

By: Martinez Fischer

H.B. No. 3329

A BILL TO BE ENTITLED

AN ACT

relating to renaming the State Auditor the Texas Government Accountability Office, and the expansion of the powers and duties of that office, including the creation of an office of inspector general.

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

SECTION 1. The chapter heading to Chapter 321, Government Code, is amended to read as follows:

CHAPTER 321. TEXAS GOVERNMENT ACCOUNTABILITY OFFICE [~~STATE~~  
~~AUDITOR~~]

SECTION 2. Chapter 321, Government Code, is amended by designating Sections 321.001-321.023 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. GOVERNMENT ACCOUNTABILITY; AUDITS

SECTION 3. Section 321.001, Government Code, is amended by adding Subdivisions (4-a) and (6) to read as follows:

(4-a) "Inspector general" means the office of inspector general created under Subchapter B.

(6) "Office" means the Texas Government Accountability Office.

SECTION 4. Subchapter A, Chapter 321, Government Code, as added by this Act, is amended by adding Sections 321.0014 and 321.0015 to read as follows:

Sec. 321.0014. APPLICABILITY TO CERTAIN ENTITIES. This

1 chapter applies to the following entities in the same manner as a  
2 department:

3 (1) an independent organization certified by the  
4 Public Utility Commission of Texas under Section 39.151, Utilities  
5 Code;

6 (2) a regional mobility authority;

7 (3) the Texas Economic Development Corporation;

8 (4) a nonprofit organization that is established by a  
9 department and that solicits gifts, grants, and other donations for  
10 the Texas Enterprise Fund under Section 481.078;

11 (5) the Texas Boll Weevil Eradication Foundation,  
12 Inc.;

13 (6) the Texas Beef Council;

14 (7) the Texas Mutual Insurance Company;

15 (8) the Texas Workforce Investment Council;

16 (9) the Texas Environmental Education Partnership  
17 Fund;

18 (10) the Texas Guaranteed Student Loan Corporation;

19 (11) the Texas Council on Purchasing from People with  
20 Disabilities;

21 (12) the Texas Health Benefits Purchasing  
22 Cooperative;

23 (13) the Texas Parks and Wildlife Foundation; and

24 Sec. 321.0015. TEXAS GOVERNMENT ACCOUNTABILITY OFFICE. (a)  
25 The state auditor's office is renamed the Texas Government  
26 Accountability Office.

27 (b) A reference in law to the state auditor's office means

1 the Texas Government Accountability Office.

2 SECTION 5. Section 321.001(1), Government Code, is amended  
3 to read as follows:

4 (1) "Audit plan" means the outline of work [~~approved~~  
5 ~~by the committee~~] for the [~~State Auditor's Office~~] Texas Government  
6 Accountability Office in a year for the performance of audits and  
7 related services, including technical assistance, data analysis,  
8 consulting and oversight functions, investigations, and the  
9 preparation of audit reports and other types of communications.

10 SECTION 6. Section 321.013(a) and (c), Government Code, are  
11 amended to read as follows:

12 (a) The State Auditor shall conduct audits of all  
13 departments, including institutions of higher education, as  
14 specified in the audit plan. [~~At the direction of the committee,~~  
15 ~~T~~he State Auditor [~~shall~~] may conduct an audit or investigation  
16 of any entity receiving funds from the state.

17 (c) The State Auditor shall [~~recommend the~~] prepare an audit  
18 plan for the state for each year [~~to the committee~~]. In devising  
19 the plan, the State Auditor shall consider recommendations  
20 concerning coordination of agency functions made jointly by  
21 representatives of the Legislative Budget Board, Sunset Advisory  
22 Commission, and [~~State Auditor's Office~~] Texas Government  
23 Accountability Office. The State Auditor shall also consider the  
24 extent to which a department has received a significant increase in  
25 appropriations, including a significant increase in federal or  
26 other money passed through to the department, and shall review  
27 procurement activities for compliance with Section 2161.123. The

1 plan shall provide for auditing of federal programs at least as  
2 often as required under federal law and shall ensure that audit  
3 requirements of all bond covenants and other credit or financial  
4 agreements are satisfied. [~~The committee shall review and approve~~  
5 ~~the plan.~~]

6 SECTION 7. Subchapter A, Chapter 321, Government Code, as  
7 added by this Act, is amended by adding Sections 321.024-321.029 to  
8 read as follows:

9 Sec. 321.024. GENERAL COUNSEL; ADVISORY OPINIONS. (a) The  
10 office may employ a general counsel who serves at the will of the  
11 committee.

12 (b) The general counsel must be an attorney licensed to  
13 practice law in this state.

14 (c) The general counsel may issue advisory opinions  
15 relating to the appropriate use of and authority to spend state  
16 funds.

17 Sec. 321.025. PUBLIC INTEREST INFORMATION. (a) The  
18 office shall prepare information of public interest describing:

19 (1) the functions of the office, including the  
20 functions of the inspector general;

21 (2) the matters or issues that may be subject to  
22 audits, investigations, and other functions performed by the  
23 office; and

24 (3) the manner in which a person may report an  
25 allegation of fraud or abuse to the office.

26 (b) The office shall make the information described by  
27 Subsection (a) available to state officers and employees, and to

1 the public.

2 Sec. 321.026. REQUIRED CONTRACT DISCLOSURE STATEMENT. (a)  
3 The office shall develop a standard contract provision requiring a  
4 contractor to disclose to the office the amount of a payment made  
5 under the contract to any subcontractor, consultant, or person  
6 required to register as a lobbyist under Chapter 305.

7 (b) A department shall include the provision in any contract  
8 entered into by the department.

9 Sec. 321.027. CONTRACT REPORTING REQUIREMENTS. A  
10 department that is required under other law to report information  
11 relating to a contract entered into by the department to the  
12 Legislative Budget Board shall also report the information to the  
13 office.

14 Sec. 321.028. POSTING OF CONTRACT INFORMATION ON INTERNET.  
15 (a) The office shall post any information received by the office  
16 that relates to a contract entered into by a department on an  
17 Internet site maintained by or for the office. The office shall  
18 post the information in a timely manner after receipt of the  
19 information.

20 (b) The Internet site must be accessible to the public.

21 Sec. 321.029. GOVERNMENT ACCOUNTABILITY RECOMMENDATIONS.  
22 The office shall recommend policies for:

23 (1) the detection of fraud and abuse, including state  
24 contract violations, conflicts of interest, and the inappropriate  
25 use or unauthorized expenditure of state funds;

26 (2) the identification of participants in any detected  
27 fraud or abuse;

1           (3) the termination or prosecution of state employees  
2 in relation to detected fraud or abuse; and

3           (4) the exclusion of contractors from participation in  
4 state contracts for detected fraud or abuse.

5           SECTION 8. Chapter 321, Government Code, is amended by  
6 adding Subchapter B to read as follows:

7           SUBCHAPTER B. OFFICE OF INSPECTOR GENERAL

8           Sec. 321.051. CREATION. The office of inspector general is  
9 created within the Texas Government Accountability Office.

10          Sec. 321.052. APPOINTMENT. (a) The committee shall  
11 appoint a person to serve as inspector general to serve at the will  
12 of the committee.

13          (b) The committee shall appoint the inspector general  
14 without regard to political affiliation and solely on the basis of  
15 integrity and demonstrated ability.

16          Sec. 321.053. ASSISTANT INSPECTORS GENERAL; STAFF. The  
17 inspector general may appoint assistant inspectors general and may  
18 employ staff as necessary to perform the duties of the inspector  
19 general.

20          Sec. 321.054. GENERAL POWERS AND DUTIES. In accordance with  
21 this subchapter, the inspector general shall:

22           (1) investigate fraud or abuse in all departments,  
23 including misuse of funds, conflicts of interest, contract abuses,  
24 and other violations of law;

25           (2) monitor the compliance of all departments with the  
26 applicable laws relating to the powers, duties, and functions of  
27 the departments; and

1           (3) refer appropriate matters to the attorney general.

2           Sec. 321.055. RECEIPT AND INVESTIGATION OF COMPLAINTS AND  
3 INFORMATION. The inspector general may receive and investigate  
4 complaints and information concerning the possible existence of  
5 fraud or abuse.

6           Sec. 321.056. ASSISTANCE OF ATTORNEY GENERAL. On request of  
7 the inspector general, the attorney general shall assist the  
8 inspector general with investigations and provide appropriate  
9 legal assistance.

10          Sec. 321.057. REFERRAL TO ATTORNEY GENERAL. (a) After an  
11 investigation of possible fraud or abuse, if the inspector general  
12 believes that fraud or abuse by a department may have resulted in  
13 the inappropriate use or unauthorized expenditure of state funds,  
14 the office may refer the matter to the attorney general and  
15 recommend that the attorney general pursue the recovery of state  
16 funds.

17          (b) After receiving a referral from the office under this  
18 section, the attorney general shall review the request, make an  
19 independent decision, and issue a written public opinion with  
20 respect to the existence of fraud or abuse and whether the attorney  
21 general will pursue the recovery of state funds.

22          Sec. 321.058. EXEMPTION. This subchapter does not apply to  
23 powers, duties, or functions related to a criminal investigation of  
24 fraud or abuse by a law enforcement agency or any investigation  
25 conducted by the attorney general.

26          SECTION 9. (a) On the effective date of this Act the state  
27 auditor's office is renamed the Texas Government Accountability

1 Office.

2 (b) The validity of an action taken by the state auditor,  
3 the state auditor's office, or the legislative audit committee is  
4 not affected by the change in name of the state auditor's office.

5 (c) On the effective date of this Act:

6 (1) all functions, activities, employees, rules,  
7 forms, money, property, contracts, records, and obligations of the  
8 state auditor's office become functions, activities, employees,  
9 rules, forms, money, property, contracts, records, and obligations  
10 of the Texas Government Accountability Office without a change in  
11 status;

12 (2) a reference in law to the state auditor's office  
13 means the Texas Government Accountability Office; and

14 (3) all funds appropriated by the state auditor's  
15 office, including funds for providing administrative support for  
16 the state auditor's office, such as funds to pay the salary and  
17 benefits of employees who provide administrative support, are  
18 transferred to the Texas Government Accountability Office.

19 SECTION 10. (a) In this section, "committee," "department,"  
20 "inspector general," and "office" have the meanings assigned by  
21 Section 321.001, Government Code, as amended by this Act.

22 (b) As soon as possible but not later than January 1, 2006,  
23 the committee shall appoint an inspector general, as provided by  
24 Section 321.052, Government Code, as added by this Act.

25 (c) During the time between the effective date of this Act  
26 and the date the inspector general appointed under Subsection (a)  
27 of this section qualifies for office, any person who performs a



1 function related to the investigation of fraud or abuse immediately  
2 before the effective date of this Act continues to keep the same  
3 functions that the person had under the law as it existed  
4 immediately before the effective date of this Act, and the former  
5 law is continued in effect for that purpose.

6 (d) Except as provided by Subsection (c) of this section,  
7 the powers, duties, and functions of an inspector general or other  
8 officer or employee of a department that relate to the  
9 investigation of fraud or abuse are transferred to the inspector  
10 general under Subchapter B, Chapter 321, Government Code, as added  
11 by this Act.

12 (e) Except as provided by Subsection (c) of this section,  
13 the personnel, property, and obligations of an inspector general or  
14 other officer or employee of the department that relate to the  
15 investigation of fraud or abuse are transferred to the inspector  
16 general.

17 (f) A department procedure that relates to the  
18 investigation of fraud or abuse remains in effect as a department  
19 procedure until procedures are developed by the inspector general  
20 under Subchapter B.

21 (g) Except as provided by Subsection (c) of this section, a  
22 reference in law to an inspector general or other officer or  
23 employee of a department that relates to the investigation of fraud  
24 or abuse means the inspector general.

25 (h) The validity of a prior action that relates to the  
26 investigation of fraud or abuse is not affected by the transfer.

27 SECTION 11. (a) Not later than March 1, 2006, the Texas

1 Government Accountability Office shall develop the standard  
2 contract provision required by Section 321.026, Government Code, as  
3 added by this Act.

4 (b) A department is not required to comply with Section  
5 321.026, Government Code, as added by this Act, until September 1,  
6 2006.

7 SECTION 11. This Act takes effect September 1, 2005.