recommendations to the local
28 governments, the Governor, and the Legislature as to how the
29 reporting system can be improved and how program costs can be
30 reduced. Such goals and objectives must include, but need not
31 be limited to, the timely, accurate, uniform, and

1 cost-effective accumulation of financial and other information
2 that can be used by the members of the Legislature and other
3 appropriate officials in order to:

4 1. Compare and contrast revenue sources and
5 expenditures of local governmental entities;

6 2. Assess the fiscal impact of the formation,
7 dissolution, and activity of special districts;

8 3. Evaluate the fiscal impact of state mandates on
9 local governmental entities;

10 4. Assess financial or economic conditions of local
11 governmental entities; and

12 5. Improve communication and coordination among state
13 agencies and local governmental entities.

14 (d) Whenever a local governmental entity requests the
15 Auditor General to conduct an audit of all or part of its
16 operations and the Auditor General conducts the audit under
17 his or her own authority or at the direction of the
18 Legislative Auditing Committee ~~conducts the audit~~, the
19 expenses of the audit shall be paid ~~for~~ by the local
20 governmental entity. The Auditor General shall estimate the
21 cost of the audit. Fifty percent of the cost estimate shall be
22 paid by the local governmental entity before the initiation of
23 the audit and deposited into the General Revenue Fund of the
24 state. After the completion of the audit, the Auditor General
25 shall forward the actual cost of the audit to the local
26 governmental entity. The local governmental entity shall remit
27 the remainder of the cost of the audit to the Auditor General
28 for deposit into the General Revenue Fund of the state. If the
29 local governmental entity fails to pay the cost of the audit,
30 the Auditor General shall notify the Legislative Auditing

31

1 Committee, which may implement the provisions specified in s.
2 11.45(3)(a)10.

3 (7)

4 (f) No later than 18 months after the release of a
5 performance audit report, the agencies which are the subject
6 of that report shall provide data and other information that
7 describes with specificity what the agencies have done to
8 respond to the recommendations contained in the report. The
9 Auditor General or the Office of Program Policy Analysis and
10 Government Accountability may verify the data and information
11 provided by the agencies. If the data and information
12 provided by the agencies are deemed sufficient and accurate,
13 the Auditor General or the Office of Program Policy Analysis
14 and Government Accountability shall report to the Joint
15 Legislative Auditing Committee and to the legislative standing
16 committees concerned with the subject areas of the audit. The
17 report shall include a summary of the agencies' responses, the
18 evaluation of those responses, and any recommendations deemed
19 to be appropriate. The follow-up report required by this
20 paragraph may be waived by joint action of the President of
21 the Senate and the Speaker of the House of Representatives
22 upon the recommendation of the Director of the Office of
23 Program Policy Analysis and Government Accountability.

24 Section 3. All statutory powers, duties, and functions
25 related to investigating public assistance fraud are
26 transferred from the Auditor General to the Department of Law
27 Enforcement by a type two transfer, as defined in section
28 20.06, Florida Statutes, effective October 1, 1999.

29 Section 4. Section 11.50, Florida Statutes, is
30 transferred, renumbered as section 943.401, Florida Statutes,
31 and amended to read:

1 943.401 ~~11.50~~ ~~Division of Public Assistance Fraud.~~--
2 (1)(a) The Department of Law Enforcement Auditor
3 ~~General~~ shall investigate, ~~on his or her own initiative or~~
4 ~~when required by the Legislative Auditing Committee,~~ public
5 assistance made under the provisions of chapter 409 or chapter
6 414. In the course of such investigation the Department of Law
7 Enforcement Auditor General shall examine all records,
8 including electronic benefits transfer records and make
9 inquiry of all persons who may have knowledge as to any
10 irregularity incidental to the disbursement of public moneys,
11 food stamps, or other items or benefits authorizations to
12 recipients.
13 (b) All public assistance recipients, as a condition
14 precedent to qualification for assistance under the provisions
15 of chapter 409 or chapter 414, shall first give in writing, to
16 the Agency for Health Care Administration, ~~or~~ the Department
17 of Health, and the Department of Children and Family
18 ~~Rehabilitative Services~~, as appropriate, and to the Department
19 ~~of Law Enforcement Division of Public Assistance Fraud~~,
20 consent to make inquiry of past or present employers and
21 records, financial or otherwise.
22 (2) In the conduct of such investigation the
23 Department of Law Enforcement Auditor General may employ
24 persons having such qualifications as are useful in the
25 performance of this duty, ~~and those individuals shall be~~
26 ~~assigned to the Division of Public Assistance Fraud which is~~
27 ~~hereby created within the office of the Auditor General.~~
28 (3) The results of such investigation shall be
29 reported by the Department of Law Enforcement Auditor General
30 to the appropriate legislative committees ~~Auditing Committee~~,
31 the Agency for Health Care Administration, the Department of

1 Health, and the Department of Children and Family
2 ~~Rehabilitative~~ Services, and to such others as the Department
3 ~~of Law Enforcement Legislative Auditing Committee or the~~
4 ~~Auditor General~~ may determine.

5 (4) The Department of Health and the Department of
6 Children and Family ~~Rehabilitative~~ Services shall report to
7 the Department of Law Enforcement ~~Auditor General~~ the final
8 disposition of all cases wherein action has been taken
9 pursuant to s. 414.39, based upon information furnished by the
10 Department of Law Enforcement ~~Division of Public Assistance~~
11 ~~Fraud~~.

12 (5) All lawful fees and expenses of officers and
13 witnesses, expenses incident to taking testimony and
14 transcripts of testimony and proceedings are requested by the
15 ~~Legislative Auditing Committee or the Auditor General~~ shall be
16 a proper charge to the Department of Law Enforcement
17 ~~appropriation of the Auditor General. All payments for these~~
18 ~~purposes shall be on vouchers approved by the Auditor General.~~

19 (6) The provisions of this section shall be liberally
20 construed in order to carry out effectively the purposes of
21 this section in the interest of protecting public moneys and
22 other public property.

23 Section 5. Paragraph (b) of subsection (6) of section
24 402.3015, Florida Statutes, is amended to read:

25 402.3015 Subsidized child care program; purpose; fees;
26 contracts.--

27 (6)

28 (b) Child care services, unless directly operated by a
29 community child care coordinating agency, shall be provided
30 under a service agreement or by voucher, which ensures, to the
31 maximum extent possible, parental choice through flexibility

1 in child care arrangements and payment arrangements. When
2 used, a voucher must bear the name of the beneficiary and the
3 child care provider and, when redeemed, must bear the
4 signature of both the beneficiary and an authorized
5 representative of the child care provider. If it is determined
6 that a child care provider has provided any cash to the
7 beneficiary in return for receiving the voucher, the license
8 for each child care facility operated by the provider shall be
9 immediately revoked and any facility operated by the provider
10 is ineligible for relicensure for 3 years. Whether or not the
11 provider is licensed, the department shall refer the matter to
12 the Department of Law Enforcement ~~Division of Public~~
13 ~~Assistance Fraud of the Office of the Auditor General~~ for
14 investigation.

15 Section 6. Subsection (2) of section 414.33, Florida
16 Statutes, is amended to read:

17 414.33 Violations of food stamp program.--

18 (2) In addition, the department shall establish
19 procedures for referring to the Department of Law Enforcement
20 ~~Division of Public Assistance Fraud within the Office of the~~
21 ~~Auditor General~~ any case that involves a suspected violation
22 of federal or state law or rules governing the administration
23 of the food stamp program.

24 Section 7. Section 414.34, Florida Statutes, is
25 amended to read:

26 414.34 Annual report concerning administrative
27 complaints and disciplinary actions involving food stamp
28 program violations.--The department shall prepare and submit a
29 report to the President of the Senate, the Speaker of the
30 House of Representatives, the chairs of the appropriate
31 legislative ~~Health and Rehabilitative Services~~ committees, and

1 the Department of Law Enforcement ~~Division of Public~~
2 ~~Assistance Fraud~~ by January 1 of each year. In addition to
3 any other information the Legislature may require, the report
4 must include statistics and relevant information detailing:

5 (1) The number of complaints received and
6 investigated.

7 (2) The number of findings of probable cause made.

8 (3) The number of findings of no probable cause made.

9 (4) The number of administrative complaints filed.

10 (5) The disposition of all administrative complaints.

11 (6) The number of criminal complaints brought under s.
12 414.39, and their disposition.

13 (7) The status of the development and implementation
14 of rules governing the electronic benefits transfer program,
15 including any recommendations for statutory changes.

16 Section 8. Subsection (9) of section 414.39, Florida
17 Statutes, is amended to read:

18 414.39 Fraud.--

19 (9) All records relating to investigations of public
20 assistance fraud in the custody of the department and the
21 Agency for Health Care Administration are available for
22 examination by the Department of Law Enforcement ~~Division of~~
23 ~~Public Assistance Fraud~~ of the office of the Auditor General
24 pursuant to s. 11.50 and are admissible into evidence in
25 proceedings brought under this section as business records
26 within the meaning of s. 90.803(6).

27 Section 9. Section 414.40, Florida Statutes, is
28 amended to read:

29 414.40 Stop Inmate Fraud Program established;
30 guidelines.--

31

1 (1) There is created within the Department of Law
2 Enforcement Division of Public Assistance Fraud of the Office
3 ~~of the Auditor General~~ a Stop Inmate Fraud Program.

4 (2) The Department of Law Enforcement ~~division~~ is
5 directed to implement the Stop Inmate Fraud Program in
6 accordance with the following guidelines:

7 (a) The program shall establish procedures for sharing
8 public records not exempt from the public records law among
9 social services agencies regarding the identities of persons
10 incarcerated in state correctional institutions, as defined in
11 s. 944.02(6), or in county, municipal, or regional jails or
12 other detention facilities of local governments under chapter
13 950 or chapter 951 who are wrongfully receiving public
14 assistance benefits or entitlement benefits.

15 (b) Pursuant to these procedures, the program shall
16 have access to records containing correctional information not
17 exempt from the public records law on incarcerated persons
18 which have been generated as criminal justice information. As
19 used in this paragraph, the term "record" is defined as
20 provided in s. 943.045(7), and the term "criminal justice
21 information" is defined as provided in s. 943.045(3).

22 (c) Database searches shall be conducted of the inmate
23 population at each correctional institution or other detention
24 facility. A correctional institution or a detention facility
25 shall provide the Stop Inmate Fraud Program with the
26 information necessary to identify persons wrongfully receiving
27 benefits in the medium requested by the Stop Inmate Fraud
28 Program if the correctional institution or detention facility
29 maintains the information in that medium.

30 (d) Data obtained from correctional institutions or
31 other detention facilities shall be compared with the client

1 files of the Department of Children and Family Services, the
2 Department of Labor and Employment Security, and other state
3 or local agencies as needed to identify persons wrongfully
4 obtaining benefits. Data comparisons shall be accomplished
5 during periods of low information demand by agency personnel
6 to minimize inconvenience to the agency.

7 (e) Results of data comparisons shall be furnished to
8 the appropriate office for use in the county in which the data
9 originated. The program may provide reports of the data it
10 obtains to appropriate state, federal, and local government
11 agencies or governmental entities, including, but not limited
12 to:

13 1. The Child Support Enforcement Program of the
14 Department of Revenue, so that the data may be used as locator
15 information on persons being sought for purposes of child
16 support.

17 2. The Social Security Administration, so that the
18 data may be used to reduce federal entitlement fraud within
19 the state.

20 (f) Reports by the program to another agency or entity
21 shall be generated bimonthly, or as otherwise directed, and
22 shall be designed to accommodate that agency's or entity's
23 particular needs for data.

24 (g) Only those persons with active cases, or with
25 cases that were active during the incarceration period, shall
26 be reported, in order that the funding agency or entity, upon
27 verification of the data, may take whatever action is deemed
28 appropriate.

29 (h) For purposes of program review and analysis, each
30 agency or entity receiving data from the program shall submit
31

1 reports to the program which indicate the results of how the
2 data was used.

3 Section 10. Section 951.28, Florida Statutes, is
4 amended to read:

5 951.28 Transmitting prisoner information to reduce
6 public assistance fraud.--Upon consultation with the
7 ~~Department of Law Enforcement Division of Public Assistance~~
8 ~~Fraud of the Office of the Auditor General~~ and the Social
9 Security Administration, the county sheriff or chief
10 correctional officer or his or her designee shall establish
11 and implement a process to submit to the Social Security
12 Administration, directly or indirectly, sufficient and
13 necessary information to identify incarcerated persons who are
14 wrongfully receiving entitlement benefits and payments.

15 Section 11. Section 373.589, Florida Statutes, is
16 amended to read:

17 373.589 Water management district audit ~~by Auditor~~
18 ~~General.~~--Each water management district shall have an annual
19 financial audit of its accounts and records as provided in s.
20 11.45. A copy of the audit shall be filed with the Governor,
21 the Department of Environmental Protection, the Auditor
22 General, the governing board of the district, and the clerks
23 of the circuit courts of each county within or partly within
24 the district.~~At the direction of the Governor, audit of the~~
25 ~~district's accounts may be made from time to time by the~~
26 ~~Auditor General, and such audit shall be within the authority~~
27 ~~of said Auditor General, to make. Copy of such audit shall be~~
28 ~~furnished the Governor and the governing board of the~~
29 ~~district, and a copy shall be filed with the clerks of the~~
30 ~~circuit courts of each county within or partly within said~~
31 ~~district. The expense of said audit shall be paid by the~~

1 ~~district upon a statement thereof rendered to the district by~~
2 ~~the Auditor General. Payment of the amount thereof shall be~~
3 ~~made to the State Department of Banking and Finance to be~~
4 ~~entered in and to reimburse the account of the Auditor General~~
5 ~~so as not to reduce the legislative appropriation for said~~
6 ~~Auditor General.~~

7 Section 12. Subsection (7) of section 195.096, Florida
8 Statutes, is amended to read:

9 195.096 Review of assessment rolls.--

10 (7) The Auditor General shall have the responsibility
11 to perform performance audits of the administration of ad
12 valorem tax laws by the department pursuant to the general
13 authority granted in chapter 11. Such performance audits
14 shall be conducted triennially ~~biennially~~ following completion
15 of reviews pursuant to this section. The performance audit
16 conducted pursuant to this subsection shall be formally
17 submitted to the Legislature no later than April 1, on a
18 triennial ~~biennial~~ basis, reporting on the activities of the
19 ad valorem tax program of the Department of Revenue related to
20 the ad valorem tax rolls. The Auditor General shall include,
21 for at least four counties so reviewed, findings as to the
22 accuracy of assessment procedures, projections, and
23 computations made by the division, utilizing the same
24 generally accepted appraisal standards and procedures to which
25 the division and the property appraisers are required to
26 adhere. However, the report shall not include any findings or
27 statistics related to any ad valorem tax roll which is in
28 litigation between the state and county officials at the time
29 the report is to be issued.

30 Section 13. Subsection (1) of section 232.44, Florida
31 Statutes, is amended to read:

1 232.44 Audit of records of nonprofit corporations and
2 associations handling interscholastic activities.--

3 (1) ~~Each~~ ~~The Auditor General shall, at least every 6~~
4 ~~months, audit the books and records of any nonprofit~~
5 association or corporation that ~~which~~ operates for the purpose
6 of supervising and controlling interscholastic activities of
7 the public high schools in the state and whose membership is
8 composed of duly certified representatives of public high
9 schools in the state, and whose rules and regulations are
10 established by members thereof, shall have an annual financial
11 audit of its accounts and records by an independent certified
12 public accountant retained by it and paid from its funds. The
13 accountant shall furnish a copy of the audit to the Auditor
14 General for review.

15 Section 14. Section 946.516, Florida Statutes, is
16 amended to read:

17 946.516 Report to Governor, and Legislature, and
18 Auditor General by the corporation; Department of Corrections
19 report; annual financial audit report to Governor and
20 ~~Legislature by Auditor General.--~~

21 (1) The corporation shall submit to the Governor and
22 the Legislature, on or before January 1 of each year, a report
23 on the status of the correctional work programs, including,
24 but not limited to, the proposed use of the profits from such
25 programs, a breakdown of the amount of noninmate labor used,
26 work subcontracted to other vendors, use of consultants,
27 finished goods purchased for resale, and the number of inmates
28 working in the correctional work programs at the time of such
29 report. In addition, the corporation shall submit to the
30 department, the Governor, ~~and~~ the Legislature, and the Auditor
31 General an annual ~~independently audited~~ financial audit report

1 ~~statement~~ and such other information as may be requested by
2 the Legislature, together with recommendations relating to
3 provisions for reasonable tax incentives to private
4 enterprises which employ inmates, parolees, or former inmates
5 who have participated in correctional work programs.

6 (2) The department shall include, as a portion of its
7 annual report, a report on postrelease job placement and the
8 rate of subsequent contact with the correctional system for
9 those inmates who have participated in the correctional work
10 programs operated by the corporation and by the department.

11 (3) The corporation shall have an annual financial
12 audit of its accounts and records by an independent certified
13 public accountant retained by it and paid from its funds. The
14 Auditor General or the director of the Office of Program
15 Policy Analysis and Government Accountability may, pursuant to
16 his or her own authority or at the direction of the Joint
17 Legislative Auditing Committee, conduct an audit of the
18 corporation. The Auditor General shall biennially conduct a
19 financial and performance audit of the corporation, which
20 shall be conducted in conjunction with an independent audit
21 conducted by the auditors of the corporation. The Auditor
22 General shall conduct additional audits upon the request of
23 the Joint Legislative Auditing Committee.

24 (4) The corporation shall be governed by the generally
25 accepted accounting principles as established by the Financial
26 Accounting Standards Board (FASB) in order to carry out the
27 intent of s. 946.502(2) and (5).

28 Section 15. Section 283.31, Florida Statutes, is
29 amended to read:

30 283.31 Records of executive agency publications.--Each
31 agency shall maintain a record of any publication the printing

1 of which costs in excess of the threshold amount provided in
2 s. 287.017 for CATEGORY THREE, at least part of which is paid
3 for by state funds appropriated by the Legislature. Such
4 record shall also contain the following: written
5 justification of the need for such publication, purpose of
6 such publication, legislative or administrative authority,
7 sources of funding, frequency and number of issues, and
8 reasons for deciding to have the publication printed in-house,
9 by another agency or the Legislature, or purchased on bid. In
10 addition, such record shall contain the comparative costs of
11 alternative printing methods when such costs were a factor in
12 deciding upon a method. The record of the corporation
13 operating the correctional industry printing program
14 ~~Compliance with the provisions of this section shall be~~
15 ~~included within the scope of audits performed by the Auditor~~
16 ~~General on each agency, and such audits shall be performed not~~
17 ~~less than once every 3 years. The Auditor General shall also~~
18 ~~conduct a financial-related and performance audit of the~~
19 ~~corporation operating the correctional industry program. Such~~
20 ~~audit shall be conducted once every 3 years, and the first~~
21 ~~audit shall be for the period July 1, 1988, through June 30,~~
22 ~~1990, to be completed prior to the 1991 regular legislative~~
23 ~~session. Such audit shall include a review of the printing~~
24 ~~that the corporation has done for state agencies. This review~~
25 ~~shall include the cost of materials used, the cost of labor,~~
26 ~~the cost of overhead, the amount of profit made by the~~
27 ~~corporation for such printing, and whether the state agencies~~
28 ~~that contract with the corporation for printing are prudently~~
29 ~~determining the price paid for such printing. Such audits~~
30 ~~shall be completed no later than the first day of the regular~~
31 ~~legislative session.~~

1 Section 16. Subsection (5) of section 944.719, Florida
2 Statutes, is amended to read:

3 944.719 Adoption of rules, monitoring, and
4 reporting.--

5 (5) The Office of Program Policy Analysis and
6 Government Accountability Auditor General shall conduct a
7 performance audit, including a review of the annual financial
8 audit of the private entity and shall deliver a report to the
9 Legislature by February April 1 of the third first year
10 following any contract awarded by the department for the
11 operation of a correctional facility by a private vendor.

12 (a) The report shall determine the reasonableness of
13 the cost analysis procedures used by the department for
14 comparing services provided under the contract and for
15 comparing the quality of the services provided under the
16 contract with the costs and quality of similar services
17 provided by the department.

18 (b) In preparing the report, the office Auditor
19 General shall consider, in addition to other factors he or she
20 determines are significant:

21 1. The extent to which the private vendor and the
22 department have complied with the terms of the contract and
23 ss. 944.710-944.719.

24 2. The wages and benefits that are provided to the
25 staff of the private correctional facility as compared to
26 wages and benefits provided to employees of the department
27 performing comparable tasks.

28 Section 17. Paragraph (a) of subsection (3) and
29 subsection (6) of section 11.511, Florida Statutes, are
30 amended and subsection (7) is added to that section, to read:

31

1 11.511 Director of the Office of Program Policy
2 Analysis and Government Accountability; appointment;
3 employment of staff; powers and duties.--

4 (3)(a) ~~Within available funds,~~The director shall make
5 all spending decisions under the annual operating budget
6 approved by the President of the Senate and the Speaker of the
7 House of Representatives. The director shall employ and set
8 the compensation of such professional, technical, legal, and
9 clerical staff as may be necessary to perform all the
10 requirements of this section and s. 11.513, in accordance with
11 the policies and procedures of the Legislative Auditing
12 Committee, and may remove these personnel. The staff must be
13 chosen to provide a broad background of experience and
14 expertise and, to the maximum extent possible, to represent a
15 range of disciplines that includes law, engineering, public
16 administration, environmental science, policy science,
17 economics, sociology, and philosophy.

18 (6) The director, with the consent of the Legislative
19 Auditing Committee, may enter into contracts on behalf of the
20 Office of Program Policy Analysis and Government
21 Accountability. However, the director may enter into contracts
22 that have been approved in the annual operating budget without
23 the consent of the committee.

24 (7) The director, with the consent of the President of
25 the Senate and the Speaker of the House of Representatives,
26 may modify the work schedule of the office in order to
27 concentrate its efforts on agency programs that are determined
28 to have high oversight priority. The modification may include
29 reduction or elimination of recurring performance audits
30 existing in law on July 1, 1999, but which do not appear to be
31 of critical interest to the Legislature. The director may at

1 any time conduct a performance review of a governmental entity
2 created by law.

3 Section 18. Subsection (4) of section 11.513, Florida
4 Statutes, is amended, and subsection (8) is added to that
5 section, to read:

6 11.513 Program evaluation and justification review.--

7 (4) No later than ~~December~~ July 1 of the second year
8 following the year in which an agency begins operating under a
9 performance-based program budget, the Office of Program Policy
10 Analysis and Government Accountability shall submit a report
11 of evaluation and justification review findings and
12 recommendations to the President of the Senate, the Speaker of
13 the House of Representatives, the chairpersons of the
14 appropriate substantive committees, the chairpersons of the
15 appropriations committees, the Legislative Auditing Committee,
16 the Governor, the head of each state agency that was the
17 subject of the evaluation and justification review, and the
18 head of any state agency that is substantially affected by the
19 findings and recommendations.

20 (8) If recommended by the director of the Office of
21 Program Policy Analysis and Government Accountability, the
22 President of the Senate and the Speaker of the House of
23 Representatives may jointly direct that any program evaluation
24 and justification review existing on July 1, 1999, be
25 postponed to allow the Office of Program Policy Analysis and
26 Government Accountability to conduct a review of another
27 program considered more urgent.

28 Section 19. Subsections (6) and (7), paragraph (a) of
29 subsection (8), and paragraph (f) of subsection (9) of section
30 112.3187, Florida Statutes, are amended to read:

31

1 112.3187 Adverse action against employee for
2 disclosing information of specified nature prohibited;
3 employee remedy and relief.--

4 (6) TO WHOM INFORMATION DISCLOSED.--The information
5 disclosed under this section must be disclosed to any agency
6 or federal government entity having the authority to
7 investigate, police, manage, or otherwise remedy the violation
8 or act, including, but not limited to, the Office of the Chief
9 Inspector General, an agency inspector general or the employee
10 designated as agency inspector general under s. 112.3189(1) or
11 inspectors general under s. 20.055, ~~the Office of the Public~~
12 ~~Counsel~~, and the whistle-blower's hotline created under s.
13 112.3189. However, for disclosures concerning a local
14 governmental entity, including any regional, county, or
15 municipal entity, special district, community college
16 district, or school district or any political subdivision of
17 any of the foregoing, the information must be disclosed to a
18 chief executive officer as defined in s. 447.203(9) or other
19 appropriate local official.

20 (7) EMPLOYEES AND PERSONS PROTECTED.--This section
21 protects employees and persons who disclose information on
22 their own initiative in a written and signed complaint; who
23 are requested to participate in an investigation, hearing, or
24 other inquiry conducted by any agency or federal government
25 entity; who refuse to participate in any adverse action
26 prohibited by this section; or who initiate a complaint
27 through the whistle-blower's hotline; or employees who file
28 any written complaint to their supervisory officials or
29 employees who submit a complaint to the Chief Inspector
30 General in the Executive Office of the Governor or, to the
31 employee designated as agency inspector general under s.

1 112.3189(1), ~~or to the Office of the Public Counsel~~. The
2 provisions of this section may not be used by a person while
3 he or she is under the care, custody, or control of the state
4 correctional system or, after release from the care, custody,
5 or control of the state correctional system, with respect to
6 circumstances that occurred during any period of
7 incarceration. No remedy or other protection under ss.
8 112.3187-112.31895 applies to any person who has committed or
9 intentionally participated in committing the violation or
10 suspected violation for which protection under ss.
11 112.3187-112.31895 is being sought.

12 (8) REMEDIES.--

13 (a) Any employee of or applicant for employment with
14 any state agency, as the term "state agency" is defined in s.
15 216.011, who is discharged, disciplined, or subjected to other
16 adverse personnel action, or denied employment, because he or
17 she engaged in an activity protected by this section may file
18 a complaint, which complaint must be made in accordance with
19 s. 112.31895. Upon receipt of notice from the Department of
20 Legal Affairs ~~Public Counsel~~ of termination of the
21 investigation, the complainant may elect to pursue the
22 administrative remedy available under s. 112.31895 or bring a
23 civil action within 180 days after receipt of the notice.

24 (9) RELIEF.--In any action brought under this section,
25 the relief must include the following:

26 (f) Temporary reinstatement to the employee's former
27 position or to an equivalent position, pending the final
28 outcome on the complaint, if an employee complains of being
29 discharged in retaliation for a protected disclosure and if a
30 court of competent jurisdiction or the Department of Legal
31 Affairs ~~Public Counsel~~, as applicable under s. 112.31895,

1 determines that the disclosure was not made in bad faith or
2 for a wrongful purpose or occurred after an agency's
3 initiation of a personnel action against the employee which
4 includes documentation of the employee's violation of a
5 disciplinary standard or performance deficiency. This
6 paragraph does not apply to an employee of a municipality.

7 Section 20. Paragraph (a) of subsection (2) of section
8 112.3188, Florida Statutes, is amended to read:

9 112.3188 Confidentiality of information given to the
10 Chief Inspector General, internal auditors, inspectors
11 general, local chief executive officers, or other appropriate
12 local officials.--

13 (2)(a) Except as specifically authorized by s.
14 112.3189, all information received by the Chief Inspector
15 General or an agency inspector general or information produced
16 or derived from fact-finding or other investigations conducted
17 by the Department of Legal Affairs, ~~the Office of the Public~~
18 ~~Counsel~~, or the Department of Law Enforcement is confidential
19 and exempt from s. 119.07(1) if the information is being
20 received or derived from allegations as set forth in paragraph
21 (1)(a) or paragraph (1)(b), and an investigation is active.

22 Section 21. Section 112.31895, Florida Statutes, is
23 amended to read:

24 112.31895 Investigative procedures in response to
25 prohibited personnel actions.--

26 (1)(a) If a disclosure under s. 112.3187 includes or
27 results in alleged retaliation by an employer, the employee or
28 former employee of, or applicant for employment with, a state
29 agency, as defined in s. 216.011, that is so affected may file
30 a complaint alleging a prohibited personnel action, which
31 complaint must be made by filing a written complaint with the

1 Office of the Chief Inspector General in the Executive Office
2 of the Governor or, the Department of Legal Affairs, ~~or the~~
3 ~~Office of the Public Counsel~~, no later than 60 days after the
4 prohibited personnel action.

5 (b) Within three working days after receiving a
6 complaint under this section, the office or officer receiving
7 the complaint shall acknowledge receipt of the complaint and
8 provide copies of the complaint and any other preliminary
9 information available concerning the disclosure of information
10 under s. 112.3187 to each of the other parties named in
11 paragraph (a), which parties shall each acknowledge receipt of
12 such copies to the complainant.

13 (2) FACT FINDING.--The Department of Legal Affairs
14 shall:

15 (a) Receive any allegation of a personnel action
16 prohibited by s. 112.3187, including a proposed or potential
17 action, and conduct informal fact finding regarding any
18 allegation under this section, to the extent necessary to
19 determine whether there are reasonable grounds to believe that
20 a prohibited personnel action under s. 112.3187 has occurred,
21 is occurring, or is to be taken.

22 (b) Notify the complainant, within 15 days after
23 receiving a complaint, that the complaint has been received by
24 the department.

25 (c) Within 90 days after receiving the complaint,
26 provide the ~~Public Counsel~~, the agency head, and the
27 complainant with a fact-finding report that may include
28 recommendations to the parties or proposed resolution of the
29 complaint. The fact-finding report shall be presumed
30 admissible in any subsequent or related administrative or
31 judicial review.

1 (3) CORRECTIVE ACTION AND TERMINATION OF
2 INVESTIGATION.--

3 (a) The Department of Legal Affairs ~~Public Counsel~~
4 ~~established by s. 350.061~~, in accordance with this act and for
5 the sole purpose of this act, is empowered to:

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

9 2. Protect employees and applicants for employment
10 with such agencies from prohibited personnel practices under
11 s. 112.3187.

12 3. Petition for stays and petition for corrective
13 actions, including, but not limited to, temporary
14 reinstatement.

15 4. Recommend disciplinary proceedings pursuant to
16 investigation and appropriate agency rules and procedures.

17 5. Coordinate with the Chief Inspector General in the
18 Executive Office of the Governor ~~and the Department of Legal~~
19 ~~Affairs~~ to receive, review, and forward to appropriate
20 agencies, legislative entities, or the Department of Law
21 Enforcement disclosures of a violation of any law, rule, or
22 regulation, or disclosures of gross mismanagement,
23 malfeasance, misfeasance, nonfeasance, neglect of duty, or
24 gross waste of public funds.

25 6. Review rules pertaining to personnel matters issued
26 or proposed by the Department of Management Services, the
27 Public Employees Relations Commission, and other agencies,
28 and, if the Department of Legal Affairs ~~Public Counsel~~ finds
29 that any rule or proposed rule, on its face or as implemented,
30 requires the commission of a prohibited personnel practice,
31 provide a written comment to the appropriate agency.

1 7. Investigate, request assistance from other
2 governmental entities, and, if appropriate, bring actions
3 concerning, allegations of retaliation by state agencies under
4 subparagraph 1.

5 8. Administer oaths, examine witnesses, take
6 statements, issue subpoenas, order the taking of depositions,
7 order responses to written interrogatories, and make
8 appropriate motions to limit discovery, pursuant to
9 investigations under subparagraph 1.

10 9. Intervene or otherwise participate, as a matter of
11 right, in any appeal or other proceeding arising under this
12 section before the Public Employees Relations Commission or
13 any other appropriate agency, except that the Department of
14 Legal Affairs ~~Public Counsel~~ must comply with the rules of the
15 commission or other agency and may not seek corrective action
16 or intervene in an appeal or other proceeding without the
17 consent of the person protected under ss. 112.3187-112.31895.

18 10. Conduct an investigation, in the absence of an
19 allegation, to determine whether reasonable grounds exist to
20 believe that a prohibited action or a pattern of prohibited
21 action has occurred, is occurring, or is to be taken.

22 (b) Within 15 days after receiving a complaint that a
23 person has been discharged from employment allegedly for
24 disclosing protected information under s. 112.3187, the
25 Department of Legal Affairs ~~Public Counsel~~ shall review the
26 information and determine whether temporary reinstatement is
27 appropriate under s. 112.3187(9)(f). If the Department of
28 Legal Affairs ~~Public Counsel~~ so determines, it ~~he or she~~ shall
29 apply for an expedited order from the appropriate agency or
30 circuit court for the immediate reinstatement of the employee
31 who has been discharged subsequent to the disclosure made

1 under s. 112.3187, pending the issuance of the final order on
2 the complaint.

3 (c) The Department of Legal Affairs ~~Public Counsel~~
4 shall notify a complainant of the status of the investigation
5 and any action taken ~~by the Public Counsel~~ at such times as
6 the department ~~Public Counsel~~ considers appropriate.

7 ~~(d) The Public Counsel shall review the fact-finding~~
8 ~~reports submitted by the Department of Legal Affairs and may~~
9 ~~rely upon the findings and recommendations of those reports.~~

10 ~~(d)(e)~~ If the Department of Legal Affairs ~~Public~~
11 ~~Counsel~~ is unable to conciliate a complaint within 60 days
12 after receipt of the fact-finding report, the Department of
13 Legal Affairs ~~Public Counsel~~ shall terminate the
14 investigation. Upon termination of any investigation, the
15 Department of Legal Affairs ~~Public Counsel~~ shall notify the
16 complainant and the agency head of the termination of the
17 investigation, providing a summary of relevant facts found
18 during the investigation and the reasons for terminating the
19 investigation. A written statement under this paragraph is
20 presumed admissible as evidence in any judicial or
21 administrative proceeding but is not admissible without the
22 consent of the complainant.

23 ~~(e)(f)~~1. The Department of Legal Affairs ~~Public~~
24 ~~Counsel~~ may request an agency or circuit court to order a
25 stay, on such terms as the court requires, of any personnel
26 action for 45 days if the Department of Legal Affairs ~~Public~~
27 ~~Counsel~~ determines that reasonable grounds exist to believe
28 that a prohibited personnel action has occurred, is occurring,
29 or is to be taken. The Department of Legal Affairs ~~Public~~
30 ~~Counsel~~ may request that such stay be extended for appropriate
31 periods of time.

1 2. If, in connection with any investigation, the
2 Department of Legal Affairs ~~Public Counsel~~ determines that
3 reasonable grounds exist to believe that a prohibited action
4 has occurred, is occurring, or is to be taken which requires
5 corrective action, the Department of Legal Affairs ~~Public~~
6 ~~Counsel~~ shall report the determination together with any
7 findings or recommendations to the agency head and may report
8 that determination and those findings and recommendations to
9 the Governor and the Comptroller. The Department of Legal
10 Affairs ~~Public Counsel~~ may include in the report
11 recommendations for corrective action to be taken.

12 3. If, after 20 days, the agency does not implement
13 the recommended action, the Department of Legal Affairs ~~Public~~
14 ~~Counsel~~ shall terminate the investigation and notify the
15 complainant of the right to appeal under subsection (4), or
16 may petition the agency for corrective action under this
17 subsection.

18 4. If the Department of Legal Affairs ~~Public Counsel~~
19 finds, in consultation with the ~~Department of Legal Affairs~~ or
20 the individual subject to the prohibited action, that the
21 agency has implemented the corrective action, the department
22 ~~Public Counsel~~ shall file such finding with the agency head,
23 together with any written comments that the individual
24 provides, and terminate the investigation.

25 (f)(g) If the Department of Legal Affairs ~~Public~~
26 ~~Counsel~~ finds that there are no reasonable grounds to believe
27 that a prohibited personnel action has occurred, is occurring,
28 or is to be taken, the department ~~he or she~~ shall terminate
29 the investigation.

30 (g)(h)1. If, in connection with any investigation
31 under this section, it is determined that reasonable grounds

1 exist to believe that a criminal violation has occurred which
2 has not been previously reported, the Department of Legal
3 Affairs ~~Public Counsel~~ shall report this determination to the
4 Department of Law Enforcement and to the state attorney having
5 jurisdiction over the matter.

6 2. If an alleged criminal violation has been reported,
7 the Department of Legal Affairs ~~Public Counsel~~ shall confer
8 with the Department of Law Enforcement and the state attorney
9 before proceeding with the investigation of the prohibited
10 personnel action and may defer the investigation pending
11 completion of the criminal investigation and proceedings. The
12 Department of Legal Affairs ~~Public Counsel~~ shall inform the
13 complainant of the decision to defer the investigation and, if
14 appropriate, of the confidentiality of the investigation.

15 (h)~~(i)~~ If, in connection with any investigation under
16 this section, the Department of Legal Affairs ~~Public Counsel~~
17 determines that reasonable grounds exist to believe that a
18 violation of a law, rule, or regulation has occurred, other
19 than a criminal violation or a prohibited action under this
20 section, the department ~~Public Counsel~~ may report such
21 violation to the head of the agency involved. Within 30 days
22 after the agency receives the report, the agency head shall
23 provide to the department ~~Public Counsel~~ a certification that
24 states that the head of the agency has personally reviewed the
25 report and indicates what action has been or is to be taken
26 and when the action will be completed.

27 (i)~~(j)~~ During any investigation under this section,
28 disciplinary action may not be taken against any employee of a
29 state agency, as the term "state agency" is defined in s.
30 216.011, for reporting an alleged prohibited personnel action
31 that is under investigation, or for reporting any related

1 activity, or against any employee for participating in an
2 investigation without notifying the Department of Legal
3 Affairs Public Counsel.

4 ~~(j)(k)~~ The Department of Legal Affairs Public Counsel
5 may also petition for an award of reasonable attorney's fees
6 and expenses from a state agency, as the term "state agency"
7 is defined in s. 216.011, pursuant to s. 112.3187(9).

8 (4) RIGHT TO APPEAL.--

9 (a) Not more than 60 days after receipt of a notice of
10 termination of the investigation from the Department of Legal
11 Affairs Public Counsel, the complainant may file, with the
12 Public Employees Relations Commission, a complaint against the
13 employer-agency regarding the alleged prohibited personnel
14 action. The Public Employees Relations Commission shall have
15 jurisdiction over such complaints under ss. 112.3187 and
16 447.503(4) and (5).

17 (b) Judicial review of any final order of the
18 commission shall be as provided in s. 120.68.

19 Section 22. Section 985.401, Florida Statutes, 1998
20 Supplement, is amended to read:

21 985.401 Juvenile Justice Accountability Board.--

22 (1) The Juvenile Justice Accountability Board shall be
23 composed of seven ~~nine~~ members appointed by the Governor.
24 Members of the board shall have direct experience and a strong
25 interest in juvenile justice issues. ~~The authority to appoint~~
26 ~~the board is allocated as follows:~~

27 ~~(a) Three members appointed by the Governor.~~

28 ~~(b) Three members appointed by the President of the~~
29 ~~Senate.~~

30 ~~(c) Three members appointed by the Speaker of the~~
31 ~~House of Representatives.~~

1 (2)(a) A full term shall be 3 years, and the term for
2 each seat on the board commences on October 1 and expires on
3 September 30, without regard to the date of appointment. Each
4 appointing authority shall appoint a member to fill one of the
5 three vacancies that occurs with the expiration of terms on
6 September 30 of each year. A member is not eligible for
7 appointment to more than two full, consecutive terms. A
8 vacancy on the board shall be filled within 60 days after the
9 date on which the vacancy occurs. The Governor ~~appointing~~
10 ~~authority that made the original appointment~~ shall make the
11 appointment to fill a vacancy that occurs for any reason other
12 than the expiration of a term, and the appointment shall be
13 for the remainder of the unexpired term.

14 (b) The composition of the board must be broadly
15 reflective of the public and must include minorities and
16 women. The term "minorities" as used in this paragraph means a
17 member of a socially or economically disadvantaged group and
18 includes African Americans, Hispanics, and American Indians.

19 ~~(c)~~(b) The board shall annually select a chairperson
20 from among its members.

21 ~~(d)~~(c) The board shall meet at least once each
22 quarter. A member may not authorize a designee to attend a
23 meeting of the board in place of the member. A member who
24 fails to attend two consecutive regularly scheduled meetings
25 of the board, unless the member is excused by the chairperson,
26 shall be deemed to have abandoned the position, and the
27 position shall be declared vacant by the board.

28 (3)(a) The board members shall serve without
29 compensation, but are entitled to reimbursement for per diem
30 and travel expenses pursuant to s. 112.061.

31

1 ~~(b) The board shall appoint an executive director and~~
2 ~~other personnel who are exempt from part II of chapter 110,~~
3 ~~relating to the Career Service System.~~

4 (b)(c) Effective July 1, 1999, the board and its staff
5 are ~~is~~ assigned, for the purpose of general oversight, to the
6 Department of Juvenile Justice Joint Legislative Auditing
7 Committee. ~~The board shall develop a budget pursuant to~~
8 ~~procedures established by the Joint Legislative Auditing~~
9 ~~Committee.~~

10 ~~(d) The composition of the board shall be broadly~~
11 ~~reflective of the public and shall include minorities and~~
12 ~~women. The term "minorities" as used in this paragraph means a~~
13 ~~member of a socially or economically disadvantaged group that~~
14 ~~includes African Americans, Hispanics, and American Indians.~~
15 ~~Members of the board shall have direct experience and a strong~~
16 ~~interest in juvenile justice issues.~~

17 (4)(a) The board shall establish and operate a
18 comprehensive system to annually measure and report program
19 outcomes and effectiveness for each program operated by the
20 Department of Juvenile Justice or operated by a provider under
21 contract with the department. The system shall include a
22 standard methodology for interpreting the board's outcome
23 evaluation reports, using, where appropriate, the
24 performance-based program budgeting measures approved by the
25 Legislature. The methodology must include:

26 1. Common terminology and operational definitions for
27 measuring the performance of system administration, program
28 administration, program outputs, and client outcomes.

29 2. Program outputs for each group of programs within
30 each level of the juvenile justice continuum and specific
31 program outputs for each program or program type.

1 3. Specification of desired client outcomes and
2 methods by which to measure client outcomes for each program
3 operated by the department or by a provider under contract
4 with the department.

5 4. Recommended annual minimum thresholds of
6 satisfactory performance for client outcomes and program
7 outputs.

8
9 For the purposes of this section, the term "program" or
10 "program type" means an individual state-operated or
11 contracted facility, site, or service delivered to at-risk or
12 delinquent youth as prescribed in a contract, program
13 description, or program services manual; and the term "program
14 group" means a collection of programs or program types with
15 sufficient similarity of function, services, and clientele to
16 permit appropriate comparisons among programs within the
17 program group.

18 (b) In developing the standard methodology, the board
19 shall consult with the department, the Office ~~Division~~ of
20 Economic and Demographic Research, contract service providers,
21 and other interested parties. It is the intent of the
22 Legislature that this effort result in consensus
23 recommendations, and, to the greatest extent possible,
24 integrate the goals and legislatively approved measures of
25 performance-based program budgeting provided in chapter
26 94-249, Laws of Florida, the quality assurance program
27 provided in s. 985.412, and the cost-effectiveness model
28 provided in s. 985.404(11). The board shall notify the Office
29 of Program Policy Analysis and Government Accountability of
30 any meetings to develop the methodology.

31

1 (c) The board shall annually submit its outcome
2 evaluation report to the Secretary of the Department of
3 Juvenile Justice, the Governor, and the Legislature by
4 February 15, which must describe:

5 1. The methodology for interpreting outcome
6 evaluations, including common terminology and operational
7 definitions.

8 2. The recommended minimum thresholds of satisfactory
9 performance for client outcomes and program outputs applicable
10 to the year for which the data are reported.

11 3. The actual client outcomes and program outputs
12 achieved by each program operated by the department or by a
13 provider under contract with the department, compared with the
14 recommended minimum thresholds of satisfactory performance for
15 client outcomes and program outputs for the year under review.
16 The report shall group programs or program types with
17 similarity of function and services and make appropriate
18 comparisons between programs within the program group.

19 (d) The board shall use its evaluation research to
20 make advisory recommendations to the Legislature, the
21 Governor, and the department concerning the effectiveness and
22 future funding priorities of juvenile justice programs.

23 (e) The board shall annually review and revise the
24 methodology as necessary to ensure the continuing improvement
25 and validity of the evaluation process.

26 (5) The board shall:

27 (a) Review and recommend programmatic and fiscal
28 policies governing the operation of programs, services, and
29 facilities for which the Department of Juvenile Justice is
30 responsible.

31

1 (b) Monitor the development and implementation of
2 long-range juvenile justice policies, including prevention,
3 early intervention, diversion, adjudication, and commitment.

4 (c) Monitor all activities of the executive and
5 judicial branch and their effectiveness in implementing
6 policies pursuant to this chapter.

7 (d) Advise the President of the Senate, the Speaker of
8 the House of Representatives, the Governor, and the department
9 on matters relating to this chapter.

10 (e) In coordination with the Department of Juvenile
11 Justice, serve as a clearinghouse to provide information and
12 assistance to the district juvenile justice boards and county
13 juvenile justice councils.

14 (f) Hold public hearings and inform the public of
15 activities of the board and of the Department of Juvenile
16 Justice, as appropriate.

17 (g) Monitor the delivery and use of services,
18 programs, or facilities operated, funded, regulated, or
19 licensed by the Department of Juvenile Justice for juvenile
20 offenders or alleged juvenile offenders, and for prevention,
21 diversion, or early intervention of delinquency, and to
22 develop programs to educate the citizenry about such services,
23 programs, and facilities and about the need and procedure for
24 siting new facilities.

25 ~~(h) Contract for consultants as necessary and~~
26 ~~appropriate. The board may apply for and receive grants for~~
27 ~~the purposes of conducting research and evaluation activities.~~

28 (h)(i) Conduct such other activities as the board may
29 determine are necessary and appropriate to monitor the
30 effectiveness of the delivery of juvenile justice programs and
31 services under this chapter.

1 ~~(i)(j) The board shall~~ Submit an annual report to the
2 President of the Senate, the Speaker of the House of
3 Representatives, the Governor, and the secretary of the
4 department not later than February 15 of each calendar year,
5 summarizing the activities and reports of the board for the
6 preceding year, and any recommendations of the board for the
7 following year.

8 ~~(6) Each state agency shall provide assistance when~~
9 ~~requested by the board.~~ The board shall have access to all
10 records, files, and reports that are material to its duties
11 and that are in the custody of a school board, a law
12 enforcement agency, a state attorney, a public defender, the
13 court, the Department of Children and Family Services, and the
14 department.

15 (7) Unless reenacted by the Legislature, this section
16 expires June 30, 2001.

17 Section 23. Section 218.502, Florida Statutes, is
18 amended to read:

19 218.502 Definition.--As used in ss. 218.50-218.504,
20 the term "local governmental entity" means a county,
21 municipality, ~~or~~ special district, or district school board.

22 Section 24. Subsection (4) of section 284.50,
23 paragraph (f) of subsection (1) of section 475.045, and
24 section 985.07, Florida Statutes, are repealed.

25 Section 25. This act shall take effect July 1, 1999.

26
27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
28 COMMITTEE SUBSTITUTE FOR
29 SB 2426

30 The Committee Substitute deletes from the bill provisions
31 altering the audit schedules for district school boards in
counties less than 100,000 population.