

By: Coleman

H.B. No. 2781

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

14 SUBCHAPTER A. GOVERNMENT ACCOUNTABILITY; AUDITS

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

17 (4-a) "Inspector general" means the office of
18 inspector general created under Subchapter B.

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

21 SECTION 4. Subchapter A, Chapter 321, Government Code, as
22 added by this Act, is amended by adding Sections 321.0014 and
23 321.0015 to read as follows:

24 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 12. This Act takes effect September 1, 2005.