

By: Staples

S.B. No. 1842

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an office of inspector general.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 3, Government Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. INSPECTOR GENERAL

Sec. 328.001. CREATION. The office of inspector general is created.

Sec. 328.002. APPOINTMENT; TERM; QUALIFICATIONS. (a) The governor shall appoint a person to serve as inspector general for a two-year term expiring February 1 of each odd-numbered year.

(b) The governor shall appoint an inspector general without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, and financial, legal, and managerial analysis.

Sec. 328.003. VACANCY. In the case of a vacancy in the position of inspector general, a successor shall be appointed for the unexpired term.

Sec. 328.004. REMOVAL FOR CAUSE. (a) The governor may remove the inspector general from office for cause, including substantial neglect of duty, gross misconduct, or conviction of a crime.

(b) If the governor removes the inspector general from office, the committee shall notify the inspector general of the

1 cause for removal in writing and shall send a copy of the written
2 notification to both houses of the legislature.

3 Sec. 328.005. ASSISTANT INSPECTORS GENERAL; STAFF. The
4 inspector general may appoint assistant inspectors general and may
5 employ staff as necessary to perform the duties of the office of
6 inspector general subject to the General Appropriations Act.

7 Sec. 328.006. POLITICAL ACTIVITY PROHIBITED. (a) The
8 inspector general or an employee of the office of inspector general
9 may not hold, or be a candidate for, any elective public office
10 before the third anniversary of the date the inspector general or
11 employee completes the term of office or period of employment, as
12 applicable.

13 (b) The inspector general or an employee of the office of
14 inspector general may not hold office in a political party or
15 political committee or participate in a political campaign of a
16 candidate for public office.

17 Sec. 328.007. ACCOUNTABILITY AND AUTONOMY. (a) The
18 inspector general shall report to the governor as necessary to
19 carry out the duties of the office of inspector general.

20 (b) The governor may supervise the activities of the office
21 of the inspector general, but may not prevent the inspector general
22 from initiating, carrying out, or completing an audit or
23 investigation, or from issuing a subpoena during the course of an
24 audit or investigation.

25 Sec. 328.008. POWERS AND DUTIES. The office of inspector
26 general shall:

27 (1) conduct audits of and review and analyze the

1 effectiveness of the use of funds, including contract funds and
2 grants, allocated to programs and operations administered by a
3 person receiving state or federal funds as a result of a grant from
4 or contract with an agency described by Section 328.009 and conduct
5 investigations relating to those programs and operations;

6 (2) review existing and proposed legislation or rules
7 relating to programs and operations administered by a person
8 receiving state or federal funds as a result of a grant from or
9 contract with an agency described by Section 328.009 to determine
10 the impact of the legislation or rules on the economy and efficiency
11 in the administration of those programs and operations or on the
12 detection and prevention of fraud or abuse in the administration of
13 those programs and operations;

14 (3) recommend policies for the promotion of economy
15 and efficiency in the administration of programs and operations
16 administered by a person receiving state or federal funds as a
17 result of a grant from or contract with an agency described by
18 Section 328.009 and in the detection and prevention of fraud and
19 abuse in the administration of those programs and operations;

20 (4) recommend policies for the coordination of
21 relationships between each person receiving state or federal funds
22 as a result of a grant from or contract with an agency described by
23 Section 328.009 and federal agencies, other state agencies, local
24 governmental agencies, and nongovernmental entities regarding:

25 (A) the promotion of economy and efficiency in
26 the administration of, or the prevention and detection of fraud and
27 abuse in, programs and operations administered by a person

1 receiving state or federal funds as a result of a grant from or
2 contract with an agency described by Section 328.009; or

3 (B) the identification and prosecution of
4 participants in any detected fraud or abuse;

5 (5) provide current information to the governor and
6 the legislature about fraud, abuse, deficiencies, and other
7 problems in the administration of programs and operations
8 administered by a person receiving state or federal funds as a
9 result of a grant from or contract with an agency described by
10 Section 328.009, recommend corrective action concerning those
11 problems, and report on the progress of corrective action; and

12 (6) coordinate enforcement and administration of
13 Chapter 554, as appropriate.

14 Sec. 328.009. APPLICABILITY. The inspector general shall
15 perform the duties under this chapter only as they relate to the use
16 of state or federal funds by a person receiving a grant from or
17 contracting with any of the following state agencies:

18 (1) the Texas Commission on Alcohol and Drug Abuse;

19 (2) the Texas Department of Economic Development;

20 (3) the Texas Department of Health;

21 (4) the Texas Department of Housing and Community
22 Affairs;

23 (5) the Texas Department of Human Services;

24 (6) the Texas Department of Mental Health and Mental
25 Retardation;

26 (7) the Texas Department of Protective and Regulatory
27 Services;

1 (8) the Texas Rehabilitation Commission; and

2 (9) the Texas Workforce Commission.

3 Sec. 328.010. ACCESS TO INFORMATION; ASSISTANCE. (a) The
4 inspector general, in administering this chapter, is entitled to:

5 (1) have access to all records, reports, audits,
6 reviews, documents, papers, recommendations, or other material
7 available to or in custody of a person receiving state or federal
8 funds as a result of a grant from or contract with an agency
9 described by Section 328.009 that relate to a program or operation
10 for which the inspector general has responsibility under this
11 chapter;

12 (2) make any investigation or report of the
13 administration of a program or operation for which the inspector
14 general has responsibility under this chapter that the inspector
15 general determines is necessary or appropriate;

16 (3) have access to information in the custody of or
17 assistance from any state agency or local government that is
18 necessary to administer this chapter;

19 (4) have direct and prompt access to the governor when
20 necessary for any purpose relating to the administration of this
21 chapter; and

22 (5) enter into contracts or make arrangements with
23 public agencies or private entities or individuals for audits,
24 studies, analyses, and other services as necessary to administer
25 this chapter, subject to the General Appropriations Act.

26 (b) The inspector general may issue subpoenas to compel the
27 production of information, documents, reports, answers, records,

1 accounts, papers, or other data and documentary evidence necessary
2 to administer this chapter. A district court may enforce a subpoena
3 issued by the inspector general under this chapter.

4 Sec. 328.011. COMPLAINTS; INFORMATION. (a) The inspector
5 general, in the administration of this chapter, may receive and
6 investigate complaints or information concerning the possible
7 existence of:

8 (1) mismanagement;

9 (2) a gross waste of funds;

10 (3) an abuse of authority;

11 (4) a violation of law; or

12 (5) a substantial and specific danger to the public
13 health and safety.

14 (b) The inspector general may not disclose the identity of
15 the person who makes the complaint or provides the information
16 without that person's consent unless the inspector general
17 determines that disclosure is unavoidable during the course of the
18 investigation.

19 (c) A person who has authority to take, direct others to
20 take, recommend, or approve any personnel action may not take or
21 threaten to take any action against another person for making a
22 complaint or disclosing information to the inspector general,
23 unless the complaint or disclosure of information was made with the
24 knowledge that it was false or with wilful disregard for its
25 veracity.

26 Sec. 328.012. AUDITS. (a) In conducting an audit under
27 this chapter, the inspector general shall:

1 (1) comply with applicable state and federal law; and
2 (2) conduct the audit in accordance with generally
3 accepted auditing standards as prescribed by the state auditor, the
4 Institute of Internal Auditors, and the United States General
5 Accounting Office.

6 (b) The inspector general shall establish guidelines for
7 determining when it is appropriate to require an independent audit
8 and shall take action necessary to ensure that any audit conducted
9 by an independent auditor complies with the requirements of
10 Subsection (a).

11 Sec. 328.013. COOPERATION WITH OTHER STATE AGENCIES. The
12 inspector general shall cooperate with the state auditor and the
13 comptroller in administering this chapter.

14 Sec. 328.014. REPORT OF VIOLATION OF CRIMINAL LAW.

15 (a) The inspector general shall promptly report to the attorney
16 general and to the local attorney representing the state in the
17 prosecution of felonies if as a result of an audit or investigation
18 under this chapter the inspector general has reasonable cause to
19 believe that a violation of state criminal law has occurred.

20 (b) The inspector general shall promptly report to the
21 United States district attorney for the appropriate judicial
22 district if as a result of an audit or investigation under this
23 chapter the inspector general has reasonable cause to believe that
24 a violation of federal criminal law has occurred.

25 Sec. 328.015. REPORT. (a) The inspector general shall
26 prepare and submit to the governor not later than December 31 of
27 each even-numbered year a written report that summarizes the

1 activities of the office of the inspector general during the
2 preceding two-year period. The report must:

3 (1) describe any significant problem, abuse, or
4 deficiency in the administration of a program or operation
5 disclosed by the inspector general during the reporting period;

6 (2) describe any corrective action recommended by the
7 inspector general during the reporting period with respect to a
8 problem, abuse, or deficiency described by Subdivision (1);

9 (3) identify each significant recommendation
10 submitted in a previous report for which corrective action is not
11 complete;

12 (4) summarize matters referred to prosecuting
13 authorities during the reporting period and the disposition of
14 those matters; and

15 (5) list each audit report completed by the office
16 during the reporting period.

17 (b) Not later than the 30th day after the date of receipt of
18 a report under Subsection (a), the governor shall send the report to
19 the presiding officer of each house of the legislature and shall
20 include with the report any written recommendation the governor
21 determines is appropriate. On request, the inspector general shall
22 also make copies of the report available to the public at reasonable
23 cost.

24 (c) The inspector general shall immediately report to the
25 governor on receipt of information indicating a particularly
26 serious or flagrant problem, abuse, or deficiency relating to the
27 administration of a program or operation, as determined by the

1 inspector general. Not later than the seventh day after the date of
2 receipt of a report under this subsection, the governor shall send
3 the report to the presiding officer of each house of the legislature
4 and shall include with the report any written recommendation the
5 governor determines is appropriate.

6 SECTION 2. (a) As soon as possible after the effective
7 date of this Act, but not later than January 1, 2004, the governor
8 shall appoint an inspector general. The initial term of the
9 inspector general ends on February 1, 2005.

10 (b) During the period between the effective date of this Act
11 and the date the inspector general appointed under Subsection (a)
12 of this section qualifies for office, any office of internal audits
13 or internal audit program of an agency described by Section
14 328.009, Government Code, as added by this Act, continues to keep
15 the same functions it had under the law as it existed immediately
16 before the effective date of this Act, and the former law is
17 continued in effect for that purpose. On the date an inspector
18 general is appointed and qualifies for office under Subsection (a)
19 of this section, that inspector general shall assume the functions
20 of that office of internal audits or internal audit program that are
21 related to the audit or investigation of a person receiving state or
22 federal funds as a result of a grant from or contract with the
23 agency.

24 SECTION 3. This Act takes effect September 1, 2003.