

## **BILL ANALYSIS**

C.S.H.B. 2448  
By: Harper-Brown  
Government Efficiency & Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many legislators believe the primary auditing authority of the state belongs under the legislature's purview with the State Auditor's Office (SAO); this authority was once reserved for the executive branch. During that time, the state auditor position was subject to frequent turnover as several auditors were dismissed over a short period. After the early 1940s, when the auditor's position was transferred to the legislative branch, the position became more stable with terms of office becoming longer. There have been only a few state auditors since then. Not only has the housing of this function within the legislative branch resulted in greater stability, it meshes with the legislature's oversight responsibility regarding all matters relating to state government. Currently, the State Auditor's Office is authorized to audit all state agencies, as well as local government entities and other entities receiving federal or state funds. In addition, the agency is authorized to perform any related audit work, including agency reviews, requested by the legislature. The SAO is authorized to conduct investigations of fraud and abuse of state resources and maintains a special investigative team to properly handle and investigate matters that may result in criminal or civil penalties.

Establishing a statewide office of inspector general could duplicate, and potentially conflict with, the legislative oversight functions performed by the SAO. Likewise, requiring all state agencies to implement an office of inspector general would unnecessarily expand their size and associated costs, while effectively duplicating the oversight function provided already by the SAO.

Some agencies, however, may administer programs where the risk of fraud, waste, abuse, or criminal activity is such that establishing an office of inspector general is justified. Such agencies include those that process large numbers of claims on state or federal coffers; those that expend substantial portions of the state budget; those that award substantial contracts; and those that may have a history of fraud, waste, abuse, or criminal activity.

Generally, offices of inspectors general examine the actions and operations of a government agency to ensure compliance with established policies or to discover the possibility of misconduct, waste, fraud, abuse, or certain types of criminal activity by individuals or groups related to the agency's operation. Inspectors general often seek to recover misused funds through courts and administrative procedures. They also seek prosecution of wrongdoers in cooperation with local district attorneys or state attorneys general. As such, inspectors general frequently employ commissioned peace officers who are trained investigators and familiar with rules of evidence, conducting investigative interviews, setting up successful surveillance, and how to prepare a prosecution memo for bringing charges against a wrongdoer.

Currently, some state agencies have an office of inspector general that functions under various structures and authorities. C.S.H.B. 2448 attempts to create a uniform statute governing an office of inspector general that establishes and defines properly the powers and clarifies the duties and terms of the office. The bill also attempts to provide specific direction from the legislature to ensure appropriate structure and independence for these offices.

## **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the inspector general of a state agency in SECTION 1 and to the inspector general for the Health and Human Services Commission in SECTIONS 27 and 37 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 for the commission in SECTIONS 11, 21, 24, 25, 35, 36, 38, 39, and 40 of this bill and from a previously established office of inspector general of an agency to the office of inspector general of an agency established under the bill's provisions in SECTIONS 55 and 56 of this bill.

## **ANALYSIS**

C.S.H.B. 2448 amends the Government Code to enact the Texas Inspector General Act, whose purpose is to establish guidelines for the offices of inspectors general at certain state agencies. The bill prohibits a state agency from establishing an office of inspector general without specific legislative authorization. The bill requires the Health and Human Services Commission (HHSC), the Texas Youth Commission, the Texas Department of Transportation, the Texas Department of Criminal Justice, and the Texas Education Agency to establish an office of inspector general in the agency, to be governed by the inspector general for the agency. The bill requires the inspector general to manage the office's daily operations; supervise office staff; create office operating procedures, personnel policies, and employment policies; allocate resources in the office; oversee office information resources systems; determine the location of office facilities; and coordinate office activities with the activities of other state agencies, including other health and human services agencies. The bill makes the inspector general responsible for office procurement and contracts. The bill establishes that the office and inspector general operate independently of the agency and that the office is administratively attached to the agency, which must provide to the office administrative support services. The bill provides that a reference in law or rule to an agency's office of inspector general means the office of inspector general established under the Texas Inspector General Act.

C.S.H.B. 2448 requires the agency and the office to enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support by the agency and requires the agreement to be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement. The bill requires the inspector general to submit a budget for the office in accordance with the reporting requirements of the General Appropriations Act. The bill requires the inspector general to submit to the Legislative Budget Board and the agency a legislative appropriations request and an operating budget in accordance with the service level agreement and applicable law. The bill requires the agency, if required by or under law, to submit the operating budget to the legislature and establishes that the budget is not subject to review, alteration, or modification by the agency or the governing body or governing officer of the agency before submission to the legislature. The bill requires the agency to provide administrative assistance to the office and coordinate administrative responsibilities with the office to avoid unnecessary duplication of duties. The bill prohibits the agency from taking 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.

C.S.H.B. 2448 requires the governing body or, at an agency that is not governed by a multimember governing body, the governor with the advice and consent of the senate, to appoint an inspector general to serve as director of the office. The bill establishes that the inspector general is a state officer and sets out provisions for appointment of an inspector general, the term of office, eligibility requirements for appointment as inspector general, and conflict of interest provisions that disqualify a person from such appointment. The bill prohibits an inspector general from engaging in certain activities that constitute conflicts of interest and requires a person appointed as inspector general to obtain certification as a certified inspector general within a timeframe required by rule.

C.S.H.B. 2448 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 fraud, waste, and abuse in agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by or for a state agency. The bill establishes that a commissioned peace officer or otherwise designated law enforcement officer employed by the office, except for an officer employed by the office established for the Texas Department of Criminal Justice, 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.

C.S.H.B. 2448 authorizes the inspector 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 and to employ personnel as necessary to implement the duties 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 state agency programs or other state or federally funded programs implemented, administered, or overseen by or for the agency and requires the inspector general for the Texas Department of Criminal Justice to train personnel to efficiently and effectively perform law enforcement duties. The bill authorizes the inspector general to require employees of a state agency to provide assistance in connection with the office's duties relating to conducting reviews of fraud, waste, and abuse in the provision of services for agency programs or state or federally funded programs implemented, administered, or overseen by or for the agency. The bill authorizes the inspector general for the Health and Human Services Commission to also require employees of any health and human services agency to provide assistance.

C.S.H.B. 2448 makes the office responsible for conducting reviews of fraud, waste, and abuse in the provision or funding of services by or for the agency or under a program implemented, administered, or overseen by or for the agency; the enforcement of state law and the protection of the public relating to the provision of those services; and the prevention and detection of crime relating to the provision of those services. The bill makes the office established for the Texas Department of Criminal Justice also responsible for the investigation of criminal cases and administrative violations.

C.S.H.B. 2448 requires the inspector general 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 an agency rule, standard, or form 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 office to submit proposed rules and adopted rules to the agency for publication and prohibits the agency, including the agency's governing body or governing officer, from amending or modifying a rule submitted by the office. The bill requires the rules to include standards that emphasize coordinating reviews and 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 attorney general. The bill requires the rules of the office established for the Texas Department of Criminal Justice also to include standards for the office that emphasize the investigation of criminal cases and administrative violations.

C.S.H.B. 2448 requires the office to 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. The bill requires the office to prepare information of public interest describing the office's functions and the procedures by which complaints are filed with and resolved by the office and requires the office to make the information available to the public and appropriate state agencies. The bill requires the office to keep an information file about each complaint

relating to a state agency or entity receiving state or federal money and falling under the investigatory jurisdiction of the office.

C.S.H.B. 2448 authorizes the inspector general to review any activity or operation of the agency, a provider, or a person in this state that is related to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in an agency program or state or federally funded program implemented, administered, or overseen by or for the agency. 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.

C.S.H.B. 2448 requires the office to conduct reviews to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs and to conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors. The bill requires the office established for the Texas Department of Criminal Justice to conduct criminal and administrative investigations involving suspected misconduct by employees, contractors, subcontractors, vendors, and offenders. The bill prohibits a state agency or the agency's governing body or governing officer from impairing or prohibiting the inspector general from initiating or completing a review or attempting to influence the inspector general in conducting a review. The bill authorizes the inspector general to review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or state agency receiving the funds in connection with an agency or state or federally funded program implemented, administered, or overseen by or for the agency.

C.S.H.B. 2448 authorizes the inspector general to initiate a review on the inspector general's own initiative, at the request of the agency or the agency's governing body or governing officer, or based on a complaint from any source concerning a matter subject to the inspector general's review, investigation, or audit.

C.S.H.B. 2448 entitles the inspector general 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, state agency, or provider in connection with an agency or a state or federally funded program implemented, administered, or overseen by or for the agency. The bill entitles the inspector general 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, agency, or provider in connection with an agency or a state or federally funded program implemented, administered, or overseen by or for the agency.

C.S.H.B. 2448 authorizes the inspector general to issue a subpoena to compel the attendance of a relevant witness or the production of relevant evidence in connection with a review. The bill authorizes a subpoena to be served personally or by certified mail and authorizes the inspector general, if a person fails to comply with a subpoena, to act through the attorney general and file suit to enforce the subpoena in a district court. The bill requires the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena and authorizes the court to hold in contempt a person who fails to obey the court order. The bill establishes that the reimbursement of the expenses of a witness whose attendance is compelled is governed by applicable provisions of the Administrative Procedure Act.

C.S.H.B. 2448 requires the internal auditor for the agency to provide the inspector general with a copy of the agency's internal audit plan to assist in the coordination of efforts between the inspector general and the internal auditor and limit duplication of effort regarding reviews by the inspector general and internal auditor. The bill requires the internal auditor to provide to the inspector general all final audit reports concerning audits of any part or division of the agency;

contract, procurement, or grant; and program conducted by the agency.

C.S.H.B. 2448 authorizes the inspector general to provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials. The bill authorizes the inspector general to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general. The bill requires the inspectors general for the Texas Department of Criminal Justice and the Texas Youth Commission to refer a criminal or delinquent conduct case to the appropriate prosecuting attorney or the special prosecution unit. The bill authorizes the inspector general to 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.

C.S.H.B. 2448 authorizes the state auditor to provide appropriate information or assistance to the inspector general or office on the inspector general's request and authorizes the inspector general to meet with the state auditor's office to coordinate an inspector general's review, share information, or schedule work plans. The bill entitles the state auditor to access all information maintained by the inspector general and specifies that any information provided or obtained by the state auditor is confidential and not subject to disclosure under open records laws. The bill establishes that its provisions or other law related to the operation of an inspector general does not take precedence over the authority of the state auditor to conduct an audit and does not take precedence over the authority of the Sunset Advisory Commission or other legislative bodies to review an agency under other law. The bill authorizes the inspector general to recommend to the agency policies on promoting economical and efficient administration of state or federal funds and on preventing fraud, waste, and abuse in the administration of those funds and to provide training or education on such matters to state agency employees with the agency director's approval.

C.S.H.B. 2448 requires the inspector general to timely inform the state auditor and the agency director of the initiation of a review of an agency program and the ongoing status of each review. The bill requires the inspector general to report the findings of the office for any review to the agency's governing body or governing officer, the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor's office, and appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct. The bill requires the inspector general to report immediately to the agency's governing body or governing officer, the governor's general counsel, and the state auditor a problem relating to the administration of a program, agency operation, or interference with an inspector general review that the inspector general determines is particularly serious or flagrant.

C.S.H.B. 2448 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 open records laws nor 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 a law enforcement agency, a district or county attorney with jurisdiction, the attorney general's office, the state auditor's office, or the agency, as the inspector general determines appropriate based on evidence sufficient to support an allegation. 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 obtained the information.

C.S.H.B. 2448 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 review of state agency operations to the agency director before publishing the final review report. The bill authorizes the agency director to respond to the draft report not later than the 10th day after the date the agency director receives the draft report. The bill requires the inspector general to specify by rule the format of and requirements for the agency response. The bill prohibits the

office from providing a draft report to the agency director if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings. The bill authorizes the office to include any portion of the agency's response in the office's final report.

C.S.H.B. 2448 requires the inspector general to prepare a final report for each review conducted and sets out the required content and recipients of the report. The bill makes the inspector general's final review reports subject to disclosure under open records laws but specifies that all working papers and other documents related to compiling the final review reports remain confidential and protected from disclosure. The bill requires an agency, 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, a state agency, to file a response and sets out the required content of the response.

C.S.H.B. 2448 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 from nongovernmental entities, including contractors or individuals involved in violations of applicable state or federal rules, abusive or willful misconduct, or violations of a provider contract or program policy. The bill requires, in a criminal prosecution to which the inspector general act applies, the attorney representing the state to request that the court require restitution as a condition of a convicted person's community supervision or parole.

C.S.H.B. 2448 authorizes the office to act for a state agency in assessing administrative or civil penalties the agency is authorized to assess under applicable law and 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. The bill prohibits the agency, if the office imposes an administrative or civil penalty, from imposing an administrative or civil penalty against the same person for the same violation and requires the office to impose the penalty under applicable rules of the office, the inspector general act, and applicable laws governing the imposition of a penalty by the agency.

C.S.H.B. 2448 establishes that a reference in law or rule to an agency's office of inspector general means, for an agency to which the inspector general act applies, the office of inspector general established under the act for that agency. The bill defines "agency," "fraud," "inspector general," "office," "provider," "review," "state funds" or "state money," and "internal auditor" for purposes of the Texas Inspector General Act.

C.S.H.B. 2448, in various Government Code provisions relating to HHSC, transfers functions with respect to complaints, investigations, referrals, interagency memoranda of understanding, and reporting and other functions regarding the detection and prevention of fraud, waste, and abuse from HHSC or HHSC's office of investigations and enforcement to the commission's office of inspector general. The bill authorizes the office of inspector general, on timely request by a provider subject to a hold on a claims payment imposed by the office, to file a request for an expedited administrative hearing on the hold with the HHSC hearings division as an alternative to the requirement to file such a request with the Office of Administrative Hearings. The bill authorizes the office of inspector general to request the attorney general to represent the office of inspector general in a legal proceeding that arises from a review conducted by the office and coordinate the activities of the office with the office of the attorney general during the legal proceeding; to settle for the commission a case filed in response to a review conducted by the office; and to recover overpayments, assessments, and liabilities in a settlement regardless of the origin of the overpayment, assessment, or liability.

C.S.H.B. 2448 removes provisions making HHSC, through HHSC's office of inspector general, responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services, providing

for the appointment of such inspector general, and other related provisions. The bill removes a provision requiring the Texas Department of Health and the Texas Department of Human Services, in cooperation with HHSC, to periodically set a goal of the number of potential cases of fraud, waste, or abuse under the state Medicaid program that each agency will attempt to identify and refer to the commission.

C.S.H.B. 2448 requires the office of inspector general to use learning or neural network technology to identify and deter waste and abuse in the state's Medicaid program, in addition to identifying and deterring fraud in the program. The bill requires a case identified by such technology, if HHSC or the office of inspector general determines that a provider has filed a claim for services provided to a person after the person's death, to be referred to the office of inspector general or the office of the attorney general, as appropriate.

C.S.H.B. 2448, in various provisions relating to the jurisdiction of the office of inspector general with respect to fraud and abuse in the state's Medicaid program, expands the scope of the jurisdiction to include an incidence of waste as well as of fraud and abuse. The bill authorizes the office of inspector general to require each health and human services agency that performs any aspect of the state Medicaid program to participate in the implementation and use of the automated fraud investigation tracking system, rather than requiring HHSC to make such a requirement of such agencies. The bill expands the capability requirements for certain fraud detection technology for which the office of inspector general may contract to include identifying patterns of fraud exhibited by Medicaid providers, patterns of fraud by Medicaid recipients in the provider's files, and identification of a person who fraudulently obtains or receives services and the date on which and the location where the services were obtained or provided.

C.S.H.B. 2448 requires a contract between a managed care organization and HHSC for the organization to provide health care services to recipients to contain a requirement that the managed care organization refund to HHSC, through the office of inspector general, an overpayment made by the managed care organization to a provider that is identified as a result of a review conducted according to rules adopted by the inspector general.

C.S.H.B. 2448 exempts the use of a federal or state database or network by an office of inspector general for purposes of a review by the office of a person, agency, or provider from provisions governing statewide technology centers.

C.S.H.B. 2448 makes conforming changes, defines "office of inspector general" and redefines "participating agency" to include the office of inspector general for HHSC for purposes of an information exchange regarding allegations of Medicaid fraud or abuse.

C.S.H.B. 2448 amends the Human Resources Code, in various provisions relating to HHSC, to transfer functions with respect to complaints, investigations, referrals, interagency memoranda of understanding, and reporting and other functions regarding the detection and prevention of fraud, waste, and abuse from HHSC or HHSC's office of investigations and enforcement to the commission's office of inspector general; adds an incidence of waste in the state Medicaid program to the scope of the inspector general's jurisdiction; and authorizes the office of inspector general to obtain from any law enforcement or criminal justice agency the criminal history record information that relates to a Medicaid program provider or potential provider. The bill requires the inspector general, if the inspector general is not a commissioned peace officer, to select a commissioned peace officer as chief inspector. The bill redefines "office of inspector general."

C.S.H.B. 2448 amends the Code of Criminal Procedure to include officers commissioned by an office of inspector general in the list of public safety personnel who are peace officers and to redefine "authorized peace officer" to make a conforming change.

C.S.H.B. 2448 establishes that a person serving on the effective date of this bill as inspector general for a state agency subject to the Texas Inspector General Act serves as the inspector general considered appointed for the agency under the act until February 1, 2013, and may be reappointed if the person has the qualifications required. The bill requires the governor or the governing body of a state agency subject to the bill's provisions, not later than February 1, 2013, to appoint an inspector general for the office of inspector general of that agency to a term expiring February 1, 2015. The bill establishes that a contract or proceeding primarily related to a function transferred to an office of inspector general is transferred to the office and that the transfer does not affect the status of a proceeding or the validity of a contract.

C.S.H.B. 2448 requires all personnel and assets currently assigned to the inspector general of a state agency subject to the Texas Inspector General Act to be promptly transferred to the office of inspector general established by the act for that agency along with any equipment, documents, and records currently assigned to or used by the inspector general of that agency. The bill requires inventory of personnel, equipment, documents, records, and assets to be transferred to be accomplished jointly by the transferring agency and the inspector general considered appointed for that agency. The bill requires all funds previously appropriated or used, from any source, by the transferring agency in support of the transferred functions, personnel, equipment, documents, records, or assets to also be contemporaneously transferred to the office. The bill requires all state and federal funding for the functions to be transferred to an office of inspector general established under the act to be reallocated to that office.

C.S.H.B. 2448 establishes that, for purposes of federal single state agency funding requirements, any federal funds for an agency subject to the inspector general act that may not be appropriated directly to the office of inspector general are required to be transferred from the single state agency receiving the funds to the office of inspector general if the funds are intended for a function performed by the office. The bill assigns to the office of inspector general, on the effective date of this bill, all functions, activities, employees, rules, forms, money, property, contracts, memorandums of understanding, records, and obligations of a previously established office of inspector general of an agency without a change in status and establishes that all money appropriated for the operations of a previously established office of inspector general is considered appropriated for the use of the office of inspector general.

C.S.H.B. 2448 requires each agency subject to the inspector general act to take all action necessary to provide for the orderly transfer of the assets and responsibilities of any previously established office of inspector general for that agency to the office of inspector general. The bill provides that a rule or form adopted by a previously established office of inspector general of an agency subject to the inspector general act is a rule or form of the office of inspector general established under the act and remains in effect until changed by the office of inspector general. The bill provides that a reference in law or administrative rule to a previously established office of inspector general of an agency subject to the act means the office of inspector general established under the act. The bill requires a state agency, if before implementing any of the act's provisions the agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

C.S.H.B. 2448 repeals Section 531.1021, Government Code, to make a conforming change.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2448 contains a provision not included in the original establishing the legislative



purpose of the Texas Inspector General Act. The substitute differs from the original by requiring each office to which the act applies to establish an office of inspector general, whereas the original creates the office of inspector general as an agency of the state, governed by the inspector general and headquartered in Austin, Texas, and requires the inspector general to designate a deputy inspector for each of those state agencies.

C.S.H.B. 2448 omits definitions included in the original for "commission," "furnished," "hold on payment," and "program exclusion." The substitute differs from the original by defining "fraud" and "provider" by reference, whereas the original included new definitions. The substitute includes a specification not included in the original, in the definition of "review," excluding a criminal or administrative investigation conducted by the office established for the Texas Department of Criminal Justice from the term.

C.S.H.B. 2448 omits a provision included in the original making the office of inspector general subject to the Texas Sunset Act.

C.S.H.B. 2448 omits a provision included in the original making the inspector general act apply to a health and human services agency for purposes related to the review and investigatory authority of the office of inspector general.

C.S.H.B. 2448 omits a provision included in the original making a reference in law or rule to the Health and Human Services Commission's (HHSC) office of investigations and enforcement or the HHSC's office of inspector general mean the office of inspector general established under the inspector general act.

C.S.H.B. 2448 omits a provision contained in the original prohibiting the governor, the legislature or a committee of the legislature, or a state agency from preventing the inspector general or a deputy inspector general from initiating, performing, or completing an investigation, audit, or review or any other compliance or enforcement activity pursued by the office. The substitute contains a provision not included in the original prohibiting a state agency or the agency's governing body or governing officer from attempting to influence the inspector general in conducting a review.

C.S.H.B. 2448 contains provisions not included in the original setting out certain duties of the inspector general of an agency and making the inspector general responsible for office procurement and contracts.

C.S.H.B. 2448 differs from the original by specifying that an office is administratively attached to the agency establishing the office, whereas the original specifies that a person designated by the inspector general to serve as the deputy inspector general for an agency, together with office staff assigned to the deputy inspector general, is administratively attached to the assigned agency. The substitute omits a provision included in the original establishing that the inspector general, a deputy inspector general, and the office staff are not employees of any other agency.

C.S.H.B. 2448 omits a temporary provision included in the original requiring a certain level of administrative support for the office of inspector general attached to HHSC for the state fiscal biennium beginning September 1, 2011.

C.S.H.B. 2448 contains provisions not included in the original requiring the inspector general to submit a budget for the office, a legislative appropriations request, and an operating budget; exempting the operating budget from review, alteration, or modification by the agency or the agency's head; specifying the agency's duties with respect to the office; and prohibiting the agency from taking 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.

C.S.H.B. 2448 differs from the original by requiring the governing body of an agency governed

by a multimember governing body to appoint an inspector general, or if the agency is not governed by a multimember body, requiring the governor, with the advice and consent of the senate, to appoint an inspector general for that agency, whereas the original required the governor, with the advice and consent of the senate, to appoint an inspector general as an independent state agency.

C.S.H.B. 2448 contains a specification not included in the original including political affiliation among factors that may not be considered in the appointment of an inspector general. The substitute includes qualifications for appointment not included in the original requiring consideration of the person's 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. The substitute omits a qualification included in the original requiring consideration of a person's honesty.

C.S.H.B. 2448 contains a provision not included in the original establishing that the inspector general is a state officer. The substitute omits a provision included in the original requiring the governor to fill a vacancy in the office of inspector general for the unexpired term.

C.S.H.B. 2448 contains provisions not included in the original setting out certain eligibility requirements for appointment as inspector general.

C.S.H.B. 2448 contains provisions not included in the original prohibiting the inspector general and office staff from participating in partisan political activities related to the work of the inspector general's office; authorizing the inspector general to select the most efficient personnel available for each position in the inspector general's office; and establishing that it is against the public policy of the state for an officer or employee of the state to recommend a person to serve on the staff of the inspector general.

C.S.H.B. 2448 omits provisions included in the original providing for the removal of an inspector general from office; requiring the designation of a person to serve as deputy inspector general for each agency; and setting out duties and requirements for such deputy inspectors general. The substitute omits provisions included in the original relating to such deputy inspectors general.

C.S.H.B. 2448 contains a provision not included in the original exempting an officer employed by the office established for the Texas Department of Criminal Justice from a provision excluding a commissioned peace officer or otherwise designated law enforcement officer employed by the office from an entitlement to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund.

C.S.H.B. 2448 contains a provision not included in the original requiring the inspector general for the Texas Department of Criminal Justice to train personnel to efficiently and effectively perform law enforcement duties.

C.S.H.B. 2448 omits a provision included in the original authorizing the office to establish a merit system for its employees.

C.S.H.B. 2448 contains provisions not included in the original making the office responsible for the enforcement of state law and the protection of the public relating to the provision of certain services and the prevention and detection of crime relating to the provision of those services and making the office established for the Texas Department of Criminal Justice responsible for the investigation of criminal cases and administrative violations.

C.S.H.B. 2448 omits provisions included in the original requiring the office to set clear objectives, priorities, and performance standards for the office and setting out general powers for the office and specific responsibilities of the office relating to health and human services.

C.S.H.B. 2448 contains provisions not included in the original requiring the office to submit proposed and adopted rules to the agency for publication; requiring the agency to promptly provide for the publication of those rules; and prohibiting the agency from amending or modifying a rule submitted by the office.

C.S.H.B. 2448 differs from the original by requiring the rules adopted by the office to emphasize, among other provisions, coordinating reviews and investigative efforts to aggressively recover money, whereas the original requires the rules to emphasize coordinating investigative efforts toward that end. The substitute contains a provision not included in the original requiring the rules of the office established for the Texas Department of Criminal Justice to include standards for the office that emphasize the investigation of criminal cases and administrative violations.

C.S.H.B. 2448 omits provisions included in the original authorizing 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 submit related reports; requiring 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; requiring a memorandum of understanding between the office and the attorney general regarding procedures for processing cases of suspected fraud, waste, or abuse or other violations; and authorizing the office to obtain information or technology necessary to enable the office to meet its responsibilities.

C.S.H.B. 2448 contains provisions not included in the original requiring the office to conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors, and requiring the office established for the Texas Department of Criminal Justice to conduct criminal and administrative investigations involving suspected misconduct by employees, contractors, subcontractors, vendors, and offenders.

C.S.H.B. 2448 omits a provision included in the original requiring the office by rule to set specific claims criteria that, when met, require the office to begin an investigation.

C.S.H.B. 2448 omits provisions included in the original requiring 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 and setting out requirements for the review.

C.S.H.B. 2448 omits a provision included in the original prohibiting the inspector general or deputy inspector general from accessing data or other information the release of which is restricted under federal law unless the appropriate federal agency approves the release to the office or its agent.

C.S.H.B. 2448 differs from the original by entitling the inspector general 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, agency, or provider in connection with an agency or a state or federally funded program, whereas the original authorizes the inspector general to require medical or other professional assistance from an agency or an auditor, accountant, or other employee of the agency.

C.S.H.B. 2448 omits a provision included in the original requiring the office, at the time the office learns or has reason to suspect that a health or human services provider's Medicaid program records are being withheld, concealed, destroyed, fabricated, or in any way falsified, to immediately refer the case to the state's Medicaid fraud control unit: requiring 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; providing for an expedited hearing and informal resolution relating to a hold on payment; and authorizing the inspector general to require employees at an agency to report to the office information regarding fraud, waste, misuse or abuse of funds or resources, corruption, or illegal acts.

C.S.H.B. 2448 differs from the original by authorizing the inspector general to issue a subpoena only in connection with a review conducted by the inspector general, whereas the original authorizes the issuance of a subpoena in connection with a review, hearing, or deposition.

C.S.H.B. 2448 contains a provision not included in the original requiring the inspectors general for the Texas Department of Criminal Justice and the Texas Youth Commission to refer a criminal or delinquent conduct case to the appropriate prosecuting attorney or the special prosecution unit.

C.S.H.B. 2448 contains a provision not included in the original establishing that the bill's provisions or other law related to the operation of an inspector general do not take precedence over the authority of the Sunset Advisory Commission or other legislative bodies to review an agency under other law.

C.S.H.B. 2448 omits provisions included in the original authorizing the office to grant an award to an individual who reports certain activities that constitute fraud, waste, or abuse of money if the report results in the recovery of a penalty; authorizing the presiding officer of an agency to adopt rules governing the agency's response to reports and referrals from the inspector general; and requiring the inspector general, if a review by the inspector general involves allegations that a presiding officer of an 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. 2448 differs from the original by requiring the inspector general to inform the state auditor and the agency director of the initiation of a review of an agency program and the ongoing status of each review, whereas the original requires the inspector general to inform the governor, the attorney general, the state auditor, and the presiding officer of the relevant agency.

C.S.H.B. 2448 differs from the original by requiring the findings of the office in connection with a review to be reported to, among other entities, the governing body or governing officer of the agency, whereas the original requires the findings to be reported to the presiding officer of the agency. The substitute omits a provision included in the original requiring such findings to be reported also to the comptroller of public accounts. The substitute differs from the original by requiring such findings to be reported to appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct, whereas the original requires the reporting of such findings only to the attorney general and does not make the reporting contingent on a finding suggesting such probability of criminal conduct.

C.S.H.B. 2448 differs from the original, in provisions relating to confidentiality of information compiled or maintained in connection with an office review, by including a district or county attorney with jurisdiction among the entities to which information may be disclosed under certain conditions, whereas the original does not include such an attorney.

C.S.H.B. 2448 differs from the original by requiring a final report for a review to include a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding, whereas the original requires only a description of any findings of wrongdoing. The substitute contains a provision not included in the original specifying certain entities to which a copy of each final report must be submitted.

C.S.H.B. 2448 contains a provision not included in the original requiring the attorney representing the state in a criminal prosecution to which the inspector general act applies to request that the court require restitution as a condition of a convicted person's community supervision or parole.

C.S.H.B. 2448 omits a provision included in the original requiring the office and the attorney general to jointly prepare and submit a semiannual report relating to the activities of the office and the attorney general in detecting and preventing fraud, waste, and abuse in certain programs.

C.S.H.B. 2448 differs from the original by removing a requirement for the Texas Department of Health and the Texas Department of Human Services, in cooperation with the Health and Human Services Commission, to periodically set a goal of the number of potential cases of fraud, waste, or abuse under the state Medicaid program that each agency will attempt to identify and refer, whereas the original retains the provision and makes conforming and nonsubstantive changes.

C.S.H.B. 2448 differs from the original by retaining and making conforming changes to a provision removed in the original and, in such provision, requiring HHSC's office of inspector general to compile and disseminate accurate information and statistics relating to fraud prevention and post-fraud referrals received and accepted or rejected from the office's case management system or a health and human services agency's case management system.

C.S.H.B. 2448 contains a provision not included in the original expanding the capability requirements for certain fraud detection technology for which the office of inspector general may contract to include identifying patterns of fraud exhibited by Medicaid providers, patterns of fraud by Medicaid recipients in the provider's files, and identification of a person who fraudulently obtains or receives services, including the relevant date and location.

C.S.H.B. 2448 contains a provision not included in the original requiring a contract between a managed care organization and the commission for the organization to provide health care services to recipients to contain a requirement that the managed care organization refund to the commission, through the office of inspector general, an overpayment made by the managed care organization to a provider that is identified as a result of a review conducted under the inspector general act according to rules adopted by the inspector general.

C.S.H.B. 2448 includes a provision not included in the original authorizing the office of inspector general, on the request by a Medicaid provider subject to a hold on a claims payment imposed by the office, to file a request for an expedited administrative hearing on the hold with the HHSC hearings division as an alternative to the requirement to file such a request with the Office of Administrative Hearings.

C.S.H.B. 2448 differs from the original, in a provision relating to the filing of a surety bond by each Medicaid provider that has demonstrated significant potential for fraud or abuse, by expanding the bond filing requirement to include a provider that has demonstrated significant potential for waste.

C.S.H.B. 2448 omits provisions included in the original repealing Sections 531.102 and 531.103, Government Code. The substitute differs from the original by making conforming changes and in nonsubstantive ways by conforming to certain bill drafting conventions.