

CHAPTER 2014-144

Committee Substitute for Committee Substitute for House Bill No. 1385

An act relating to inspectors general; amending s. 14.32, F.S.; revising provisions relating to the appointment and removal of the Chief Inspector General; amending s. 20.055, F.S.; revising provisions relating to the duties, appointment, and removal of agency inspectors general; updating a cross-reference; providing an effective date.

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

Section 1. Subsection (1) of section 14.32, Florida Statutes, is amended to read:

14.32 Office of Chief Inspector General.—

(1) There is created in the Executive Office of the Governor the Office of Chief Inspector General. The Chief Inspector General ~~is shall be~~ responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor. The Chief Inspector General shall be appointed by and serve at the pleasure of the Governor. However, upon a change in Governors or reelection of the Governor, the Governor shall appoint, or may reappoint, a Chief Inspector General before adjournment sine die of the first regular session of the Legislature that convenes after such change in Governors or reelection of the Governor.

Section 2. Subsections (2), (3), and (5), paragraph (c) of subsection (7), and subsection (8) of section 20.055, Florida Statutes, are amended to read:

20.055 Agency inspectors general.—

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

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

(b) Assess the reliability and validity of the information provided by the state agency on performance measures and standards, and make recommendations for improvement, ~~if necessary, before prior to~~ submission of such information those measures and standards to the Executive Office of the Governor pursuant to s. ~~216.1827~~ 216.0166(1).

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

(d) Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the state agency, except that when the inspector general does not possess the qualifications specified in subsection (4), the director of auditing shall conduct such audits.

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

(f) Keep the such agency head or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action.

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

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

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

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

(3)(a) For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the inspector general shall be appointed by the agency head. For state agencies under the jurisdiction direction of the Governor, the inspector general shall be appointed by the Chief Inspector General. The agency head or Chief Inspector General shall notify appointment shall be made after notifying the Governor and the Chief Inspector General in writing, at least 7 days prior to an offer of employment, of his or her the agency head's intention to hire the inspector general at least 7 days before an offer of employment. The inspector general shall be appointed without regard to political affiliation.

(b) The Each inspector general shall report to and be under the general supervision of the agency head and is shall not be subject to supervision by any other employee of the state agency in which the office is established. For state agencies under the jurisdiction of the Governor, the inspector general

shall be under the general supervision of the agency head, shall report to the Chief Inspector General, and may hire and remove staff within the office of the inspector general in consultation with the Chief Inspector General but independently of the agency. The inspector general shall be appointed without regard to political affiliation.

(c) For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the an inspector general may be removed from office by the agency head. For state agencies under the jurisdiction direction of the Governor, the inspector general may only be removed from office by the agency head shall notify the Governor and the Chief Inspector General for cause, including concerns regarding performance, malfeasance, misfeasance, misconduct, or failure to carry out his or her duties under this section. The Chief Inspector General shall notify the Governor, in writing, of his or her the intention to remove terminate the inspector general at least 21 7 days before prior to the removal. For state agencies under the jurisdiction direction of the Governor and Cabinet, the agency head shall notify the Governor and Cabinet in writing of his or her the intention to remove terminate the inspector general at least 21 7 days before prior to the removal. If the inspector general disagrees with the removal, the inspector general may present objections in writing to the Governor within the 21-day period.

(d) The Governor, the Governor and Cabinet, the agency head, or agency staff may shall not prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation.

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

(a) Such audits shall be conducted in accordance with the current International Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental auditing standards. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to the appropriate standards.

(b) Audit workpapers and reports shall be public records to the extent that they do not include information which has been made confidential and exempt from the provisions of s. 119.07(1) pursuant to law. However, when

the inspector general or a member of the staff receives from an individual a complaint or information that falls within the definition provided in s. 112.3187(5), the name or identity of the individual may ~~shall~~ not be disclosed to anyone else without the written consent of the individual, unless the inspector general determines that such disclosure is unavoidable during the course of the audit or investigation.

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

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

(e) At the conclusion of an audit in which the subject of the audit is a specific entity contracting with the state or an individual substantially affected, if the audit is not confidential or otherwise exempt from disclosure by law, the inspector general shall, consistent with s. 119.07(1), submit the findings to the entity contracting with the state or the individual substantially affected, who shall be advised in writing that they may submit a written response within 20 working days after receipt of the findings. The response and the inspector general's rebuttal to the response, if any, must be included in the final audit report.

(f) The inspector general shall submit the final report to the agency head, ~~and to the Auditor General, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.~~

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

(h) The inspector general shall monitor the implementation of the state agency's response to any report on the state agency issued by the Auditor General or by the Office of Program Policy Analysis and Government Accountability. No later than 6 months after the Auditor General or the Office of Program Policy Analysis and Government Accountability publishes a report on the state agency, the inspector general shall provide a written response to the agency head ~~or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General~~ on the status of corrective actions

taken. The inspector general shall file a copy of such response with the Legislative Auditing Committee.

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

(7)

(c) The final reports prepared pursuant to paragraphs (a) and (b) shall be provided ~~furnished~~ to the heads of the respective agencies and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General. Such reports shall include, but need not be limited to:

1. A description of activities relating to the development, assessment, and validation of performance measures.

2. A description of significant abuses and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.

3. A description of the recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified.

4. The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.

5. A summary of each audit and investigation completed during the reporting period.

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

Section 3. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.