

By: Laubenberg, Madden

H.B. No. 1433

Substitute the following for H.B. No. 1433:

By: Smith of Harris

C.S.H.B. No. 1433

A BILL TO BE ENTITLED

AN ACT

relating to audits, investigations, and reviews conducted by the Health and Human Services Commission's office of inspector general.

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

SECTION 1. Section 531.102, Government Code, is amended by adding Subsections (h-1) and (l) and amending Subsections (j) and (k) to read as follows:

(h-1) The inspector general may employ and commission peace officers as investigators for the limited purpose of assisting the inspector general in carrying out the duties of the office of inspector general specified by Subsection (a). A commissioned peace officer employed by the office of inspector general is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund under Title 8.

(j) The office shall prepare a final report on each audit, ~~[or]~~ investigation, or review the office conducts ~~[conducted]~~ under this subchapter or other law ~~[section]~~. The final report must include:

(1) a summary of the activities performed by the office in conducting the audit, ~~[or]~~ investigation, or review;

(2) a statement regarding whether the audit, ~~[or]~~ investigation, or review resulted in a finding of any wrongdoing; and

(3) a description of any findings of wrongdoing.

1 (k) A final report on an audit, ~~[or]~~ investigation, or
2 review is subject to required disclosure under Chapter 552. All
3 information and materials compiled during the audit, ~~[or]~~
4 investigation, or review remain confidential and not subject to
5 required disclosure in accordance with Section 531.1021(g).

6 (1) The office shall deliver a copy of each final report
7 prepared in accordance with Subsection (j) to:

8 (1) the chief administrative officer of the agency
9 that was the subject of the audit, investigation, or review or that
10 administers the program that was the subject of the audit,
11 investigation, or review;

12 (2) the governor;

13 (3) the lieutenant governor;

14 (4) the speaker of the house of representatives;

15 (5) the state auditor;

16 (6) law enforcement agencies and prosecutors, as
17 appropriate; and

18 (7) licensing or certifying agencies, as appropriate.

19 SECTION 2. Section 531.1021(a), Government Code, is amended
20 to read as follows:

21 (a) The ~~[office of]~~ inspector general may issue ~~[request~~
22 ~~that the commissioner or the commissioner's designee approve the~~
23 ~~issuance by the office of]~~ a subpoena in connection with an
24 investigation conducted by the office. The ~~[If the request is~~
25 ~~approved, the]~~ office may issue the ~~[a]~~ subpoena to compel the
26 attendance of a relevant witness or the production, for inspection
27 or copying, of relevant evidence that is in this state.

SECTION 3. The heading to Section 531.103, Government Code, is amended to read as follows:

Sec. 531.103. INTERAGENCY COORDINATION WITH ATTORNEY GENERAL.

SECTION 4. Section 531.103, Government Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The commission and the office of the attorney general shall jointly 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 may be consolidated with any other report relating to the same subject matter the commission or office of the attorney general is required to submit under other law.

(c-1) The report required by Subsection (c) must specifically describe the activities of the office of inspector general during the current state fiscal year, including separately describing each major investigation, audit, or review completed, and each action to prevent fraud or to assist another state agency taken, during that state fiscal year.

SECTION 5. Subchapter C, Chapter 531, Government Code, is amended by adding Sections 531.1041, 531.1042, and 531.1043 to read as follows:

1 Sec. 531.1041. COOPERATION AND COORDINATION WITH STATE
2 AUDITOR. (a) The inspector general may request that the state
3 auditor provide information or other assistance to the inspector
4 general, and the state auditor may provide the information or
5 assistance as the state auditor determines appropriate.

6 (b) The inspector general may meet with the state auditor's
7 office to:

8 (1) coordinate an audit, investigation, or other
9 review conducted under this subchapter;

10 (2) share information; or

11 (3) schedule work plans.

12 (c) The state auditor is entitled to have access to all
13 information maintained by the inspector general, including:

14 (1) information that is confidential under state or
15 federal law; and

16 (2) vouchers, electronic data, and internal records.

17 (d) Information that is provided by or to the state auditor
18 under this section is confidential and not subject to disclosure
19 under Chapter 552.

20 Sec. 531.1042. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
21 REVIEWS AND ACCESS TO INFORMATION NOT AFFECTED. This chapter and
22 any other law relating to the operation of the office of inspector
23 general does not:

24 (1) prohibit the state auditor from conducting an
25 audit, investigation, or review or from having complete access to
26 all records and other information, including witnesses and
27 electronic data, that the state auditor considers necessary for an

1 audit, investigation, or review; or

2 (2) affect the state auditor's authority to conduct an
3 audit, investigation, or review under Chapter 321 or other law.

4 Sec. 531.1043. REPORTS TO GOVERNOR AND STATE AUDITOR. (a)
5 The inspector general shall inform the governor and the state
6 auditor in a timely manner of the initiation of an audit,
7 investigation, or review under this subchapter and the status of
8 each ongoing audit, investigation, and review.

9 (b) The inspector general shall immediately report to the
10 general counsel of the governor and to the state auditor any problem
11 relating to the operation or administration of a program
12 administered by the commission or a health and human services
13 agency or any interference with an audit, investigation, or review
14 that the inspector general considers particularly serious or
15 flagrant.

16 SECTION 6. Article 2.12, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
19 officers:

20 (1) sheriffs, their deputies, and those reserve
21 deputies who hold a permanent peace officer license issued under
22 Chapter 1701, Occupations Code;

23 (2) constables, deputy constables, and those reserve
24 deputy constables who hold a permanent peace officer license issued
25 under Chapter 1701, Occupations Code;

26 (3) marshals or police officers of an incorporated
27 city, town, or village, and those reserve municipal police officers

1 who hold a permanent peace officer license issued under Chapter
2 1701, Occupations Code;

3 (4) rangers and officers commissioned by the Public
4 Safety Commission and the Director of the Department of Public
5 Safety;

6 (5) investigators of the district attorneys', criminal
7 district attorneys', and county attorneys' offices;

8 (6) law enforcement agents of the Texas Alcoholic
9 Beverage Commission;

10 (7) each member of an arson investigating unit
11 commissioned by a city, a county, or the state;

12 (8) officers commissioned under Section 37.081,
13 Education Code, or Subchapter E, Chapter 51, Education Code;

14 (9) officers commissioned by the General Services
15 Commission;

16 (10) law enforcement officers commissioned by the
17 Parks and Wildlife Commission;

18 (11) airport police officers commissioned by a city
19 with a population of more than 1.18 million that operates an airport
20 that serves commercial air carriers;

21 (12) airport security personnel commissioned as peace
22 officers by the governing body of any political subdivision of this
23 state, other than a city described by Subdivision (11), that
24 operates an airport that serves commercial air carriers;

25 (13) municipal park and recreational patrolmen and
26 security officers;

27 (14) security officers and investigators commissioned

as peace officers by the comptroller;

(15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(17) investigators commissioned by the Texas Medical ~~[State] Board [of Medical Examiners]~~;

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned under Chapter 554, Occupations Code;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(23) investigators commissioned by the attorney general under Section 402.009, Government Code;

(24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(25) an officer employed by the ~~[Texas]~~ Department of State Health Services under Section 431.2471, Health and Safety

Code;

(26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(27) officers commissioned by the state fire marshal under Chapter 417, Government Code;

(28) an investigator commissioned by the commissioner of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

(29) apprehension specialists commissioned by the Texas Youth Commission as officers under Section 61.0931, Human Resources Code;

(30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas [~~Commission on~~] Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; [~~and~~]

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; and

(35) officers employed or commissioned by the office of inspector general under Subchapter C, Chapter 531, Government

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1 Code.

2 SECTION 7. This Act takes effect September 1, 2007.