

BILL ANALYSIS

C.S.H.B. 1433
By: Laubenberg
Government Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Health and Human Services Commission Office of Inspector General (inspector general) does not have access to bank records, and therefore is unable to effectively conduct investigations of fraud. This bill would give certified law enforcement designation for the Office of Inspector General and thus, would enable the inspector general to maximize its effectiveness in preventing and detecting waste, fraud, and abuse. Additionally, this bill clarifies the role between the inspector general and the Texas State Auditor's Office (state auditor) to provide for better legislative oversight into investigations conducted by the inspector general.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill amends the Government Code to give Health and Human Services Commission Office of Inspector General (inspector general) the authority to employ and commission peace officers as investigators. Likewise, the Code of Criminal Procedure is amended by including officers of the inspector general to be defined as peace officers.

Additionally, the bill amends the Government Code by granting the inspector general the authority to issue a subpoena instead of requesting approval by the commissioner or commissioner designee.

The bill also amends the Government Code by allowing the Texas State Auditor's Office (state auditor) on request of the inspector general, to provide appropriate information or other assistance to the inspector general, as determined by the state auditor. Similarly, the inspector general may meet with the state auditor's office to coordinate a review, share information, or schedule work plans.

The bill states that the state auditor is entitled to access all information maintained by the inspector general, including information made confidential by state or federal law, vouchers, electronic data, and internal records. In turn, the bill also states that any information obtained or provided by the state auditor is confidential and not subject to disclosure under Chapter 552.

The bill clarifies that other law related to the operation of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or review or from having full and complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for the audit, investigation, or review. Likewise, the bill clarifies that other law related to the operation of the inspector general does not take precedence over the authority of the state auditor to conduct an audit, investigation or review under Chapter 321 or other law.

The bill requires the inspector general to timely inform the state auditor and the governor of the initiation of an audit, investigation or review of an agency program by the inspector general and the ongoing status of each audit, investigation and review. Likewise the bill also requires the inspector general to immediately report to the governor's general counsel and the state auditor any serious or flagrant problem relating to the administration of a program, operation of an agency program, or interference with an inspector general audit, investigation, or review.

The bill also requires the inspector general to prepare a final report on each audit, investigation or review conducted by the office. The bill requires the final report to include: a summary of the activities performed by the office in conducting the audit, investigation or review; a statement regarding whether the audit, investigation or review resulted in a finding of any wrongdoing; and a description of any findings of wrongdoing.

The bill also specifies that a final report on an audit, investigation or review is subject to required disclosure under Chapter 552. All information and materials compiled during an audit, investigation or review remain confidential and not subject to required disclosure. The bill then requires the report to be delivered to: the presiding officer of the subject agency; the governor; the lieutenant governor; the speaker of the house of representatives; the state auditor; the appropriate law enforcement and prosecutors; and the appropriate licensing or certification agencies.

Furthermore, the bill requires the commission and the office of the attorney general to prepare and submit a semiannual report to the governor, lieutenant governor, speaker of the house of representatives, state auditor, and comptroller concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program that is funded with state or federal money and is administered by the commission or a health and human services agency. The report must describe the activities of the office of inspector general during the fiscal year, including separately describing each major investigation, audit, review, fraud prevention effort, and agency assistance effort completed during the fiscal year.

The bill then makes conforming changes as needed to other sections of the code.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute bill changes the heading of the original bill to state, "relating to audits, investigations, and reviews conducted by the Health and Human Services Commission's office of inspector general." Whereas the original bill heading states, "relating to the employment of investigators by and subpoena powers of the office of inspector general."

The substitute bill then makes the following changes to the Government Code; whereas the original bill does not:

- The substitute amends the Government Code by allowing the Texas State Auditor's Office (state auditor) on request of the inspector general, to provide appropriate information or other assistance to the inspector general, as determined by the state auditor. Similarly, the inspector general may meet with the state auditor's office to coordinate a review, share information, or schedule work plans.
- The substitute states that the state auditor is entitled to access all information maintained by the inspector general, including information made confidential by state or federal law, vouchers, electronic data, and internal records. In turn, the substitute also states that any information obtained or provided by the state auditor is confidential and not subject to disclosure under Chapter 552.
- The substitute clarifies that other law related to the operation of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or review or from having full and complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for the audit, investigation, or review. Likewise, the substitute clarifies that other law related to the operation of the inspector general does not take precedence over the authority of the state auditor to conduct an audit, investigation or review under Chapter 321 or other law.

- The substitute requires the inspector general to timely inform the state auditor and the governor of the initiation of an audit, investigation or review of an agency program by the inspector general and the ongoing status of each audit, investigation and review. Likewise the substitute also requires the inspector general to immediately report to the governor's general counsel and the state auditor any serious or flagrant problem relating to the administration of a program, operation of an agency program, or interference with an inspector general audit, investigation, or review.
- The substitute also requires the inspector general to prepare a final report on each audit, investigation or review conducted by the office. The substitute requires the final report to include: a summary of the activities performed by the office in conducting the audit, investigation or review; a statement regarding whether the audit, investigation or review resulted in a finding of any wrongdoing; and a description of any findings of wrongdoing.
- The substitute also specifies that a final report on an audit, investigation or review is subject to required disclosure under Chapter 552. All information and materials compiled during an audit, investigation or review remain confidential and not subject to required disclosure. The substitute then requires the report to be delivered to: the presiding officer of the subject agency; the governor; the lieutenant governor; the speaker of the house of representatives; the state auditor; the appropriate law enforcement and prosecutors; and the appropriate licensing or certification agencies.
- Also, the substitute requires the commission and the office of the attorney general to prepare and submit a semiannual report to the governor, lieutenant governor, speaker of the house of representatives, state auditor, and comptroller concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program that is funded with state or federal money and is administered by the commission or a health and human services agency. The report must describe the activities of the office of inspector general during the fiscal year, including separately describing each major investigation, audit, review, fraud prevention effort, and agency assistance effort completed during the fiscal year.