

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 795 Office of Public Inspector
SPONSOR(S): Lopez-Cantera
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Audit & Performance</u>	<u>5 Y, 0 N</u>	<u>Ferguson</u>	<u>De La Paz</u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u>Ferguson</u>	<u>Cooper</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, there is no public reporting of incidents relating to fraud, waste, and abuse that occur in Florida public schools.

HB 795 creates the Office of Public Inspector (OPI) in the Office of the Commissioner of Education. The OPI is responsible for gathering and reporting the following incidents:

- reported teacher abuse, molestation, and sex offenses;
- reported fraud in school construction and overpayments for school contracts;
- reported cases of teachers or noninstructional school district employees charged with driving under the influence of alcohol or controlled substances, theft, robbery, or FCAT cheating; and
- reported district school board, district school superintendent, or administrative personnel impropriety.

The OPI's report must list the above incidents by county and be made readily available to the public in a simple and easy to understand format via a website maintained by the Department of Education as well as printed form. The report must be updated on a weekly basis. The first weekly report is due by January 31, 2008.

HB 795 has an effective date of July 1, 2007.

Fiscal impact would be \$450,000 in recurring expenses based on a Public Inspector and two FTE's, including travel costs, to assist the Public Inspector.

Note: The Committee on Audit & Performance adopted a strike-all amendment which substantially changed the bill. See Section IV of this analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government—HB 795 creates the Office of Public Inspector in the Office of the Commissioner of Education.

Personal responsibility—The OPI is responsible for gathering and reporting incidents of reported teacher abuse, molestation, and sex offenses; reported fraud in school construction and overpayments for school contracts; reported cases of teachers or noninstructional school district employees charged with driving under the influence of alcohol or controlled substances, theft, robbery, or FCAT cheating; and reported district school board, district school superintendent, or administrative personnel impropriety.

B. EFFECT OF PROPOSED CHANGES:

Current situation

The Office of the Inspector General, within the Office of the Commissioner of Education, is responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts. Allegations relating to waste, fraud, or financial mismanagement are handled at the district school board level unless the Commissioner of Education determines that a district school board is unwilling or unable to address substantiated allegations. In such instances, the Inspector General is required to conduct, coordinate, or request investigations into substantiated allegations relating to waste, fraud, or financial mismanagement within school districts.¹

Currently, there is no public reporting of incidents relating to reported teacher abuse, molestation, and sex offenses; reported fraud in school construction and overpayments for school contracts; reported cases of teachers or noninstructional school district employees charged with driving under the influence of alcohol or controlled substances, theft, robbery, or FCAT cheating; and reported district school board, district school superintendent, or administrative personnel impropriety.

Proposed change

HB 795 creates the Office of Public Inspector (OPI) in the Office of the Commissioner of Education. The OPI is responsible for gathering and reporting information on the following incidents:

- reported² teacher abuse,³ molestation,⁴ and sex offenses;⁵
- reported fraud in school construction and overpayments for school contracts;
- reported cases of teachers or noninstructional school district employees charged⁶ with driving under the influence of alcohol or controlled substances,⁷ theft,⁸ robbery,⁹ or FCAT cheating; and

¹ Section 1001.20 (4) (e), F.S.

² “Reported” means any sworn complaint filed with any law enforcement agency, state attorney, public or private school, district school board, or the Inspector General, including any incident reported to law enforcement resulting in arrest.

³ “Teacher abuse” means any violation under s. 827.03 or s. 827.04, F.S., or any similar law of another state or territory of the United States, committed by a teacher.

⁴ “Molestation” means an offense under s. 800.04, F.S., or any similar law of another state or territory of the United States.

⁵ “Sex offense” means any violation of s. 794.011, s. 794.05, s.800.02, s. 800.03, or s. 827.071, F.S., or any felony violation of Chapter 847, F.S., or any similar law of another state or territory of the United States.

⁶ “Charged” means formally charged by information or indictment filed by a state attorney regardless of the final disposition.

⁷ “Driving under the influence of alcohol or controlled substances” means an offense under s. 316.193, F.S., or any similar law of another state or territory of the United States.

⁸ “Theft” means any offense described as a theft under chapter 812, F.S.

⁹ “Robbery” means any robbery under s. 812.13, F.S., robbery by sudden snatching under s. 812.131, F.S., carjacking under s. 812.133, F.S., or home-invasion robbery under s. 812.135, F.S., or any similar law of another state or territory of the United States.

- reported district school board, district school superintendent, or administrative personnel impropriety.

In addition to the above listed incidents, the OPI must collaborate with the Inspector General, district school boards and other interested parties to identify incidents of reported district school board, district school superintendent, or administrative personnel impropriety; fraud in school construction; overpayments for school contracts; and FCAT cheating.

The OPI's report must list incidents by county and be made readily available to the public in a simple and easy to understand format developed by the OPI and posted on a website maintained by the Department of Education as well as printed form upon written request to the OPI. The report is for informational purposes only and must be updated on a weekly basis. The first weekly report is due by January 31, 2008.

The OPI must work cooperatively with, but independently of, the Inspector General and must not duplicate or carry out the responsibilities of the Inspector General as set forth in s. 1001.20 (4) (e), F.S.

C. SECTION DIRECTORY:

Section 1. Creates the Office of Public Inspector who is responsible for gathering and reporting incidents of fraud, waste, and abuse and occurrences of specified crimes by teachers and other school district employees.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

\$450,000 in recurring expenses based on a Public Inspector and two FTE's, including travel costs, to assist the Public Inspector.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

At the time this analysis was written, the Department of Education has not analyzed HB 795 for a fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The bill sponsor has indicated his intention to waive providing a statement at this time.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 21, 2007 the Committee on Audit and Performance adopted a strike-all amendment. The amendment is an approach to implementing Idea 28 from the book *100 Innovative Ideas For Florida's Future*. The amendment greatly increases the autonomy and authority of the Office of the Inspector General (IG) under current statute and no longer requires creating the Office of Public Inspector; thus, eliminating the fiscal impact (\$450,000 in recurring expenses) under the original bill. The amendment does the following:

- Removes the Commissioner of Education's authority to appoint and remove the IG and vesting this authority with the State Board of Education.
- Provides the IG will operate independently of the Commissioner of Education and will be responsible for promoting accountability, efficiency, and effectiveness within school districts, charter schools, the Florida School for the Deaf and the Blind, community colleges, and state universities.
- Provides the IG with full discretion to investigate any complaint received from the general public and any complaints he or she determines to be substantiated and filed with a school district, charter school, Board of Trustees for the Florida School for the Deaf and the Blind, or a public postsecondary educational institution relating to fraud, waste, or financial mismanagement.
- Requires the IG to maintain a toll-free hotline for receiving reports of fraud, waste, or financial mismanagement. This phone number will be printed on the paychecks of all public school employees and will be prominently displayed on the Department of Education's website, along with information on how to file a complaint.
- Requires the IG to gather and report the following incidents: reported teacher abuse, molestation, and sex offenses; reported fraud in school construction and overpayments for school contracts; reported cases of teachers or noninstructional school district employees charged with driving under the influence of alcohol or controlled substances, theft, robbery, or FCAT cheating; and reported district school board, district school superintendent, or administrative personnel impropriety. The report must list incidents by county and be made readily available to the public in a simple and easy to understand format developed by the IG and posted on a website maintained by the Department of Education as well as printed form upon written request to the IG. The report is for informational purposes only and must be updated on a weekly basis. The first weekly report is due by January 31, 2008.
- Requires the IG to produce an annual report of the office's activities to include the following: annual number of complaints filed; number of unsubstantiated complaints; number of substantiated

complaints; listing of the number of complaints according to categories of waste, fraud, and financial mismanagement; and disposition of substantiated complaints. The annual report is due on January 31st of each year and must be distributed to the Governor, Speaker of the House of Representatives, and the President of the Senate.