

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government—CS/HB 795 greatly increases the autonomy and authority of the Office of the IG under current statute.

Personal responsibility— CS/HB 795 provides the IG will operate independently of the Commissioner of Education giving the IG 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.

B. EFFECT OF PROPOSED CHANGES:

Current situation

Currently, the Commissioner of Education has the authority to appoint and remove the IG for the Department of Education.¹ 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 IG is required to conduct, coordinate, or request investigations into substantiated allegations relating to waste, fraud, or financial mismanagement within school districts.²

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

CS/HB 795 is an approach to implementing Idea 28 from the book *100 Innovative Ideas For Florida's Future*. CS/HB 795 greatly increases the autonomy and authority of the Office of the IG under current statute.

Appointment and removal

CS/HB 795 amends s. 20.055, F.S., to remove the Commissioner of Education's authority to appoint and remove the IG and vests this authority with the State Board of Education. An appointment must be made after notifying the Governor in writing, at least 7 days prior to an offer of employment, of the State Board of Education's intention to hire the IG.

Office of the IG

CS/HB 795 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.

¹ Section 20.055, F.S.

² Section 1001.20 (4) (e), F.S.

Powers and duties of the IG

CS/HB 795 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 waste, fraud, or financial mismanagement. In order to conduct an investigation into a complaint that has been filed with a local school board, the following is required:

- The IG must notify, in writing, a district school board, charter school, Board of Trustees for the Florida School for the Deaf and the Blind, or a public postsecondary educational institution board of the IG's intention to conduct an investigation into the filled complaint.
- The notified party must cease any pending investigation or inquiry and forward any and all notes, papers, documents, reports, witness or employee statements regardless of the manner stored or preserved, witness lists, and any other material obtained in response to the complaint, to the IG within 15 days or at such other time designated by the IG.

Once the IG begins an investigation of a complaint filed with a local school board, there is a continuing duty on the part of any district school board, charter school, Board of Trustees for the Florida School for the Deaf and the Blind, or a public postsecondary educational institution board to forward the material described above to the IG.

The IG may, after initial review or preliminary inquiry, determine to return or forward the complaint to the district school board, charter school, Board of Trustees for the Florida School for the Deaf and the Blind, or a public postsecondary educational institution board in which it was initially filed for purposes of further review and disposition as determined appropriate by the receiving party.

CS/HB 795 requires the IG to maintain a toll-free hotline for receiving reports of waste, fraud, 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.

CS/HB 795 also requires the IG to gather and report the following incidents:

- reported³ teacher abuse,⁴ molestation,⁵ and sex offenses;⁶
- reported fraud in school construction and overpayments for school contracts;
- reported cases of teachers or noninstructional school district employees charged⁷ with driving under the influence of alcohol or controlled substances,⁸ theft,⁹ robbery,¹⁰ or FCAT cheating; and
- reported district school board, district school superintendent, or administrative personnel impropriety.

³ "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.

⁴ "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.

⁵ "Molestation" means an offense under s. 800.04, F.S., or any similar law of another state or territory of the United States.

⁶ "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.

⁷ "Charged" means formally charged by information or indictment filed by a state attorney regardless of the final disposition.

⁸ "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.

⁹ "Theft" means any offense described as a theft under chapter 812, F.S.

¹⁰ "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.

CS/HB 795 provides that the IG's report must list such 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. The IG is also required to provide the reported information in printed form upon written request. 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.

In addition to the above listed incidents, the IG must collaborate with the 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.

CS/HB 795 also 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.

C. SECTION DIRECTORY:

Section 1. Amends s. 20.055, F.S., to provide the State Board of Education with the authority to appoint and remove the Inspector General.

Section 2. Amends s. 1001.02, F.S., to provide the State Board of Education with the authority to appoint and remove the Inspector.

Section 3. Amends s. 1001.10, F.S., to remove the Commissioner of Education's authority to appoint and remove the Inspector General.

Section 4. Amends s. 1001.20, F.S., to increase the autonomy and authority of the Inspector General.

Section 5. Amends s. 1002.33, F.S., to provide the Inspector General with the authority to investigate charter schools.

Section 6. Requires any employer of public school personnel to print a toll free telephone number on the salary warrant, direct deposit statement, or other form of wage payment of each employee in order to report waste, fraud, and abuse.

Section 7. 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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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.

No statement by Council Chair.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2007 the Government Efficiency & Accountability Council passed HB 795 as amended by a strike-all amendment in the Committee on Audit & Performance.