

By the Committee on Governmental Operations; and Senator Bennett

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1 A bill to be entitled

2 An act relating to agency inspectors general; amending s.  
3 20.055, F.S.; providing definitions; requiring agency  
4 inspectors general to comply with certain principles and  
5 standards; requiring an inspector general to submit  
6 findings of audits and investigations to specified persons  
7 or entities; requiring responses to findings within 20  
8 working days; requiring agencies under the Governor to  
9 notify the Chief Inspector General of inspector general  
10 appointments and terminations; prohibiting agency staff  
11 from preventing or prohibiting the inspector general from  
12 initiating, carrying out, or completing any audit or  
13 investigation; requiring audits to be conducted in  
14 accordance with the current International Standards for  
15 the Professional Practice of Internal Auditing; requiring  
16 the inspector general of each state agency to report  
17 certain written complaints to the agency head, and for  
18 agencies under the Governor, to the agency head and the  
19 Chief Inspector General; requiring the Chief Inspector  
20 General to fulfill certain duties and responsibilities;  
21 providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 20.055, Florida Statutes, is amended to  
26 read:

27 20.055 Agency inspectors general.--

28 (1) For the purposes of this section:

29 (a) "State agency" means each department created pursuant

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30 to this chapter, and also includes the Executive Office of the  
31 Governor, the Department of Military Affairs, the Fish and  
32 Wildlife Conservation Commission, the Office of Insurance  
33 Regulation of the Financial Services Commission, the Office of  
34 Financial Regulation of the Financial Services Commission, the  
35 Public Service Commission, the Board of Governors of the State  
36 University System, and the state courts system.

37 (b) "Agency head" means the Governor, a Cabinet officer, a  
38 secretary as defined in s. 20.03(5), or an executive director as  
39 defined in s. 20.03(6). It also includes the chair of the Public  
40 Service Commission, the Director of the Office of Insurance  
41 Regulation of the Financial Services Commission, the Director of  
42 the Office of Financial Regulation of the Financial Services  
43 Commission, and the Chief Justice of the State Supreme Court.

44 (c) "Individuals substantially affected" means natural  
45 persons who have established a real and sufficiently immediate  
46 injury in fact due to the findings, conclusions, or  
47 recommendations of a final report of a state agency inspector  
48 general, who are the subject of the audit or investigation, and  
49 who do not have or are not currently afforded an existing right  
50 to an independent review process. Employees of the state,  
51 including career service, probationary, other personal service,  
52 Selected Exempt Service, and Senior Management Service employees,  
53 are not covered by this definition. This definition also does not  
54 cover former employees of the state if the final report of the  
55 state agency inspector general relates to matters arising during  
56 a former employee's term of state employment.

57 (d) "Entities contracting with the state" means for-profit  
58 and not-for-profit organizations or businesses having a legal

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59 existence, such as corporations or partnerships, as opposed to  
60 natural persons, which have entered into a relationship with a  
61 state agency as defined in paragraph (a) to provide for  
62 consideration certain goods or services to the state agency or on  
63 behalf of the state agency. The relationship may be evidenced by  
64 payment by warrant or purchasing card, contract, purchase order,  
65 provider agreement, or other such mutually agreed upon  
66 relationship.

67 (2) The Office of Inspector General is hereby established  
68 in each state agency to provide a central point for coordination  
69 of and responsibility for activities that promote accountability,  
70 integrity, and efficiency in government. It shall be the duty and  
71 responsibility of each inspector general, with respect to the  
72 state agency in which the office is established, to:

73 (a) Advise in the development of performance measures,  
74 standards, and procedures for the evaluation of state agency  
75 programs.

76 (b) Assess the reliability and validity of the information  
77 provided by the state agency on performance measures and  
78 standards, and make recommendations for improvement, if  
79 necessary, prior to submission of those measures and standards to  
80 the Executive Office of the Governor pursuant to s. 216.0166(1).

81 (c) Review the actions taken by the state agency to improve  
82 program performance and meet program standards and make  
83 recommendations for improvement, if necessary.

84 (d) Provide direction for, supervise, and coordinate  
85 audits, investigations, and management reviews relating to the  
86 programs and operations of the state agency, except that when the  
87 inspector general does not possess the qualifications specified

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88 | in subsection (4), the director of auditing shall conduct such  
89 | audits.

90 |       (e) Conduct, supervise, or coordinate other activities  
91 | carried out or financed by that state agency for the purpose of  
92 | promoting economy and efficiency in the administration of, or  
93 | preventing and detecting fraud and abuse in, its programs and  
94 | operations.

95 |       (f) Keep such agency head informed concerning fraud,  
96 | abuses, and deficiencies relating to programs and operations  
97 | administered or financed by the state agency, recommend  
98 | corrective action concerning fraud, abuses, and deficiencies, and  
99 | report on the progress made in implementing corrective action.

100 |       (g) Ensure effective coordination and cooperation between  
101 | the Auditor General, federal auditors, and other governmental  
102 | bodies with a view toward avoiding duplication.

103 |       (h) Review, as appropriate, rules relating to the programs  
104 | and operations of such state agency and make recommendations  
105 | concerning their impact.

106 |       (i) Ensure that an appropriate balance is maintained  
107 | between audit, investigative, and other accountability  
108 | activities.

109 |       (j) Comply with the General Principles and Standards for  
110 | Offices of Inspector General as published and revised by the  
111 | Association of Inspectors General.

112 |       (3) (a) The inspector general shall be appointed by the  
113 | agency head. For agencies under the direction of the Governor,  
114 | the appointment shall be made after notifying the Governor and  
115 | the Chief Inspector General in writing, at least 7 days prior to  
116 | an offer of employment, of the agency head's intention to hire

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117 the inspector general.

118 (b) Each inspector general shall report to and be under the  
119 general supervision of the agency head and shall not be subject  
120 to supervision by any other employee of the state agency. The  
121 inspector general shall be appointed without regard to political  
122 affiliation.

123 (c) An inspector general may be removed from office by the  
124 agency head. For agencies under the direction of the Governor,  
125 the agency head shall notify the Governor and the Chief Inspector  
126 General, in writing, of the intention to terminate the inspector  
127 general at least 7 days prior to the removal. For state agencies  
128 under the direction of the Governor and Cabinet, the agency head  
129 shall notify the Governor and Cabinet in writing of the intention  
130 to terminate the inspector general at least 7 days prior to the  
131 removal.

132 (d) The agency head or agency staff shall not prevent or  
133 prohibit the inspector general ~~or director of auditing~~ from  
134 initiating, carrying out, or completing any audit or  
135 investigation.

136 (4) To ensure that state agency audits are performed in  
137 accordance with applicable auditing standards, the inspector  
138 general or the director of auditing within the inspector  
139 general's office shall possess the following qualifications:

140 (a) A bachelor's degree from an accredited college or  
141 university with a major in accounting, or with a major in  
142 business which includes five courses in accounting, and 5 years  
143 of experience as an internal auditor or independent postauditor,  
144 electronic data processing auditor, accountant, or any  
145 combination thereof. The experience shall at a minimum consist of

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146 audits of units of government or private business enterprises,  
147 operating for profit or not for profit; or

148 (b) A master's degree in accounting, business  
149 administration, or public administration from an accredited  
150 college or university and 4 years of experience as required in  
151 paragraph (a); or

152 (c) A certified public accountant license issued pursuant  
153 to chapter 473 or a certified internal audit certificate issued  
154 by the Institute of Internal Auditors or earned by examination,  
155 and 4 years of experience as required in paragraph (a).

156 (5) In carrying out the auditing duties and  
157 responsibilities of this act, each inspector general shall review  
158 and evaluate internal controls necessary to ensure the fiscal  
159 accountability of the state agency. The inspector general shall  
160 conduct financial, compliance, electronic data processing, and  
161 performance audits of the agency and prepare audit reports of his  
162 or her findings. The scope and assignment of the audits shall be  
163 determined by the inspector general; however, the agency head may  
164 at any time direct the inspector general to perform an audit of a  
165 special program, function, or organizational unit. The  
166 performance of the audit shall be under the direction of the  
167 inspector general, except that if the inspector general does not  
168 possess the qualifications specified in subsection (4), the  
169 director of auditing shall perform the functions listed in this  
170 subsection.

171 (a) Such audits shall be conducted in accordance with the  
172 current International Standards for the Professional Practice of  
173 Internal Auditing as ~~and subsequent Internal Auditing Standards~~  
174 ~~or Statements on Internal Auditing Standards~~ published by the

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175 Institute of Internal Auditors, Inc., or, where appropriate, in  
176 accordance with generally accepted governmental auditing  
177 standards. All audit reports issued by internal audit staff shall  
178 include a statement that the audit was conducted pursuant to the  
179 appropriate standards.

180 (b) Audit workpapers and reports shall be public records to  
181 the extent that they do not include information which has been  
182 made confidential and exempt from the provisions of s. 119.07(1)  
183 pursuant to law. However, when the inspector general or a member  
184 of the staff receives from an individual a complaint or  
185 information that falls within the definition provided in s.  
186 112.3187(5), the name or identity of the individual shall not be  
187 disclosed to anyone else without the written consent of the  
188 individual, unless the inspector general determines that such  
189 disclosure is unavoidable during the course of the audit or  
190 investigation.

191 (c) The inspector general and the staff shall have access  
192 to any records, data, and other information of the state agency  
193 he or she deems necessary to carry out his or her duties. The  
194 inspector general is also authorized to request such information  
195 or assistance as may be necessary from the state agency or from  
196 any federal, state, or local government entity.

197 (d) At the conclusion of each audit, the inspector general  
198 shall submit preliminary findings and recommendations to the  
199 person responsible for supervision of the program function or  
200 operational unit who shall respond to any adverse findings within  
201 20 working days after receipt of the tentative findings. Such  
202 response and the inspector general's rebuttal to the response  
203 shall be included in the final audit report.

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204        (e) At the conclusion of an audit in which the results of  
205 the audit are published and distributed and the subject of the  
206 audit is a specific entity contracting with the state or an  
207 individual substantially affected by the findings, conclusions,  
208 and recommendations, the inspector general shall submit findings  
209 to the subject who shall be advised in writing that they may  
210 submit a written response to any adverse findings within 20  
211 working days after receipt of the findings. Such response and the  
212 inspector general's rebuttal to the response, if any, shall be  
213 included in the final audit report.

214        (f)~~(e)~~ The inspector general shall submit the final report  
215 to the agency head and to the Auditor General.

216        (g)~~(f)~~ The Auditor General, in connection with the  
217 independent postaudit of the same agency pursuant to s. 11.45,  
218 shall give appropriate consideration to internal audit reports  
219 and the resolution of findings therein. The Legislative Auditing  
220 Committee may inquire into the reasons or justifications for  
221 failure of the agency head to correct the deficiencies reported  
222 in internal audits that are also reported by the Auditor General  
223 and shall take appropriate action.

224        (h)~~(g)~~ The inspector general shall monitor the  
225 implementation of the state agency's response to any report on  
226 the state agency issued by the Auditor General or by the Office  
227 of Program Policy Analysis and Government Accountability. No  
228 later than 6 months after the Auditor General or the Office of  
229 Program Policy Analysis and Government Accountability publishes a  
230 report on the state agency, the inspector general shall provide a  
231 written response to the agency head on the status of corrective  
232 actions taken. The Inspector General shall file a copy of such



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233 response with the Legislative Auditing Committee.

234 (i)~~(h)~~ The inspector general shall develop long-term and  
235 annual audit plans based on the findings of periodic risk  
236 assessments. The plan, where appropriate, should include  
237 postaudit samplings of payments and accounts. The plan shall show  
238 the individual audits to be conducted during each year and  
239 related resources to be devoted to the respective audits. The  
240 Chief Financial Officer, to assist in fulfilling the  
241 responsibilities for examining, auditing, and settling accounts,  
242 claims, and demands pursuant to s. 17.03(1), and examining,  
243 auditing, adjusting, and settling accounts pursuant to s. 17.04,  
244 may utilize audits performed by the inspectors general and  
245 internal auditors. For state agencies under the Governor, the  
246 audit plans shall be submitted to the Governor's Chief Inspector  
247 General. The plan shall be submitted to the agency head for  
248 approval. A copy of the approved plan shall be submitted to the  
249 Auditor General.

250 (6) In carrying out the investigative duties and  
251 responsibilities specified in this section, each inspector  
252 general shall initiate, conduct, supervise, and coordinate  
253 investigations designed to detect, deter, prevent, and eradicate  
254 fraud, waste, mismanagement, misconduct, and other abuses in  
255 state government. For these purposes, each inspector general  
256 ~~state agency~~ shall:

257 (a) Receive complaints and coordinate all activities of the  
258 agency as required by the Whistle-blower's Act pursuant to ss.  
259 112.3187-112.31895.

260 (b) Receive and consider the complaints which do not meet  
261 the criteria for an investigation under the Whistle-blower's Act

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262 and conduct, supervise, or coordinate such inquiries,  
263 investigations, or reviews as the inspector general deems  
264 appropriate.

265 (c) Report expeditiously to the Department of Law  
266 Enforcement or other law enforcement agencies, as appropriate,  
267 whenever the inspector general has reasonable grounds to believe  
268 there has been a violation of criminal law.

269 (d) Conduct investigations and other inquiries free of  
270 actual or perceived impairment to the independence of the  
271 inspector general or the inspector general's office. This shall  
272 include freedom from any interference with investigations and  
273 timely access to records and other sources of information.

274 (e) At the conclusion of each investigation in which the  
275 subject of the investigation is a specific entity contracting  
276 with the state or an individual substantially affected by the  
277 findings, conclusions, and recommendations, the inspector general  
278 shall, consistent with chapter 119, submit findings to the  
279 subject that is a specific entity contracting with the state or  
280 an individual substantially affected, who shall be advised that  
281 they may submit a written response within 20 working days after  
282 the receipt of the findings. Such response and the inspector  
283 general's rebuttal to the response, if any, shall be included in  
284 the final investigative report.

285 (f)~~(e)~~ Submit in a timely fashion final reports on  
286 investigations conducted by the inspector general to the agency  
287 head, except for whistle-blower's investigations, which shall be  
288 conducted and reported pursuant to s. 112.3189.

289 (7) Each inspector general shall, not later than September  
290 30 of each year, prepare an annual report summarizing the

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291 activities of the office during the immediately preceding state  
292 fiscal year. The final report shall be furnished to the agency  
293 head. Such report shall include, but need not be limited to:

294 (a) A description of activities relating to the  
295 development, assessment, and validation of performance measures.

296 (b) A description of significant abuses and deficiencies  
297 relating to the administration of programs and operations of the  
298 agency disclosed by investigations, audits, reviews, or other  
299 activities during the reporting period.

300 (c) A description of the recommendations for corrective  
301 action made by the inspector general during the reporting period  
302 with respect to significant problems, abuses, or deficiencies  
303 identified.

304 (d) The identification of each significant recommendation  
305 described in previous annual reports on which corrective action  
306 has not been completed.

307 (e) A summary of each audit and investigation completed  
308 during the reporting period.

309 (8) The inspector general in each agency shall provide to  
310 the agency head, upon receipt, all written complaints concerning  
311 the duties and responsibilities in this section or any allegation  
312 of misconduct related to the office of the inspector general or  
313 its employees, if received from subjects of audits or  
314 investigations who are individuals substantially affected or  
315 entities contracting with the state, as defined in this section.  
316 For agencies solely under the direction of the Governor, the  
317 inspector general shall also provide the complaint to the Chief  
318 Inspector General.

319 (9)-(8)- Each agency inspector general shall, to the extent

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320 both necessary and practicable, include on his or her staff  
321 individuals with electronic data processing auditing experience.  
322 Section 2. This act shall take effect July 1, 2008.