

Committee Substitute for
Committee Substitute for Senate Bill No. 2426

An act relating to legislative oversight of governmental programs; amending s. 11.13, F.S.; revising requirements for setting the allowance for intradistrict expenses for members of the Legislature; amending ss. 11.42, 11.45, F.S.; defining the term “operational audit”; revising the duties of the Auditor General; requiring district school boards to conduct certain financial audits; transferring the Division of Public Assistance Fraud from the Auditor General to the Department of Law Enforcement; transferring, renumbering, and amending s. 11.50, F.S.; conforming provisions to the transfer of the Division of Public Assistance Fraud; amending ss. 402.3015, 414.33, 414.34, 414.39, 414.40, 951.28, F.S.; conforming provisions to the transfer of the Division of Public Assistance Fraud; amending ss. 373.589, 195.096, 232.44, 946.516, 283.31, F.S.; revising the duties of the Auditor General; providing for audits by independent certified public accountants; amending s. 944.719, F.S.; transferring duties from the Auditor General to the Office of Program Policy Analysis and Government Accountability; amending ss. 11.511, 11.513, F.S.; revising the duties of the Office of Program Policy Analysis and Government Accountability; amending ss. 112.3187, 112.3188, 112.31895, F.S.; eliminating the Public Counsel’s responsibilities associated with the Whistle-blower’s Act; transferring such responsibilities to the Florida Commission on Human Relations; amending s. 985.401, F.S.; providing for the composition of the Juvenile Justice Accountability Board; reassigning the board from the Joint Legislative Auditing Committee to the Department of Juvenile Justice; amending s. 218.502, F.S.; redefining the term “local governmental entity”; repealing s. 284.50(4), F.S., which provides for the Auditor General to audit state agency loss-prevention programs; repealing s. 475.045(1)(f), F.S., which provides for the Auditor General to audit the financial transactions of the Florida Real Estate Commission Education and Research Foundation; repealing s. 985.07, F.S., which provides for the Auditor General to examine some information-sharing efforts; amending s. 760.06, F.S.; authorizing the Florida Commission on Human Relations to receive and coordinate whistle-blowers’ complaints; providing an effective date.

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

Section 1. Subsection (4) of section 11.13, Florida Statutes, 1998 Supplement, is amended to read:

11.13 Compensation of members.—

(4) Each member of the Legislature shall be entitled to receive a monthly allowance for intradistrict expenses in an amount set annually by the President of the Senate for members of the Senate and the Speaker of the House of Representatives for members of the House ~~not later than November 1 for~~

the next fiscal year. In setting the amount, the costs of maintaining a legislative district office or offices that provide provides an appropriate level of constituent services shall be considered. The procedure for disbursement of the monthly intradistrict expense allowed shall be set from time to time by the Office of Legislative Services, with the approval of the President of the Senate and the Speaker of the House of Representatives or their respective designees. Such expenses shall be a proper expense of the Legislature and shall be disbursed from the appropriation for legislative expense. The expenses provided under this subsection shall not include any travel and per diem reimbursed under subsections (2) and (3) or the rules of either house.

Section 2. Subsections (3), (6), (8), and (9) of section 11.42, Florida Statutes, are amended to read:

11.42 The Auditor General.—

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

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

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

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

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

(c) The Auditor General shall transmit to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year a list of statutory and fiscal changes recommended by audit reports. The recommendations should be presented in two categories: one addressing substantive law and policy issues and the other addressing budget issues. The Auditor General may also transmit recommendations at other times of the year when the information would be timely and useful for the Legislature.

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

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

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

11.45 Definitions; duties; audits; reports.—

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

(a) “County agency,” for the exclusive purposes of this section, means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections, or any other officer in whom any portion of the fiscal duties of the above are under law separately placed. Each county agency is a local governmental entity for purposes of subparagraph (3)(a)4.

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

(c) “Governmental entity” means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

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

(e) “Management letter” means a statement of the auditor’s comments and recommendations.

(f) “Operational audit” means a financial-related audit whose purpose is to evaluate management’s performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines and to determine the extent to which the internal control, as designed and placed in operation, promotes and encourages the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets.

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

1. Economy, efficiency, or effectiveness of the program.
2. Structure or design of the program to accomplish its goals and objectives.
3. Adequacy of the program to meet the needs identified by the Legislature or governing body.
4. Alternative methods of providing program services or products.
5. Goals, objectives, and performance measures used by the agency to monitor and report program accomplishments.
6. The accuracy or adequacy of public documents, reports, or requests prepared under the program by state agencies.
7. Compliance of the program with appropriate policies, rules, or laws.
8. Any other issues related to governmental entities as directed by the Legislative Auditing Committee.

~~(h)~~^(g) “Political subdivision” means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

~~(i)~~^(h) “State agency” means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation,

as the case may be, except any such agency or unit other than the Florida Public Service Commission within the legislative branch of state government.

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards in counties with populations of fewer than 125,000, according to the most recent federal decennial statewide census, and of all district boards of trustees of community colleges. The Auditor General shall, at least every other year, make operational audits of the accounts and records of all state agencies, as defined in this section. The Auditor General shall, at least once every 3 years, make financial audits of the accounts and records of all district school boards in counties with populations of 125,000 or more. For each of the 2 years that the Auditor General does not make the financial audit, each district school board shall contract for an independent certified public accountant to perform a financial audit as defined in paragraph (1)(b). This section does not limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 3. 2. A district school board may select an independent certified public accountant auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section. In addition, a district school board may employ an internal auditor to perform ongoing financial verification of the financial records of a school district, who must report directly to the district school board or its designee. The Auditor General shall, at a minimum, provide to the successor independent certified public accountant of a district school board the prior year's working papers, including documentation of planning, internal control, audit results, and other matters of continuing accounting and auditing significance, such as the working paper analysis of balance sheet accounts and those relating to contingencies.

2. Each charter school established under s. 228.056 shall have an annual financial audit of its accounts and records completed within 12 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its funds. The independent certified public accountant who is selected to perform an annual financial audit of the charter school shall provide a copy of the audit report to the district school board, the Department of Education, and the Auditor General. A management letter must be prepared and included as a part of each financial audit report. The Auditor General may, pursuant to his or her own authority or at the direction of the Joint Legislative Auditing Committee, conduct an audit of a charter school.

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

General shall notify the school board, the expressway authority, or the bridge authority pursuant to subparagraph 5. 4.

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

5.4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 3. 2., each municipality with either revenues or expenditures of more than \$100,000, each special district with either revenues or expenditures of more than \$50,000, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. An independent certified public accountant who is selected to perform an annual financial audit of a school district must report directly to the district school board or its designee. A management letter must be prepared and included as a part of each financial audit report. Each local government finance commission, board, or council, and each municipal power corporation, created as a separate legal or administrative entity by interlocal agreement under s. 163.01(7), shall provide the Auditor General, within 12 months after the end of its fiscal year, with an annual financial audit report of its accounts and records and a written statement or explanation or rebuttal concerning the auditor's comments, including corrective action to be taken. The county audit shall be one document that includes a separate audit of each county agency. The county audit must include an audit of the deposits into and expenditures from the Public Records Modernization Trust Fund. The Auditor General shall tabulate the results of the audits of the Public Records Modernization Trust Fund and report a summary of the audits to the Legislature annually.

6.5. The governing body of a municipality, ~~or a special district, or charter school~~ must establish an auditor selection committee and competitive auditor selection procedures. The governing board may elect to use its own competitive auditor selection procedures or the procedures outlined in subparagraph 7. 6.

7.6. The governing body of a noncharter county or district school board that ~~retains elects to use~~ a certified public accountant must establish an auditor selection committee and select other than the Auditor General is responsible for selecting an independent certified public accountant to audit the county agencies of the county or district school board according to the following procedure:

a. For each noncharter county, the an auditor selection committee must consist ~~be established, consisting~~ of the county officers elected pursuant to

s. 1(d), Art. VIII of the State Constitution, and one member of the board of county commissioners or its designee.

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

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

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

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

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

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

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

i. If the governing board receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract with the board giving, among other things, a basis of its fee for that engagement. If the board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board

shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over \$50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract.

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

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

~~9.8.~~ The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be filed with the governing body of the local governmental entity, or district school board, or charter school within 30 days after the delivery of the financial audit report.

~~10.9.~~ The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all financial audits

subject to this section and conducted by independent certified public accountants local governmental entity audits. The Auditor General, in consultation with the Department of Education, shall develop a compliance supplement for the financial audit of a district school board conducted by an independent certified public accountant. The rules for audits of local governmental entities and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergencies Act as stated in s. 218.501.

11.10. Any local governmental entity or district school board financial audit report required under subparagraph 5. 4. or charter school financial audit report required under subparagraph 2. and the officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, must be submitted to the Auditor General within 45 days after delivery of the audit report to the local governmental entity, ~~or~~ district school board, or charter school, but no later than 12 months after the end of the fiscal year. If the Auditor General does not receive the financial audit report within the prescribed period, he or she must notify the Legislative Auditing Committee that the governmental entity or charter school has not complied with this subparagraph. Following notification of failure to submit the required audit report or items required by rule adopted by the Auditor General, a hearing must be scheduled by rule of the committee. After the hearing, the committee shall determine which local governmental entities or charter schools will be subjected to further state action. If it finds that one or more ~~local~~ local governmental entities or charter schools should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, district school board, or charter school, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity or charter school until the required financial audit is received by the Auditor General.

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

12.41.a. The Auditor General, in consultation with the Board of Accountancy, shall review all audit reports submitted ~~by local governmental entities~~ pursuant to subparagraph 11. 9. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the Auditor General does not receive the requested items, he or she shall notify the Joint Legislative Auditing Committee.

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

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

c. The Auditor General shall annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Auditing Committee a summary of significant findings and financial trends identified in audits of local governmental entities, district school boards, and charter schools performed by the independent certified public accountants.

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

~~(b) The Legislative Auditing Committee may authorize and direct the Auditor General to make a financial audit of any municipality or independent agency or authority of any municipality within the state, and the committee shall direct the Auditor General to make a financial audit of any municipality such audit whenever petitioned to do so by at least 20 percent of the electors of that any municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If The expenses of such audit shall be paid by the municipality and, in the event the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the municipal financial assistance trust fund for municipalities which is derived from the cigarette tax imposed under chapter 210, and which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.~~

(c) The Auditor General shall at least every 2 years make a performance audit of the local government financial reporting system, which, for the purpose of this chapter, means the reporting provisions of this subsection and subsection (4); s. 27.3455(1) and (2); part VII of chapter 112; s. 163.05; s. 166.241; chapter 189; parts III and V of chapter 218; and s. 925.037(5). The performance audit shall analyze each component of the reporting system separately and analyze the reporting system as a whole. The purpose of such an audit is to determine the accuracy, efficiency, and effectiveness of the reporting system in achieving its goals and objectives and to make

recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced. Such goals and objectives must include, but need not be limited to, the timely, accurate, uniform, and cost-effective accumulation of financial and other information that can be used by the members of the Legislature and other appropriate officials in order to:

1. Compare and contrast revenue sources and expenditures of local governmental entities;
2. Assess the fiscal impact of the formation, dissolution, and activity of special districts;
3. Evaluate the fiscal impact of state mandates on local governmental entities;
4. Assess financial or economic conditions of local governmental entities; and
5. Improve communication and coordination among state agencies and local governmental entities.

(d) Whenever a local governmental entity requests the Auditor General to conduct an audit of all or part of its operations and the Auditor General conducts the audit under his or her own authority or at the direction of the Legislative Auditing Committee ~~conducts the audit~~, the expenses of the audit shall be paid for by the local governmental entity. The Auditor General shall estimate the cost of the audit. Fifty percent of the cost estimate shall be paid by the local governmental entity before the initiation of the audit and deposited into the General Revenue Fund of the state. After the completion of the audit, the Auditor General shall forward the actual cost of the audit to the local governmental entity. The local governmental entity shall remit the remainder of the cost of the audit to the Auditor General for deposit into the General Revenue Fund of the state. If the local governmental entity fails to pay the cost of the audit, the Auditor General shall notify the Legislative Auditing Committee. Following the notification, the committee may schedule a hearing. After the hearing, the committee shall determine if the local governmental entity should be subject to further state action. If the committee determines that the local governmental entity should be subject to further state action, the committee shall:

1. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to the governmental entity until the required payment is received by the Auditor General.

2. In the case of a special district, notify the Department of Community Affairs that the special district has failed to pay for the cost of the audit. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to the provisions specified in ss. 189.421 and 189.422.

(7)

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

Section 4. All statutory powers, duties, and functions related to investigating public assistance fraud are transferred from the Auditor General to the Department of Law Enforcement by a type one transfer, as defined in section 20.06, Florida Statutes, effective October 1, 1999.

Section 5. Section 11.50, Florida Statutes, is transferred, renumbered as section 943.401, Florida Statutes, and amended to read:

943.401 11.50—Division of Public Assistance Fraud.—

(1)(a) ~~The Department of Law Enforcement Auditor General shall investigate, on his or her own initiative or when required by the Legislative Auditing Committee, public assistance made under the provisions of chapter 409 or chapter 414. In the course of such investigation the Department of Law Enforcement Auditor General shall examine all records, including electronic benefits transfer records and make inquiry of all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys, food stamps, or other items or benefits authorizations to recipients.~~

(b) All public assistance recipients, as a condition precedent to qualification for assistance under the provisions of chapter 409 or chapter 414, shall first give in writing, to the Agency for Health Care Administration, ~~or the Department of Health, and the Department of Children and Family Rehabilitative Services, as appropriate, and to the Department of Law Enforcement Division of Public Assistance Fraud,~~ consent to make inquiry of past or present employers and records, financial or otherwise.

(2) ~~In the conduct of such investigation the Department of Law Enforcement Auditor General may employ persons having such qualifications as are useful in the performance of this duty, and those individuals shall be assigned to the Division of Public Assistance Fraud which is hereby created within the office of the Auditor General.~~

(3) The results of such investigation shall be reported by the Department of Law Enforcement Auditor General to the appropriate legislative committees ~~Auditing Committee~~, the Agency for Health Care Administration, the Department of Health, and the Department of Children and Family Rehabilitative Services, and to such others as the Department of Law Enforcement Legislative Auditing Committee or the Auditor General may determine.

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

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

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

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

402.3015 Subsidized child care program; purpose; fees; contracts.—

(6)

(b) Child care services, unless directly operated by a community child care coordinating agency, shall be provided under a service agreement or by voucher, which ensures, to the maximum extent possible, parental choice through flexibility in child care arrangements and payment arrangements. When used, a voucher must bear the name of the beneficiary and the child care provider and, when redeemed, must bear the signature of both the beneficiary and an authorized representative of the child care provider. If it is determined that a child care provider has provided any cash to the beneficiary in return for receiving the voucher, the license for each child care facility operated by the provider shall be immediately revoked and any facility operated by the provider is ineligible for relicensure for 3 years. Whether or not the provider is licensed, the department shall refer the matter to the Department of Law Enforcement Division of Public Assistance Fraud of the ~~Office of the Auditor General~~ for investigation.

Section 7. Subsection (2) of section 414.33, Florida Statutes, is amended to read:

414.33 Violations of food stamp program.—

(2) In addition, the department shall establish procedures for referring to the Department of Law Enforcement Division of Public Assistance Fraud

within the Office of the Auditor General any case that involves a suspected violation of federal or state law or rules governing the administration of the food stamp program.

Section 8. Section 414.34, Florida Statutes, is amended to read:

414.34 Annual report concerning administrative complaints and disciplinary actions involving food stamp program violations.—The department shall prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the chairs of the appropriate legislative Health and Rehabilitative Services committees, and the Department of Law Enforcement Division of Public Assistance Fraud by January 1 of each year. In addition to any other information the Legislature may require, the report must include statistics and relevant information detailing:

- (1) The number of complaints received and investigated.
- (2) The number of findings of probable cause made.
- (3) The number of findings of no probable cause made.
- (4) The number of administrative complaints filed.
- (5) The disposition of all administrative complaints.
- (6) The number of criminal complaints brought under s. 414.39, and their disposition.
- (7) The status of the development and implementation of rules governing the electronic benefits transfer program, including any recommendations for statutory changes.

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

414.39 Fraud.—

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

Section 10. Section 414.40, Florida Statutes, is amended to read:

414.40 Stop Inmate Fraud Program established; guidelines.—

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

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

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

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

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

(d) Data obtained from correctional institutions or other detention facilities shall be compared with the client files of the Department of Children and Family Services, the Department of Labor and Employment Security, and other state or local agencies as needed to identify persons wrongfully obtaining benefits. Data comparisons shall be accomplished during periods of low information demand by agency personnel to minimize inconvenience to the agency.

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

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

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

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

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

(h) For purposes of program review and analysis, each agency or entity receiving data from the program shall submit reports to the program which indicate the results of how the data was used.

Section 11. Section 951.28, Florida Statutes, is amended to read:

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

Section 12. Section 373.589, Florida Statutes, is amended to read:

~~373.589 Water management district audit by Auditor General.—Each water management district shall have an annual financial audit of its accounts and records as provided in s. 11.45. A copy of the audit shall be filed with the Governor, the Department of Environmental Protection, the Auditor General, the governing board of the district, and the clerks of the circuit courts of each county within or partly within the district. At the direction of the Governor, audit of the district's accounts may be made from time to time by the Auditor General, and such audit shall be within the authority of said Auditor General, to make. Copy of such audit shall be furnished the Governor and the governing board of the district, and a copy shall be filed with the clerks of the circuit courts of each county within or partly within said district. The expense of said audit shall be paid by the district upon a statement thereof rendered to the district by the Auditor General. Payment of the amount thereof shall be made to the State Department of Banking and Finance to be entered in and to reimburse the account of the Auditor General so as not to reduce the legislative appropriation for said Auditor General.~~

Section 13. Subsection (7) of section 195.096, Florida Statutes, is amended to read:

195.096 Review of assessment rolls.—

(7) The Auditor General shall have the responsibility to perform performance audits of the administration of ad valorem tax laws by the department pursuant to the general authority granted in chapter 11. Such performance audits shall be conducted ~~triennially~~ biennially following completion of reviews pursuant to this section. The performance audit conducted pursuant to this subsection shall be formally submitted to the Legislature no later than April 1, on a triennial ~~biennial~~ basis, reporting on the activities of the ad valorem tax program of the Department of Revenue related to the ad valorem tax rolls. The Auditor General shall include, for at least four counties so reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the division, utilizing the same generally accepted appraisal standards and procedures to which the division and the property appraisers are required to adhere. However, the report shall not include any findings or statistics related to any ad valorem tax roll

which is in litigation between the state and county officials at the time the report is to be issued.

Section 14. Subsection (1) of section 232.44, Florida Statutes, is amended to read:

232.44 Audit of records of nonprofit corporations and associations handling interscholastic activities.—

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

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

946.516 ~~Report to Governor, and Legislature, and Auditor General by the corporation; Department of Corrections report; annual financial audit report to Governor and Legislature by Auditor General.—~~

(1) The corporation shall submit to the Governor and the Legislature, on or before January 1 of each year, a report on the status of the correctional work programs, including, but not limited to, the proposed use of the profits from such programs, a breakdown of the amount of noninmate labor used, work subcontracted to other vendors, use of consultants, finished goods purchased for resale, and the number of inmates working in the correctional work programs at the time of such report. In addition, the corporation shall submit to the department, the Governor, ~~and the Legislature, and the Auditor General~~ an annual independently audited financial audit report statement and such other information as may be requested by the Legislature, together with recommendations relating to provisions for reasonable tax incentives to private enterprises which employ inmates, parolees, or former inmates who have participated in correctional work programs.

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

(3) ~~The corporation shall have an annual financial audit of its accounts and records by an independent certified public accountant retained by it and paid from its funds. The Auditor General or the director of the Office of Program Policy Analysis and Government Accountability may, pursuant to his or her own authority or at the direction of the Joint Legislative Auditing Committee, conduct an audit of the corporation. The Auditor General shall biennially conduct a financial and performance audit of the corporation,~~

~~which shall be conducted in conjunction with an independent audit conducted by the auditors of the corporation. The Auditor General shall conduct additional audits upon the request of the Joint Legislative Auditing Committee.~~

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

Section 16. Section 283.31, Florida Statutes, is amended to read:

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

Section 17. Subsection (5) of section 944.719, Florida Statutes, is amended to read:

944.719 Adoption of rules, monitoring, and reporting.—

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

(a) The report shall determine the reasonableness of the cost analysis procedures used by the department for comparing services provided under the contract and for comparing the quality of the services provided under the

contract with the costs and quality of similar services provided by the department.

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

1. The extent to which the private vendor and the department have complied with the terms of the contract and ss. 944.710-944.719.
2. The wages and benefits that are provided to the staff of the private correctional facility as compared to wages and benefits provided to employees of the department performing comparable tasks.

Section 18. Paragraph (a) of subsection (3) and subsection (6) of section 11.511, Florida Statutes, are amended to read:

11.511 Director of the Office of Program Policy Analysis and Government Accountability; appointment; employment of staff; powers and duties.—

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

(6) ~~The director, with the consent of the Legislative Auditing Committee, may enter into contracts on behalf of the Office of Program Policy Analysis and Government Accountability.~~

(6) The director, with the consent of the President of the Senate and the Speaker of the House of Representatives, may modify the work schedule of the office in order to concentrate its efforts on agency programs that are determined to have high oversight priority. The modification may include reduction or elimination of recurring performance audits existing in law on July 1, 1999, but which do not appear to be of critical interest to the Legislature. The director may at any time conduct a performance review of a governmental entity created by law.

Section 19. Subsection (4) of section 11.513, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

11.513 Program evaluation and justification review.—

(4) No later than ~~December~~ July 1 of the second year following the year in which an agency begins operating under a performance-based program budget, the Office of Program Policy Analysis and Government Accountability shall submit a report of evaluation and justification review findings and

recommendations to the President of the Senate, the Speaker of the House of Representatives, the chairpersons of the appropriate substantive committees, the chairpersons of the appropriations committees, the Legislative Auditing Committee, the Governor, the head of each state agency that was the subject of the evaluation and justification review, and the head of any state agency that is substantially affected by the findings and recommendations.

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

Section 20. Subsections (6) and (7), paragraph (a) of subsection (8), and paragraph (f) of subsection (9) of section 112.3187, Florida Statutes, are amended to read:

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

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

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. 112.3189(1), or to the Florida Commission on Human Relations Office of the Public Counsel. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy

or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term “state agency” is defined in s. 216.011, who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Florida Commission on Human Relations Public Counsel of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.

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

(f) Temporary reinstatement to the employee’s former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations Public Counsel, as applicable under s. 112.31895, determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency’s initiation of a personnel action against the employee which includes documentation of the employee’s violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

Section 21. Paragraph (a) of subsection (2) of section 112.3188, Florida Statutes, is amended to read:

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

(2)(a) Except as specifically authorized by s. 112.3189, all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Florida Commission on Human Relations Department of Legal Affairs, the Office of the Public Counsel, or the Department of Law Enforcement is confidential and exempt from s. 119.07(1) if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b), and an investigation is active.

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

112.31895 Investigative procedures in response to prohibited personnel actions.—

(1)(a) If a disclosure under s. 112.3187 includes or results in alleged retaliation by an employer, the employee or former employee of, or applicant

for employment with, a state agency, as defined in s. 216.011, that is so affected may file a complaint alleging a prohibited personnel action, which complaint must be made by filing a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor, ~~the Department of Legal Affairs,~~ or the Florida Commission on Human Relations Office of the Public Counsel, no later than 60 days after the prohibited personnel action.

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

(2) ~~FACT FINDING.—The Florida Commission on Human Relations Department of Legal Affairs shall:~~

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

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

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

(3) ~~CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—~~

(a) ~~The Florida Commission on Human Relations Public Counsel established by s. 350.061,~~ in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term “state agency” is defined in s. 216.011.

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

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

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

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations Department of Legal Affairs to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations Public Counsel finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

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

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

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations Public Counsel must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

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

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. 112.3187, the Florida Commission on Human Relations Public Counsel shall review the information and determine whether temporary reinstatement is appropriate under s. 112.3187(9)(f). If the Florida Commission on Human Relations Public Counsel so determines, it ~~he or she~~ shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint.

(c) The Florida Commission on Human Relations Public Counsel shall notify a complainant of the status of the investigation and any action taken by the Public Counsel at such times as the commission Public Counsel considers appropriate.

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

~~(d)(e) If the Florida Commission on Human Relations Public Counsel is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Florida Commission on Human Relations Public Counsel shall terminate the investigation. Upon termination of any investigation, the Florida Commission on Human Relations Public Counsel shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.~~

~~(e)(f)1. The Florida Commission on Human Relations Public Counsel may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Florida Commission on Human Relations Public Counsel determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Florida Commission on Human Relations Public Counsel may request that such stay be extended for appropriate periods of time.~~

2. If, in connection with any investigation, the Florida Commission on Human Relations Public Counsel determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Florida Commission on Human Relations Public Counsel shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Comptroller. The Florida Commission on Human Relations Public Counsel may include in the report recommendations for corrective action to be taken.

3. If, after 20 days, the agency does not implement the recommended action, the Florida Commission on Human Relations Public Counsel shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Florida Commission on Human Relations Public Counsel finds, in consultation with the ~~Department of Legal Affairs~~ or the individual subject to the prohibited action, that the agency has implemented the corrective action, the commission Public Counsel shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

~~(f)(g) If the Florida Commission on Human Relations Public Counsel finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, the commission he or she shall terminate the investigation.~~

(g)(h)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations ~~Public Counsel~~ shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Florida Commission on Human Relations ~~Public Counsel~~ shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings. The Florida Commission on Human Relations ~~Public Counsel~~ shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(h)(i) If, in connection with any investigation under this section, the Florida Commission on Human Relations ~~Public Counsel~~ determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the commission ~~Public Counsel~~ may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the commission ~~Public Counsel~~ a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(i)(j) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term "state agency" is defined in s. 216.011, for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Florida Commission on Human Relations ~~Public Counsel~~.

(j)(k) The Florida Commission on Human Relations ~~Public Counsel~~ may also petition for an award of reasonable attorney's fees and expenses from a state agency, as the term "state agency" is defined in s. 216.011, pursuant to s. 112.3187(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations ~~Public Counsel~~, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).

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

Section 23. Section 985.401, Florida Statutes, 1998 Supplement, is amended to read:

985.401 Juvenile Justice Accountability Board.—

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

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

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

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

(2)(a) A full term shall be 3 years, and the term for each seat on the board commences on October 1 and expires on September 30, without regard to the date of appointment. Each appointing authority shall appoint a member to fill one of the three vacancies that occurs with the expiration of terms on September 30 of each year. A member is not eligible for appointment to more than two full, consecutive terms. A vacancy on the board shall be filled within 60 days after the date on which the vacancy occurs. The Governor appointing authority that made the original appointment shall make the appointment to fill a vacancy that occurs for any reason other than the expiration of a term, and the appointment shall be for the remainder of the unexpired term. For the purpose of implementing the provisions of this paragraph, vacancies that occur before October 1, 1999, shall not be filled until October 1, 1999, and the Governor shall make only one appointment to fill the vacancies that result from expiration of terms on September 30, 1999.

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

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

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

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

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

~~(b)(c) Effective July 1, 1999, the board and its staff are is assigned, for the purpose of general oversight, to the Department of Juvenile Justice Joint Legislative Auditing Committee. The board shall develop a budget pursuant to procedures established by the Joint Legislative Auditing Committee. For the purpose of implementing this paragraph, all of the duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the board are transferred to the Department of Juvenile Justice. The transfer of segregated funds shall be made in such a manner that the relation between program and revenue source, as provided in law, is maintained.~~

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

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

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

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

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

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

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

(b) In developing the standard methodology, the board shall consult with the department, the ~~Office Division~~ of Economic and Demographic Research, contract service providers, and other interested parties. It is the intent of the

Legislature that this effort result in consensus recommendations, and, to the greatest extent possible, integrate the goals and legislatively approved measures of performance-based program budgeting provided in chapter 94-249, Laws of Florida, the quality assurance program provided in s. 985.412, and the cost-effectiveness model provided in s. 985.404(11). The board shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to develop the methodology.

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

1. The methodology for interpreting outcome evaluations, including common terminology and operational definitions.
2. The recommended minimum thresholds of satisfactory performance for client outcomes and program outputs applicable to the year for which the data are reported.
3. The actual client outcomes and program outputs achieved by each program operated by the department or by a provider under contract with the department, compared with the recommended minimum thresholds of satisfactory performance for client outcomes and program outputs for the year under review. The report shall group programs or program types with similarity of function and services and make appropriate comparisons between programs within the program group.

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

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

(5) The board shall:

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

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

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

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

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

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

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

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

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

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

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

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

Section 24. Section 218.502, Florida Statutes, is amended to read:

218.502 Definition.—As used in ss. 218.50-218.504, the term “local governmental entity” means a county, municipality, ~~or~~ special district, or district school board.

Section 25. Subsection (4) of section 284.50, paragraph (f) of subsection (1) of section 475.045, and section 985.07, Florida Statutes, are repealed.

Section 26. Subsection (13) is added to section 760.06, Florida Statutes, to read:

760.06 Powers of the commission.—Within the limitations provided by law, the commission shall have the following powers:

(13) To receive complaints and coordinate all activities as required by the Whistle-blower’s Act pursuant to ss. 112.3187-112.31895.

Section 27. This act shall take effect July 1, 1999.

Approved by the Governor June 11, 1999.

Filed in Office Secretary of State June 11, 1999.