

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SBs 1416 & 1884

SPONSOR: Education Committee and Senators Garcia and Wasserman Schultz

SUBJECT: Office of Inspector General/Department of Education

DATE: February 21, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	O'Farrell	ED	Favorable/CS
2.	Rhea	Wilson	GO	Favorable
3.	_____	_____	AED	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill establishes an Office of Inspector General within the Office of the Commissioner of Education. The Inspector General shall conduct investigations into waste, fraud, or financial mismanagement within the school districts, community colleges, and state universities. The office shall be organized using existing resources and funds. The bill further provides that the office would have all of its powers, duties, and responsibilities as authorized in s. 20.055, F.S.

This bill amends ss. 229.003 and 229.0073, Florida Statutes.

**II. Present Situation:**

Pursuant to s. 20.055(2), F.S., an Office of Inspector General is established in each department created under ch. 20, F.S., along with the Board of Regents. An Office of the Inspector General is currently administratively housed in the Office of the Commissioner in the Department of Education (DOE). An Office of Inspector General also exists within the Florida Board of Education pursuant to s. 229.003(5), F.S. Each inspector general reviews department practices and management, conducts audits and investigations, and recommends corrective action. In addition, the inspector general is required to submit its audits to the department head and the Auditor General. The inspector general is required to submit an annual report summarizing its activities. Section 20.055, F.S., provides for an agency inspector general in each agency and the Board of Regents, but defines agency to mean a department under ch. 20, F.S. Accordingly, the office may not have the jurisdiction to investigate the district school boards and the community colleges. There are no current public investigations ongoing of the district school boards, community colleges, or state universities. Approximately 90 percent of the investigations and audits are directed at the DOE. The office coordinates with district school boards, the Auditor General, and the Florida Department of Law Enforcement, in criminal matters, to investigate and

resolve allegations of fraud, abuse, or financial mismanagement. There are 13 authorized positions within the office. There are three investigator positions and several auditor positions. There are 7 administrative positions that are temporarily reassigned from blind services and vocational rehabilitation, although only four of those positions are filled.

Under the Board of Regents, each state university inspector general reported to a Chief Inspector General, who reported to the Chancellor. There are five functional equivalent positions in the former Board of Regents. The position of Chief Inspector General is vacant at the Florida Board of Education. Accordingly, the Department of Education's Inspector General currently exercises the functions of the Chief Inspector General of the Florida Board of Education.

According to the Department of Education, all of the state universities have inspector generals that perform audits, reviews, and investigations. New College does not have an inspector general, but contracts with other inspector general offices.

According to the Division of Community Colleges, only Miami-Dade Community College has an internal auditor. There are no inspector generals in the community colleges. Community college reviews are usually conducted by an independent certified auditor or by the chief business officer.

According to the Department of Education Inspector General's office, school districts do not have inspector generals.

In addition, the following entities are currently responsible for promoting accountability and detecting fraud or financial mismanagement in the school districts, community colleges, or state universities:

- Office of Chief Inspector General – executive agencies
- Auditor General – universities, community colleges, and district school boards
- Legislative Auditing Committee – any governmental entity created or established by law
- Office of Program Policy Analysis and Government Accountability – any governmental entity created or established by law; best financial management practice reviews of district school boards

### **III. Effect of Proposed Changes:**

The bill amends ss. 229.003 and 229.0073, F.S., to establish an Office of Inspector General within the Office of the Commissioner of Education. This office already exists. The bill requires organization of the Inspector General's Office using existing resources and funds.

The Inspector General's Office would be charged with promoting accountability, efficiency, effectiveness, and detecting fraud and abuse. The office would conduct, coordinate, or request investigations into substantiated allegations made by any person relating to waste, fraud, or

financial mismanagement. The office's responsibilities would jurisdictionally consist of the school districts, public community colleges, and state universities.

The office would have access to all information and personnel necessary to accomplish its duties. Furthermore, the office would have all the powers, duties, and responsibilities contained in s. 20.055, F.S.

The act becomes effective upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the organization of the Office of Inspector General using existing funding and resources. According to the Commissioner's Inspector General's office, an additional investigator, at a minimum, would be required to properly implement investigative functions in the K-20 system. The office reported the investigator position would be filled at a salary rate of approximately \$65,000 plus benefits. Accordingly, an additional investigator position would have a fiscal impact of approximately \$87,750. The additional staff could come from the former Board of Regents and its five functional equivalent positions. According to the Inspector General's office, the four administrative positions currently assigned would need to be replaced if the positions were no longer part of the Department of Education to maintain current operating levels. The fiscal impact of adding the four administrative positions would be approximately \$135,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill does not jurisdictionally refer to state colleges. Accordingly, New College or any other state college may not be subject to the jurisdiction of the Inspector General in the Commissioner's Office.

The bill requires a substantiated allegation to trigger the inspector general's investigative powers. The term "substantiated" is not defined in the bill. The American Heritage College dictionary, 3<sup>rd</sup> edition, defines substantiated as supported with proof or evidence. This may require evidence that cannot be obtained until the investigation is completed. Section 20.055, F.S., provides for referral to the Florida Department of Law Enforcement if an inspector general has reasonable grounds to believe there has been a violation of criminal law. Section 20.055, F.S., does not require substantiated allegations to conduct an investigation.

Senate Bill 1586 proposes to repeal s. 229.0073, F.S.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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