

BILL ANALYSIS

C.S.H.B. 2426
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, various state agencies have inspectors general. The inspectors general operate independently of each other and have their own distinct missions and resources related to their respective agencies. The creation of a state agency known as the office of inspector general will enhance the state's ability to curb fraud, abuse, wrongdoing, and waste of taxpayer dollars. Such independence is a fundamental component of generally accepted industry standards of practice for inspectors general.

C.S.H.B. 2426 creates the office of inspector general, a state agency headed by an inspector general appointed by the governor with the advice and consent of the senate. The bill grants the office both general and specific powers to carry out its duties and responsibilities outlined in the bill to investigate fraud, abuse, wrongdoing, and waste in state agencies and federally funded programs administered by state agencies. The bill provides for employment of deputy inspectors general and other staff by the office. The bill requires the office and each agency to which a deputy inspector general is appointed to enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support provided to the office by the agency.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the inspector general, the office of the inspector general, and an agency, as defined by the bill, in SECTION 1 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the office of the inspector general in SECTIONS 19, 35, and 36 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the inspector general in SECTIONS 22, 23, 33, and 34 of this bill.

ANALYSIS

C.S.H.B. 2426 amends the Government Code to add a chapter, to be cited as the Office of Inspector General Act, creating the office of inspector general. The bill makes the office subject to the Texas Sunset Act and, unless the office is continued in existence as provided by that act, abolishes the office September 1, 2021. The bill prohibits a state agency from establishing an office of inspector general without specific legislative authorization. The bill specifies that any reference in law or rule to the Health and Human Services Commission's (HHSC) office of investigations and enforcement or HHSC's or an agency's office of inspector general means the office of inspector general established by the Office of Inspector General Act.

C.S.H.B. 2426 establishes that the office of inspector general is an agency of the State of Texas governed by the inspector general and operating and staffed independently of any other agency. The bill requires the office to have its principal office and headquarters in Austin. The bill specifies that a person designated by the inspector general to serve as the deputy inspector general for an agency, together with the office staff assigned to the deputy inspector general, are administratively attached to the assigned agency, and the bill requires the assigned agency to provide administrative support services to those office personnel. The bill requires the office and each state agency to which a deputy inspector general is appointed to enter into a service level agreement, to be reviewed at least annually, that establishes the performance standards and deliverables with regard to the administrative support provided to the office by the agency. The bill adds a temporary provision, set to expire January 1, 2012, to require HHSC to provide to the deputy inspector general designated for HHSC and that person's staff, for the state fiscal biennium beginning September 1, 2009, the same level of administrative support HHSC provided to the commission's office of inspector general for the state fiscal biennium beginning September 1, 2007.

C.S.H.B. 2426 requires the governor, from a list of three or more names submitted by the Legislative Budget Board and with the advice and consent of the senate, to appoint an inspector general to serve as director of the office. The bill requires the appointment to be made without regard to race, color, disability, sex, religion, age, or national origin and prescribes qualifications and characteristics the governor and Legislative Budget Board must respectively consider in making the appointment. The bill establishes two-year terms for the office, authorizes the inspector general to be reappointed to one or more terms, and requires the governor to fill a vacancy for its unexpired term in the same manner as for an appointment. The bill sets forth conditions under which a person is ineligible for appointment as inspector general or designation as a deputy inspector general, prohibits the inspector general from certain activity or having certain financial interests that constitute conflicts of interest, and authorizes the removal of the inspector general from office by the governor with the advice and consent of the senate as provided by the Texas Constitution.

C.S.H.B. 2426 authorizes the inspector general, subject to available appropriations and as necessary to carry out the powers and duties of the office, to designate persons to serve as deputy inspectors general for an agency or more than one agency. The bill requires the inspector general to designate persons to serve as deputy inspector general for HHSC, the Texas Youth Commission (TYC), the Texas Department of Criminal Justice, the Texas Education Agency, and the Texas Department of Transportation. The bill specifies that a deputy inspector general is an at-will employee who may be discharged by the inspector general without hearing and who is required to report to and perform duties as directed by the inspector general. The bill requires each agency to which a deputy inspector general is appointed to provide to its designated deputy inspector general facilities and support services, administrative support, and salary and benefits as provided by the General Appropriations Act.

C.S.H.B. 2426 authorizes the office to employ and commission peace officers to assist the inspector general in carrying out the duties of the office relating to detection, investigation, and prevention of criminal wrongdoing; malfeasance, misfeasance, or fraud, waste, and abuse in programs at an agency that is assigned a deputy inspector general or in programs receiving state or federal funds that are implemented, administered, or overseen by or for the agency and sets forth a provision relating to supplemental benefits. The bill requires the inspector general to employ an in-house general counsel who is required to meet certain criteria. The bill authorizes the inspector general and deputy inspectors general, subject to the availability of funds, to contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office. The bill authorizes the inspector general to employ, promote, and remove personnel as the inspector general considers necessary for the efficient and effective administration of the office. The bill requires the inspector general to train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in programs described above. The bill authorizes the inspector

general to require employees of an agency to provide information, resources, or other assistance to the office in connection with the office's duties in connection with the investigation of fraud, waste, and abuse. The bill authorizes the office to establish a merit system for its employees and to maintain the merit system in conjunction with other state agencies that are required by federal law to operate under a merit system.

C.S.H.B. 2426 makes the office responsible for the investigation of any matter pertaining to or involving an agency that receives state or federal funds, and for the investigation, prevention, and detection of criminal misconduct and wrongdoing and of fraud, waste, and abuse, as defined in applicable state and federal law, in the provision or funding of services by or for an agency or under a program implemented, administered, or overseen by or for the agency. The bill requires the inspector general to set clear objectives, priorities, and performance standards for the office that emphasize coordinating investigative efforts to aggressively recover money, allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money, and maximizing opportunities for referral of cases to the office of the attorney general in accordance with all applicable law. The bill requires the inspector general to investigate allegations of fraud, waste, abuse, misconduct, nonfeasance, misfeasance, and malfeasance, and violations of law. The bill authorizes the inspector general to conduct criminal, civil, and administrative investigations and initiate reviews of an agency as considered appropriate by the inspector general and to receive and investigate complaints from any source on its own initiative.

C.S.H.B. 2426 grants the office all the powers necessary or appropriate to carry out its responsibilities and functions. The bill authorizes the office, in addition to performing functions and duties otherwise provided by law, to audit the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or an agency and to conduct reviews, investigations, and inspections relating to such funds. The bill authorizes the office to recommend policies promoting economical and efficient administration of such funds and the prevention and detection of fraud, waste, and abuse in administration of those funds, and to conduct internal affairs investigations in instances of fraud, waste, and abuse and in instances of misconduct by employees, contractors, subcontractors, and vendors.

C.S.H.B. 2426 requires the inspector general, notwithstanding the executive commissioner of HHSC's responsibilities for health and human services agencies and any other law, to adopt the rules necessary to administer the functions of the office, including rules to address the imposition of sanctions and penalties for violations and due process requirements for imposing sanctions and penalties. The bill specifies that a rule, standard, or form adopted by an agency that is necessary to accomplish the duties of the office is considered also to be a rule, standard, or form of the office and remains in effect until changed by the inspector general. The bill requires the rules to include standards for the office that emphasize the office's prescribed objectives, priorities, and performance standards.

C.S.H.B. 2426 establishes that its provisions or other law related to the operation of the inspector general do not take precedence over the authority of the state auditor to conduct audits under any law, nor do they prohibit the state auditor from conducting an audit, investigation, or other 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 other review.

C.S.H.B. 2426 requires the office to provide information of public interest in the form of a pamphlet that describes the functions of the office, including the functions of the inspector general, as well as the matters or issues that may be subject to an investigation or review performed by the office and the manner in which a person may report an allegation of fraud, abuse, or criminal wrongdoing to the office. The bill requires the office to make such information available to state officers and employees and the public. The bill requires the office to maintain an Internet website accessible to the public and to conspicuously post the public

interest pamphlet on the website. The bill requires the office to ensure that its website allows a person to report to the office an allegation of fraud, abuse, or criminal wrongdoing related to an agency, and that a report submitted through the office's Internet website, in person, or through another means of communication, may be anonymous. The bill provides required characteristics of the seal to be used to authenticate official documents issued by the office.

C.S.H.B. 2426 authorizes the governor to issue executive orders directing state agencies to implement recommendations issued by the office for corrective or remedial actions promoting the economical and efficient administration of money and the detection of fraud, and requires the governor to submit to the lieutenant governor, the speaker of the house of representatives, the state auditor, and the comptroller a report of such executive orders and the compliance with those orders by state agencies.

C.S.H.B. 2426 requires the attorney general to defend any action brought against the inspector general, a deputy inspector general, or an employee or officer of the office as a result of that person's official act or omission, whether or not the person has terminated service with the office at the time the action is instituted. The bill requires the office and the attorney general to enter into a memorandum of understanding to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, or other violations of state or federal law under certain programs. The bill prescribes requirements that must be included in the memorandum of understanding, including specific requirements related to Medicaid fraud. The bill specifies that an exchange of information between the attorney general and the office or any other state agency does not affect whether the information is subject to open records laws.

C.S.H.B. 2426 authorizes the office to obtain information or technology necessary to enable the office to meet its responsibilities.

C.S.H.B. 2426 authorizes the inspector general to evaluate any activity or operation of an agency, medical assistance or third-party billing vendor services under a contract or provider agreement with HHSC, a provider in connection with specified activities with regard to HHSC or specified health and human services agencies, or a person in Texas in relation to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in certain agency programs. The bill authorizes a review to include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money. The bill requires the office to conduct reviews and inspections to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of such services or programs by or for an agency and prohibits a state agency or the governing body or governing officer of a state agency from impairing or prohibiting the inspector general from initiating or completing a review.

C.S.H.B. 2426 authorizes the inspector general, with respect to an agency, to audit and review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or agency receiving the funds in connection with an agency or state or federally funded program implemented, administered, or overseen by or for the agency. The bill requires the office by rule to set specific claims criteria that, when met, require the office to begin an investigation. The bill prescribes the circumstances under which the inspector general is authorized to initiate a review. The bill entitles the inspector general or deputy inspector general to access all relevant material maintained by a person, agency, or provider in connection with a program in question to further a review conducted by the office and specifies that the inspector general's authority to access such material supersedes any claim of privilege. The bill prohibits the inspector general or deputy inspector general from accessing data or other information the release of which is restricted under federal law unless the federal agency approves the information's release.

C.S.H.B. 2426 authorizes the inspector general or deputy inspector general, to further a review, to require medical or other professional assistance from an agency or an agency employee. The bill authorizes the inspector general to require employees at an agency to report information regarding fraud, waste, misuse, or abuse of funds or resources, corruption or illegal acts to the office. The bill authorizes the inspector general to issue a subpoena to compel the attendance of a relevant witness at a hearing or deposition, or to compel the production, for inspection or copying, of relevant materials, including electronic data, in connection with a review, hearing, or deposition conducted by the office. The bill authorizes the inspector general to issue a subpoena for the records of any person receiving any funds from an agency under a contract for the delivery of goods or services to the state and to delegate the authority to issue subpoenas to a deputy inspector general. The bill authorizes the inspector general, acting through the attorney general, to file suit to enforce a subpoena in a Texas district court, if a person fails to comply with the subpoena, and requires a court to order a person to comply on finding that good cause exists for issuing the subpoena. The bill specifies that the reimbursement of the expenses of a witness whose attendance is compelled is governed by provisions relating to the expenses of a witness or deponent under the Administrative Procedure Act. The bill specifies that nothing in its provisions limits or alters a person's rights under state or federal law.

C.S.H.B. 2426 requires an agency's internal auditor to provide the inspector general with a copy of the agency's internal audit plan and all of the agency's final audit reports concerning agency divisions, contracts, procurements, grants, or programs.

C.S.H.B. 2426 authorizes the inspector general to provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials and to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general. The bill authorizes the inspector general to enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the attorney general, to assist in conducting a review, and to conduct joint investigations with the attorney general or law enforcement agencies. The bill requires the attorney general or a prosecutor to inform the inspector general on whether an investigation is ongoing with regard to any matter referred by the inspector general and requires either of them, on deciding not to investigate or prosecute a complaint alleging criminal conduct referred by the inspector general, to promptly notify the inspector general of that decision. The bill sets forth provisions for the office's cooperation and coordination with the state auditor, authorizing the auditor to provide appropriate information or assistance to the inspector general or office on request and entitling the state auditor to access all information maintained by the inspector general, but specifying that any such information provided or obtained by the state auditor is confidential and not subject to disclosure under the open records law.

C.S.H.B. 2426 authorizes the inspector general to recommend policies to agencies on promoting economical and efficient administration of state or federal funds and on preventing fraud, waste, and abuse in the administration of those funds. The bill authorizes the inspector general to provide training or education on such topics with the approval of the agency's presiding officer. The bill authorizes the office, if the report results in the recovery of an administrative or civil penalty imposed by law, to grant an award to an individual who reports fraud, waste, or abuse of money or overcharges in a program implemented or administered by the agency that receives state or federal funds, but the bill prohibits the office from granting such an award to an individual if the office or attorney general had independent knowledge of the reported activity. The bill requires the office to determine the amount of an award, prescribes considerations the office must make in determining the amount of an award, and limits the amount of the award to not more than five percent of the penalty imposed by law that resulted from the individual's report. The bill specifies that a person who brings action under provisions related to Medicaid fraud prevention is not eligible for an award from the office of inspector general. The bill authorizes an agency to adopt rules governing the agency's response to reports and referrals from the inspector general on issues identified by the inspector general that are related to the agency or a contractor of the agency. The bill requires the inspector general, if a review by the inspector

general involves allegations that the presiding officer of the governing body of an agency or the single state officer who governs the agency has engaged in misconduct, to report to the governor during the review until the report is completed or the review is closed without a finding.

C.S.H.B. 2426 authorizes the inspector general to decline to investigate a complaint that the inspector general determines is trivial, frivolous, or vexatious; was not made in good faith; is based on a situation for which too much time has passed to justify an investigation; may not be adequately investigated with the resources available, considering established priorities; or addresses a matter that is not within the inspector general's investigatory authority.

C.S.H.B. 2426 requires the inspector general, unless the findings would compromise an ongoing investigation, to report the findings of the office in connection with a review to the governor, attorney general, state auditor, comptroller of public accounts, lieutenant governor and speaker, and the presiding officer of the relevant agency. The bill authorizes the inspector general to report a particularly serious or flagrant problem or interference with a review to the governor, the state auditor, and the presiding officer of the governing body of an agency associated with the review or the single state official who governs the agency.

C.S.H.B. 2426 specifies that, except as otherwise provided, all information and material compiled by the inspector general during a review is confidential, not subject to disclosure under the open records law, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the agency under review, or the office or its agents involved in the review. The bill authorizes disclosure of information relating to a review to the attorney general, the state auditor, a law enforcement agency, or the agency under review, as the inspector general determines appropriate. The bill prohibits a person receiving such information from disclosing the information except to the extent that disclosure is consistent with the authorized purpose for which the person received the information.

C.S.H.B. 2426 requires the office, except in cases in which the office has determined that potential fraud, waste, or abuse exists, to provide a draft of the final review report of any investigation, audit, or review of the operations of an agency to the presiding officer of the agency's governing body or the single state officer who governs the agency, before publishing the office's final review report. The bill, however, prohibits the office from providing the draft report if in the inspector general's opinion providing the draft could negatively affect any anticipated civil or criminal proceedings. The bill authorizes an agency receiving a draft to provide a response in the manner prescribed by rule by the office, within a specified time period. The bill authorizes the office to include any portion of the agency's response in the office's final report.

C.S.H.B. 2426 requires the inspector general to prepare a final report for each review conducted by the office and prescribes items for inclusion in the final report. The bill specifies that the inspector general's final review reports are subject to disclosure under the open records law, but that all working papers and other documents related to compiling the final review reports remain confidential and are not subject to such disclosure. The bill requires an agency, within a specified time period after the date the office issues a final report that identifies deficiencies or inefficiencies in or recommends corrective measures in the operations of the agency, to file a response that includes either an implementation plan and timeline for the recommended corrective measures or a rationale for declining to implement the recommended measures. The bill requires the inspector general to maintain information regarding the cost of reviews and authorizes the inspector general to cooperate with appropriate administrative and prosecutorial agencies, including the attorney general, in recovering costs incurred while conducting reviews from nongovernmental entities, including contractors or individuals involved in violations of applicable state or federal rules or statutes, abusive or willful misconduct, or violations of a provider contract or program policy.

C.S.H.B. 2426 requires the office to prepare and submit a semiannual report to the governor, lieutenant governor, speaker, state auditor, comptroller, and each member of the legislature concerning any completed final review and the activities of the office and the attorney general in detecting and preventing fraud, waste, and abuse under any agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by a state agency that is reviewed by the office. The bill requires the office, not later than December 1 of each even-numbered year, to issue to each member of the legislature, and to make available to the public, a report that contains the required information for the two years immediately preceding the legislative session.

C.S.H.B. 2426 specifies that the office has all the powers necessary or appropriate to carry out its responsibilities and functions in relation to health and human services matters. The bill authorizes the office to provide for coordination between the office and special investigative units formed by certain managed care organizations or entities with which managed care organizations contract. The bill makes the office responsible for the investigation of fraud, waste, and abuse in the provision or funding of health or human services by Texas, for the enforcement of state law relating to the provision of those services to protect the public, and for the prevention and detection of crime relating to the provision of those services.

C.S.H.B. 2426 requires the deputy inspector general designated for HHSC to conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation on receipt of any complaint of fraud, waste, or abuse of funds in the state Medicaid program from any source. The bill establishes a time frame for the initiation and completion of an integrity review of a Medicaid program and prescribes actions the office must take if the findings of an integrity review give the office reason to believe that an incident of fraud involving possible criminal conduct has occurred in the state Medicaid program.

C.S.H.B. 2426 requires the office immediately to refer a case to the state's Medicaid fraud control unit, at the time the office learns or has reason to suspect that a health or human service provider's Medicaid records are being withheld, concealed, destroyed, fabricated, or in any way falsified. The bill specifies that such a criminal referral does not preclude the office from continuing its investigation of the provider or from the imposition of appropriate administrative or civil sanctions.

C.S.H.B. 2426 requires the office to impose without prior notice a hold on payment of claims for reimbursement submitted by a health or human services provider to compel production of records related to participation in the state Medicaid program or on request of the state's Medicaid fraud control unit, as applicable. The bill requires the office to notify the provider of the hold not later than the fifth working day after it is imposed. The bill requires the office, in consultation with the state's Medicaid fraud control unit, to establish guidelines under which holds on payment or exclusions from a health and human services program may permissively be imposed on a provider, or shall automatically be imposed on a provider. The bill entitles a health or human services provider subject to a hold on payment, or excluded from a program, to a contested case hearing under the Administrative Procedure Act and requires that the hearing be conducted by the State Office of Administrative Hearings (SOAH). The bill sets forth procedures for a provider subject to a hold, other than a hold requested by the Medicaid fraud control unit, to request and to be granted of SOAH an expedited administrative hearing. The bill entitles HHSC, a health and human services agency, and the attorney general to intervene as parties. The bill requires the office, after the hearing and subject to final review, to make a final determination. The bill requires the inspector general to adopt rules that allow a provider subject to such a hold to seek an informal resolution of the issues identified by the office. The bill provides a time period during which the provider may seek an informal resolution and specifies that a request for informal resolution does not extend the time period for a provider to request an expedited administrative hearing. The bill requires a hearing to be stayed at the office's request until the informal resolution process is completed.

C.S.H.B. 2426 authorizes the office to request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud, waste, or abuse. The bill authorizes the office to act for an agency in the assessment of administrative or civil penalties the agency is authorized to assess under applicable law, if the specified conditions are met. The bill prohibits an agency, if the office imposes an administrative or civil penalty for an agency, from imposing an administrative or civil penalty against the same person for the same violation. The bill requires the office, if it imposes a penalty for an agency, to impose the penalty under applicable rules of the office, the bill's provisions, and applicable laws governing the imposition of a penalty by the agency.

C.S.H.B. 2426 grants the state auditor oversight responsibility for any federal stimulus funds the state receives under the American Recovery and Reinvestment Act of 2009 and authorizes the state auditor to audit any matter relating to or involving a department that receives federal stimulus funds. The bill authorizes the state auditor to request assistance of the office of inspector general for such an audit.

C.S.H.B. 2426 amends the Human Resources Code to specify that if the inspector general is not a commissioned peace officer, the inspector general, is required to select a commissioned peace officer as chief inspector for investigations of crimes committed by TYC employees or crimes or delinquent conduct at TYC-related facilities, and to make conforming changes.

C.S.H.B. 2426 amends the Government Code, the Human Resources Code, the Business & Commerce Code, and the Code of Criminal Procedure to make conforming changes.

C.S.H.B. 2426 requires the Legislative Budget Board (LBB), as soon as practicable after the bill's effective date, to submit to the governor a list with the names of at least three persons who may be appointed as inspector general for the office of inspector general. The bill requires the governor, as soon as practicable after the date the governor receives the list from the LBB, to appoint an inspector general for the office of inspector general to a term expiring February 1, 2011. The bill requires a person serving on the bill's effective date as inspector general for a state agency to serve as the deputy inspector general designated for the agency unless and until replaced by the inspector general.

C.S.H.B. 2426 transfers a contract or proceeding primarily related to a function transferred to the office of inspector general to the office and specifies that the transfer does not affect the status of a proceeding or the validity of a contract. The bill requires all personnel and assets currently assigned to the inspector general of an applicable state agency to be promptly transferred to the office of inspector general, along with any equipment, documents, and records currently assigned to or used by the inspector general of that agency. The bill provides for the transfer from the agencies affected by the bill's provisions to the office of inspector general those agencies' property, assets, records, state and federal funds, personnel, functions, contracts, obligations, rules, and forms pertaining to their respective inspectors general and the continuation in effect of certain matters involved in the transfer. The bill specifies that a reference in law or administrative rule to a previously established office of inspector general of an applicable agency means the office of inspector general established under the Texas Inspector General Act. The bill requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

C.S.H.B. 2426 defines "agency," "commission," "fraud," "furnished," "hold on payment," "inspector general," "law enforcement officer," "office," "office of inspector general," "participating agency," "program exclusion," "provider," "review," "state funds" or "state money," "internal auditor," and "currently assigned."

C.S.H.B. 2426 repeals the following sections of the Government Code relating to HHSC's office of inspector general:

- Section 531.102
- Section 531.1021
- Section 531.103

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2426 differs from the original by referring to the added Government Code chapter as the Office of Inspector General Act, rather than the Texas Inspector General Act as in the original. The substitute removes a provision in the original limiting the general applicability of the act to the Health and Human Services Commission (HHSC), the Texas Youth Commission (TYC), the Texas Department of Criminal Justice (TDCJ), the Texas Education Agency (TEA), and the Texas Department of Transportation (TxDOT), and removes an exception making the act also applicable to a health and human services agency for purposes related to the review and investigatory authority of the office. The substitute differs by redefining "agency," rather than to mean one of those five agencies or a health and human services agency for purposes related to such review and investigatory authority as provided in the original, to instead mean a board, commission, committee, department, office, division, or other agency of the executive branch of state government, not including an institution of higher education. The bill makes conforming changes.

C.S.H.B. 2426 removes a provision included in the original specifically prohibiting the governor, the legislature, a committee of the legislature, or a state agency from initiating, performing, or completing an investigation, audit, or review or other compliance or enforcement activity pursued by the office of inspector general.

C.S.H.B. 2426 adds a provision not included in the original providing that the office of the inspector general consists of the inspector general, deputy inspectors general, and other personnel. The substitute differs from the original by limiting the governor, in appointing an inspector general, to someone from a list of three or more names submitted to the governor by the Legislative Budget Board (LBB), and by adding to the characteristics the LBB and governor are required to consider in making the appointment. The substitute adds provisions not included in the original authorizing the inspector general to be reappointed to one or more subsequent terms and clarifying the manner in which the governor is required to fill a vacancy in the office for an unexpired term.

C.S.H.B. 2426, in provisions relating to the inspector general's designation of deputy inspectors general, removes a provision in the original requiring the inspector general to consult with the governor's office on a designation. The substitute and original both require the inspector general to designate a deputy inspector general at HHSC, TYC, TDCJ, TEA, and TxDOT; however, the substitute differs from the original by authorizing the inspector general, subject to available appropriations, to designate a person to serve as the deputy inspector general for any agency, as defined by the substitute, whereas the original requires the inspector general to designate a deputy inspector general for certain health and human services agencies. The substitute adds a provision not in the original authorizing the inspector general to appoint a deputy inspector general to serve as a deputy inspector general for more than one agency. The substitute makes conforming changes and adds a provision not in the original specifying that a deputy inspector general is an at-will employee and may be discharged by the inspector general without a hearing.

C.S.H.B. 2426 adds a provision not in the original prohibiting a person who is a former or current executive manager of an agency from being appointed as inspector general, or as a deputy inspector for that agency, before the fifth anniversary of the person's last day of service with the agency. The substitute adds provisions not in the original prohibiting specified political activities by the inspector general, a deputy inspector general, or an employee of the office.

C.S.H.B. 2426 differs from the original by adding the prevention of criminal wrongdoing, malfeasance, and misfeasance to the duties of commissioned peace officers assisting the inspector general. The substitute adds provisions not included in the original requiring the inspector general to employ an in-house general counsel, and prescribing the required qualifications of the in-house general counsel.

C.S.H.B. 2426 adds language not in the original clarifying that the inspector general is authorized to promote and remove personnel as the inspector considers necessary and clarifying that the assistance an inspector general may require agency employees includes providing information and resources. The substitute, in expanding the investigative responsibilities of the office, which in the original extends to the investigation of fraud, waste, and abuse in the provision of funding of services by or for an agency or under a program implemented, administered, or overseen by or for the agency, establishes that the office is responsible also for the investigation of any matter pertaining to or involving an agency that receives state or federal funds, and for the investigation, prevention, and detection of criminal misconduct and wrongdoing with respect to such provision of funding or services or under an implemented program. The substitute adds provisions not in the original requiring the inspector general to investigate allegations of fraud, waste, abuse, misconduct, nonfeasance, and malfeasance generally and authorizing the office to conduct criminal, civil, and administrative investigations and to initiate reviews of an agency and to receive and investigate complaints from any source on its own initiative.

C.S.H.B. 2426 requires the office to provide certain information to the public in pamphlet form, to make such information available to state officers and employees as well as the public, to maintain a website, to make the pamphlet available on the website, and to allow a person on the website to report an allegation of fraud, abuse, or criminal wrongdoing related to an agency. The original requires the office to develop and implement policies that provide the public a reasonable opportunity to appear before the office and speak on any issue under the office's jurisdiction, to prepare information of public interest describing the functions of the office and procedures by which complaints are filed with and resolved by the office, to make the information available to the public and appropriate state agencies, and to keep an information file about each complaint. The substitute adds a provision not in the original specifying that a report, however submitted, may be anonymous.

C.S.H.B. 2426 adds provisions not in the original relating to the inspector general's official seal. The substitute differs from the original by requiring the governor to submit to the specified officials a report of the executive orders issued by the office, rather than authorizing such action as in the original.

C.S.H.B. 2426 adds provisions not included in the original clarifying the inspector general's authority to evaluate any activity or operation of a provider in connection with the provider's relationships with HHSC or a health and human services agency.

C.S.H.B. 2426 adds provisions not in the original establishing that the inspector general's authority relating to access to information supersedes any claim of privilege.

C.S.H.B. 2426 differs from the original, in subpoena provisions, by clarifying that books, papers, records, documents, and electronic data are among the materials for which the office is authorized to compel production in connection with a review, in addition to relevant materials as in the original. The substitute adds provisions not in the original authorizing the inspector

general to issue a subpoena for the records of any person receiving funds from an agency under a contract for the delivery of goods or services to the state, and authorizing the delegation of such authority to a deputy inspector general. The substitute adds provisions not in the original specifying that the subpoena provisions do not limit or alter a person's rights under state or federal law.

C.S.H.B. 2426 adds provisions not in the original relating to joint investigations by the office and the attorney general or law enforcement agencies and investigatory communications between the inspector general and the attorney general or a prosecutor. The substitute adds provisions not in the original authorizing the inspector general to decline to investigate a complaint under certain conditions.

C.S.H.B. 2426 removes provisions included in the original requiring the inspector general to periodically report to the governor, the attorney general, the state auditor, and the presiding officer of the relevant agency regarding the initiation and ongoing status of a review. The substitute differs from the original by requiring the inspector general to report review findings to the governor, lieutenant governor, speaker, comptroller, state auditor, attorney general, and the agency, unless the findings would compromise an ongoing investigation by the attorney general or law enforcement, whereas the original requires such a report without the added caveat.

C.S.H.B. 2426 differs from the original by authorizing the inspector general to report flagrant violations to the agency, the state auditor, and the governor, whereas the original requires such a report be made to the agency, the state auditor, and the governor's general counsel. The substitute differs from the original by requiring the office to prepare and submit a semiannual report to the governor, lieutenant governor, speaker, comptroller, state auditor, and each legislator concerning any completed final review and other specified activities of the office and the attorney general, rather than requiring the office and attorney general jointly to submit a report just on their activities as in the original. The substitute removes provisions included in the original authorizing such a report to be consolidated with any other report on the same subject matter the office or attorney general is required to submit. The substitute adds provisions not in the original requiring the office, within a specified time frame, to issue to each member of the legislature a report that is also available to the public, containing such review and activity information.

C.S.H.B. 2426 differs from the original, in provisions authorizing the office to act for an agency in assessing administrative or civil penalties, to apply the authorization not only to the HHSC, TYC, TDCJ, TEA, TxDOT, or applicable health and human services agencies, as in the original, but also to an executive branch agency generally if the penalty is imposed in connection with fraud, waste, or abuse in the use of state or federal funds.

C.S.H.B. 2426 adds provisions not in the original clarifying that the office general is granted powers to carry out its responsibilities and functions in relation to health and human services matters.

C.S.H.B. 2426 adds provisions not in the original relating to the state auditor's authority and oversight responsibility for federal stimulus funds that the state receives under the American Recovery and Reinvestment Act of 2009.

C.S.H.B. 2426 adds a conforming change not in the original, deleting reference to an HHSC report required by a provision that the original and substitute both repeal, and revises transition provisions conforming to differences between the original and the substitute.