

Amend **CSSB 1420** (house committee report) by striking page 10, line 9, through page 12, line 6 and substituting the following:

Sec. 201.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011, Government Code.

(2) "Inspector general" means the person appointed under this subchapter to serve as inspector general for the department.

(3) "Office" means the office of inspector general for the department.

(4) "Review" includes an inspection, investigation, audit, or similar activity.

(5) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 201.452. ESTABLISHMENT OF OFFICE. (a) The department shall establish an office of inspector general.

(b) The office is governed by the inspector general for the department.

(c) The inspector general shall:

(1) manage daily operations of the office;

(2) supervise office staff;

(3) create office operating procedures, personnel policies, and employment policies;

(4) allocate resources in the office;

(5) oversee office information resources systems;

(6) determine the location of office facilities; and

(7) coordinate office activities with the activities of other state agencies.

(d) The inspector general is responsible for office procurement and contracts.

Sec. 201.453. INDEPENDENCE OF OFFICE. Except as otherwise provided by this subchapter, the office and inspector general operate independently of the department.

Sec. 201.454. ADMINISTRATIVE ATTACHMENT. The office is administratively attached to the department. The department shall provide to the office administrative support services.

Sec. 201.455. SERVICE LEVEL AGREEMENT. (a) The department and the office shall enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support by the department.

(b) The service level agreement must be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement.

Sec. 201.456. APPROPRIATIONS AND BUDGET. (a) The inspector general shall submit a budget for the office in accordance with the reporting requirements of the General Appropriations Act.

(b) The inspector general shall submit to the Legislative Budget Board and the department a legislative appropriations request and an operating budget in accordance with the service level agreement entered into under Section 201.455 and applicable law.

(c) If required by or under law, the department shall submit the operating budget to the legislature. The budget is not subject to review, alteration, or modification by the department or the commission before submission to the legislature.

Sec. 201.457. DUTIES OF DEPARTMENT. (a) The department shall:

(1) provide administrative assistance to the office;
and

(2) coordinate administrative responsibilities with the office to avoid unnecessary duplication of duties.

(b) The department may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract to which the office is a party without the office's approval.

Sec. 201.458. APPOINTMENT; STATE OFFICER. (a) The commission shall appoint an inspector general to serve as director of the office.

(b) The appointment shall be made without regard to political affiliation, race, color, disability, sex, religion, age, or national origin.

(c) In making the appointment, the commission shall

consider the person's integrity, education, training, knowledge of law, experience in the enforcement of law, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

(d) The inspector general is a state officer.

Sec. 201.459. TERM. The inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 201.460. ELIGIBILITY. (a) To be eligible for appointment as inspector general, a person must:

(1) have unquestioned integrity and moral character;

(2) hold a bachelor's degree;

(3) have either:

(A) at least five years of experience as a certified public accountant, certified internal auditor, or certified inspector general; or

(B) a peace officer certification issued by the Commission on Law Enforcement Officer Standards and Education that the person has held for at least five years; and

(4) have either:

(A) at least five years of experience in a professional or administrative position that included as a major duty fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance; or

(B) experience carrying out law enforcement duties to prevent fraud, waste, and abuse.

(b) The person appointed as inspector general must obtain certification as a certified inspector general within the time required by rules adopted by the commission.

(c) A person formerly employed by the department as an executive or manager may not serve as inspector general before the fifth anniversary of the date of the termination of that person's employment with the department.

(d) A person is not eligible for appointment as inspector general if the person or the person's spouse:

(1) is an officer or paid consultant of a business entity or other organization that holds a license, certificate of authority, or other authorization from the department or that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods or funds from the department, other than compensation or reimbursement authorized by law.

(e) A person is not eligible to serve as inspector general if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's or spouse's activities for compensation related to the operation of the department.

Sec. 201.461. CONFLICT OF INTEREST. (a) The inspector general may not serve as an ex officio member on the governing body of a governmental entity.

(b) The inspector general may not have a financial interest in the transactions of the office, the department, or a contractor with the department or office.

(c) The inspector general and office staff may not participate in partisan political activities related to the work of the inspector general's office. The inspector general may select the most efficient personnel available for each position in the inspector general's office. It is against the public policy of this state for an officer or employee of this state to recommend a person to serve on the staff of the inspector general.

Sec. 201.462. PEACE OFFICERS. (a) The office may 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 fraud, waste, and abuse in department programs or in programs receiving state or federal funds that are implemented, administered, or overseen by or for the department.

(b) A commissioned peace officer or otherwise designated law enforcement officer employed by the office is not entitled to

supplemental benefits from the law enforcement and custodial officer supplemental retirement fund unless the officer transfers from a position, without a break in service, that qualifies for supplemental retirement benefits from the fund.

Sec. 201.463. EXPERTS. Subject to the availability of funds, the inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office.

Sec. 201.464. EMPLOYEES; TRAINING. (a) The inspector general may employ personnel as necessary to implement the duties of the office.

(b) The inspector general shall train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in department programs or other state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.465. ASSISTANCE BY DEPARTMENT EMPLOYEES. The inspector general may require employees of the department to provide assistance to the office in connection with the office's duties relating to conducting reviews of fraud, waste, and abuse in the provision of services for department programs or state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.466. GENERAL RESPONSIBILITIES. The office is responsible for:

(1) conducting reviews of fraud, waste, and abuse in the provision or funding of services by or for the department or under a program implemented, administered, or overseen by or for the department;

(2) the enforcement of state law and the protection of the public relating to the provision of those services; and

(3) the prevention and detection of crime relating to the provision of those services.

Sec. 201.467. RULEMAKING BY INSPECTOR GENERAL. (a) Notwithstanding Section 201.101 and any other law, the inspector general shall 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.

(b) A rule, standard, or form of the department that is necessary to accomplish the duties of the office is considered to also be a rule, standard, or form of the office and remains in effect as a rule, standard, or form of the office until changed by the inspector general.

(c) The office shall submit proposed rules and adopted rules to the department for publication. The department shall promptly provide for the publication of the proposed or adopted rules in accordance with law. The department, including the commission, may not amend or modify a rule submitted by the office.

(d) The rules must include standards for the office that emphasize:

(1) coordinating reviews and investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of attorney general.

Sec. 201.468. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

(a) The office shall develop and implement policies that provide the public a reasonable opportunity to appear before the office and to speak on any issue under the office's jurisdiction.

(b) The office shall prepare information of public interest describing the functions of the office and the office's procedures by which complaints are filed with and resolved by the office. The office shall make the information available to the public and appropriate state agencies.

(c) The office shall keep an information file about each complaint filed with the office relating to the department or an entity receiving state or federal money and falling under the investigatory jurisdiction of the office.

Sec. 201.469. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

(a) The inspector general may review any activity or operation of the department or a person in this state that is related to the

investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a department program or state or federally funded program implemented, administered, or overseen by or for the department. A review may 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.

(b) The office shall conduct reviews to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs.

(c) The office shall conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors.

(d) The department or the commission may not impair or prohibit the inspector general from initiating or completing a review, or attempt to influence the inspector general in conducting a review.

(e) The inspector general may review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person receiving the funds in connection with a department or state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.470. INITIATION OF REVIEW. The inspector general may initiate a review:

- (1) on the inspector general's own initiative;
- (2) at the request of the department or the commission; or
- (3) based on a complaint from any source concerning a matter described by Section 201.469.

Sec. 201.471. ACCESS TO INFORMATION. To further a review conducted by the office, the inspector general is entitled to access all books, records, accounts, documents, reports, vouchers, databases, systems, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office that are maintained by or for a person or

the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.472. COOPERATION REQUIRED. To further a review conducted by the inspector general's office, the inspector general is entitled to full and unrestricted access to all offices, limited access or restricted areas, employees, equipment, and computers, including areas, equipment, and computers that contain confidential information and internal records, relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.473. SUBPOENAS. (a) The inspector general may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in connection with a review conducted under this subchapter.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may hold in contempt a person who fails to obey the court order.

(e) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

Sec. 201.474. INTERNAL AUDITOR. (a) In this section, "internal auditor" means a person appointed under Section 201.108.

(b) The internal auditor shall provide the inspector general with a copy of the department's internal audit plan to:

(1) assist in the coordination of efforts between the inspector general and the internal auditor; and

(2) limit duplication of effort regarding reviews by the inspector general and internal auditor.

(c) The internal auditor shall provide to the inspector general all final audit reports concerning audits of any:

- (1) division of the department;
- (2) contract, procurement, or grant; and
- (3) program conducted by the department.

Sec. 201.475. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The inspector general may provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The inspector general may refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

(c) The inspector general may enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the office of the attorney general, to assist in conducting a review under this subchapter.

Sec. 201.476. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The state auditor may, on request of the inspector general, provide appropriate information or other assistance to the inspector general or office, as determined by the state auditor.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) The state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and information obtained under Section 201.471 or subject to Section 201.482.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.477. AUTHORITY OF STATE AUDITOR AND SUNSET ADVISORY COMMISSION NOT IMPAIRED. (a) This subchapter does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321, Government Code, or other law.

(b) This subchapter does not take precedence over the authority of the Sunset Advisory Commission or other legislative

bodies to review the department under other law.

Sec. 201.478. PREVENTION. (a) The inspector general may recommend to the department policies on:

(1) promoting economical and efficient administration of state or federal funds administered by an individual or entity that received the funds from the department; and

(2) preventing and detecting fraud, waste, and abuse in the administration of those funds.

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, or abuse to employees of the department. The training or education provided must be approved by the commission.

Sec. 201.479. PERIODIC REPORTING TO STATE AUDITOR AND COMMISSION REQUIRED. The inspector general shall timely inform the state auditor and the commission of the initiation of a review of a department program and the ongoing status of each review.

Sec. 201.480. REPORTING OFFICE FINDINGS. The inspector general shall report the findings of the office for any review conducted under this subchapter to:

(1) the commission;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor's office; and

(6) appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct.

Sec. 201.481. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the commission, the governor's general counsel, and the state auditor a problem that the inspector general determines is particularly serious or flagrant and that relates to the administration of a program, operation of the department, or interference with an inspector general review.

Sec. 201.482. INFORMATION CONFIDENTIAL. (a) Except as provided by this section and Sections 201.479, 201.480, 201.483, and 201.484, all information and material compiled or maintained by

the inspector general during a review under this subchapter is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the department, or the office or its agents involved in the review related to that information or material.

(b) As the inspector general determines appropriate based on evidence sufficient to support an allegation, information relating to a review may be disclosed to:

(1) a law enforcement agency;

(2) a district or county attorney with jurisdiction;

(3) the attorney general's office;

(4) the state auditor's office; or

(5) the department.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person first obtained the information.

Sec. 201.483. DRAFT OF FINAL REVIEW REPORT; DEPARTMENT RESPONSE. (a) Except in cases in which the office has determined that fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any review of the operations of the department to the director before publishing the office's final review report.

(b) The director may provide a response to the office's draft report in the manner prescribed by the office not later than the 10th day after the date the draft report is received by the director. The inspector general by rule shall specify the format and requirements of the department response.

(c) Notwithstanding Subsection (a), the office may not provide a draft report to the director if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings.

(d) The office may include any portion of the department's response in the office's final report.

Sec. 201.484. FINAL REVIEW REPORTS; DEPARTMENT RESPONSE.

(a) The inspector general shall prepare a final report for each review conducted under this subchapter. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review;

(2) a determination of whether wrongdoing or substantial waste was found; and

(3) a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding.

(b) The inspector general's final review reports are subject to disclosure under Chapter 552, Government Code.

(c) All working papers and other documents related to compiling the final review reports remain confidential and are not subject to disclosure under Chapter 552, Government Code.

(d) Not later than the 60th day after the date the office issues a final report that identifies deficiencies or inefficiencies in, or recommends corrective measures in the operations of, the department, the department shall file a response that includes:

(1) an implementation plan and timeline for implementing corrective measures; or

(2) the department's rationale for declining to implement corrective measures for the identified deficiencies or inefficiencies or the office's recommended corrective measures, as applicable.

(e) Unless otherwise prohibited by this subchapter, the inspector general shall deliver a copy of each final report to:

(1) the director;

(2) the commission;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) any appropriate law enforcement and prosecutorial agencies; and

(7) the state auditor.

Sec. 201.485. COSTS. (a) The inspector general shall

maintain information regarding the cost of reviews.

(b) The inspector general may cooperate with appropriate administrative and prosecutorial agencies, including the office of the attorney general, in recovering costs incurred under this subchapter from nongovernmental entities, including contractors or individuals involved in:

(1) violations of applicable state or federal rules or statutes;

(2) abusive or wilful misconduct; or

(3) violations of a contract or program policy.

(c) In a criminal prosecution to which this subchapter applies, the attorney representing the state shall request that the court require restitution as a condition of a convicted person's community supervision or parole.

Sec. 201.486. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

(a) The office may:

(1) act for the department in the assessment by the office of administrative or civil penalties the department is authorized to assess under applicable law; and

(2) 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.

(b) If the office imposes an administrative or civil penalty under Subsection (a) for the department:

(1) the department may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this subchapter, applicable laws governing the imposition of a penalty by the department, and any other applicable law.