
HOUSE BILL 1126

State of Washington 56th Legislature 1999 Regular Session

By Representatives Boldt and Carrell

Read first time 01/15/1999. Referred to Committee on State Government.

1 AN ACT Relating to the creation of the office of inspector general;
2 adding new sections to chapter 43.09 RCW; creating a new section;
3 providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout sections 1
7 through 11 of this act.

8 (1) "Department" means the department of social and health
9 services.

10 (2) "Disclosable information" means public information that (a) is
11 not exempt from disclosure under chapter 42.17 RCW; (b) does not
12 pertain to an ongoing investigation; and (c) has not previously been
13 disclosed in a public record.

14 (3) "Fraud or abuse" means acts and practices of fraud or abuse in
15 programs administered by the department of social and health services,
16 including criminal or administrative misconduct by staff, clients, or
17 vendors. This does not include provider fraud as it relates to the
18 department's administration of funds under Title XIX of the social
19 security act, medicaid.

1 (4) "Inspector general" means the inspector general within the
2 auditor's office.

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

4 NEW SECTION. **Sec. 2.** (1) There is established in the state
5 auditor's office an office of inspector general in order to create an
6 independent unit to:

7 (a) Conduct and supervise investigations relating to allegations of
8 fraud or abuse;

9 (b) Provide leadership and coordination in recommending policies
10 and procedures designed to detect and prevent fraud and abuse; and

11 (c) Provide a method of informing the auditor and the legislature
12 about vulnerabilities and deficiencies relating to the detection and
13 prevention of fraud or abuse as may be discovered as a result of
14 completed investigations conducted or coordinated by the office.

15 (2) The office of inspector general is designated a criminal
16 justice agency as defined in RCW 10.97.030 and 43.43.705.

17 NEW SECTION. **Sec. 3.** The inspector general is the head of the
18 office and is appointed by the auditor solely on the basis of integrity
19 and demonstrated ability in law enforcement management, public
20 administration, and investigations. The inspector general reports to
21 and is under the general supervision of the auditor in all matters
22 related to fraud and program integrity.

23 NEW SECTION. **Sec. 4.** If the inspector general discovers that
24 improper governmental action, as defined in RCW 42.40.020, has occurred
25 during an investigation with respect to an employee, such as an abuse
26 of authority so as to impede or interfere with an investigation, then
27 the inspector general may report the improper governmental action to
28 the auditor under chapter 42.40 RCW.

29 NEW SECTION. **Sec. 5.** (1) It is the duty and responsibility of the
30 inspector general to:

31 (a) Conduct, supervise, and coordinate fraud and abuse
32 investigations and provide policy direction as it relates to program
33 integrity and fraud and abuse;

1 (b) Review proposed legislation and rules relating to the detection
2 and prevention of fraud and abuse in programs administered by the
3 department, and make recommendations for improvement;

4 (c) Recommend policies for and coordinate activities carried out or
5 financed by the department for the purpose of preventing and detecting
6 fraud or abuse;

7 (d) Recommend policies for, and conduct, supervise, and coordinate,
8 relationships between the department and federal, state, and local
9 governmental agencies, and nongovernmental entities, with respect to:

10 (i) Matters relating to the prevention and detection of fraud or abuse
11 in programs and operations administered by the department; or (ii) the
12 identification and prosecution of participants in the fraud or abuse;
13 and

14 (e) Keep the auditor and the legislature informed by means of
15 reports concerning the detection and prevention of fraud or abuse, and
16 to make recommendations for improvement of the activities.

17 (2) In carrying out the duties and responsibilities established in
18 sections 1 through 11 of this act, the inspector general must refer all
19 investigations in which the inspector general has found substantial
20 evidence supporting a finding of a violation of federal or state
21 criminal law to the appropriate prosecuting authority for possible
22 criminal prosecution.

23 NEW SECTION. **Sec. 6.** In addition to its other powers and duties,
24 the office of inspector general has the power to enforce the penal
25 provisions of sections 1 through 11 of this act, and as it may be
26 amended, the penal laws of the state relating to programs administered
27 by the department. The office of inspector general has the authority
28 to apply for and execute all warrants and serve process of law issued
29 by the courts in enforcing the provisions of sections 1 through 11 of
30 this act. The office of inspector general has the power to issue and
31 serve subpoenas under RCW 43.20A.110 and 43.20A.605.

32 NEW SECTION. **Sec. 7.** (1) The inspector general must submit a
33 report summarizing the activities of the office to the appropriate
34 committees of the senate and house of representatives by November 30,
35 1999, and by November 30, 2000, and biennially thereafter. The report
36 shall contain only disclosable information, including:

1 (a) A description of significant fraud or abuse, and of
2 vulnerabilities or deficiencies relating to the prevention and
3 detection of fraud or abuse, discovered as a result of investigations
4 completed during the reporting period;

5 (b) A description of corrective action taken by the department
6 regarding fraud and abuse discovered as a result of investigations
7 conducted by the office of inspector general;

8 (c) Recommendations for improving the activities of the office with
9 respect to the vulnerabilities or deficiencies identified under (a) of
10 this subsection;

11 (d) An identification of each significant recommendation described
12 in the previous reports on which corrective action has or has not been
13 completed;

14 (e) A summary of matters referred to prosecution authorities during
15 the reporting period and the charges filed and convictions entered
16 during the reporting period that have resulted from referrals by the
17 office; and

18 (f) Any comments the auditor determines to be appropriate.

19 (2) The inspector general must forward a draft of the report to the
20 secretary of the department of social and health services not less than
21 twenty days prior to the date that the report is to be issued.

22 (3) Within sixty days after the transmission of the report of the
23 inspector general to the legislature, the auditor must make copies of
24 the report available to the public upon request and at a reasonable
25 cost.

26 NEW SECTION. **Sec. 8.** (1) In carrying out the provisions of
27 sections 1 through 11 of this act, the inspector general is authorized
28 to:

29 (a) Request information or assistance as is necessary for carrying
30 out the duties and responsibilities provided by sections 1 through 11
31 of this act from a federal, state, or local governmental agency or unit
32 of a governmental agency;

33 (b) Issue subpoenas for witnesses, documents, information, and
34 other data necessary in the furtherance of an investigation conducted
35 by the office. The subpoenas are enforceable under RCW 34.05.588.
36 Prior to issuing subpoenas to a state agency, the inspector general
37 must make a reasonable request to the agency for documents and
38 information in possession of the agency;

1 (c) Administer oaths and take testimony, when appropriate in the
2 performance of the duties and responsibilities provided in sections 1
3 through 11 of this act, unless otherwise prohibited by law;

4 (d) Appoint not more than two deputies;

5 (e) To the extent and in the amount as may be provided by
6 appropriation, select, appoint, and employ personnel as may be
7 necessary to carry out the provisions of sections 1 through 11 of this
8 act;

9 (f) To the extent and in the amount as may be provided by
10 appropriation, enter into contracts and other arrangements for audits,
11 studies, analyses, and other services with public agencies and with
12 private persons, and make the payments necessary to carry out the
13 provisions of sections 1 through 11 of this act, subject to compliance
14 with civil service laws, collective bargaining agreements, and other
15 applicable law; and

16 (g) To the extent and in the amount as may be provided by
17 appropriation, purchase or lease facilities, equipment, and supplies
18 necessary to carry out the provisions of sections 1 through 11 of this
19 act.

20 (2) Whenever information or assistance requested under subsection
21 (1)(a) of this section is, in the judgment of the inspector general,
22 unreasonably refused or not provided, the inspector general must report
23 the circumstances to the auditor without delay.

24 NEW SECTION. **Sec. 9.** (1) In carrying out the provisions of
25 sections 1 through 11 of this act, the inspector general is authorized
26 to:

27 (a) Have reasonable access to the auditor or his or her designee
28 when necessary in the performance of the duties and responsibilities
29 provided by sections 1 through 11 of this act;

30 (b) Have prompt access to all individuals, records, electronic
31 data, reports, audits, reviews, documents, and other materials
32 available to the department that relate to operations of the office
33 that is not otherwise prohibited from disclosure to the inspector
34 general.

35 (2) Whenever information or assistance requested under subsection
36 (1)(a) or (b) of this section is, in the judgment of the inspector
37 general, unreasonably refused or not provided, the inspector general
38 must report the circumstances to the auditor without delay.

1 NEW SECTION. **Sec. 10.** (1) The inspector general may receive and
2 investigate complaints or information from an employee of the
3 department or a citizen concerning the possible existence of an
4 activity constituting a violation of law or rules, or mismanagement,
5 gross waste of funds, abuse of authority, or a substantial and specific
6 danger to the public health and safety.

7 (2) The inspector general must not, after receipt of a complaint or
8 information from a complainant, disclose the identity of the
9 complainant without the consent of the complainant, unless the
10 inspector general determines that the disclosure is unavoidable during
11 the course of investigation, except as otherwise provided by state law.

12 (3) An employee who has authority to take, direct others to take,
13 recommend, or approve a personnel action, must not, with respect to the
14 authority, take or threaten to take an action against an employee as a
15 reprisal for making a complaint or disclosing information to the
16 inspector general, unless the complaint was made with willful disregard
17 for its truth or falsity.

18 NEW SECTION. **Sec. 11.** (1) The inspector general may be contracted
19 by other state agencies to conduct investigations into allegations of
20 fraud and abuse in those agencies. The requesting agency must
21 reimburse the office of inspector general for the cost of the
22 investigation.

23 (2) The inspector general must provide the requesting agency a
24 report of findings and may also file the findings with the appropriate
25 prosecuting attorney.

26 NEW SECTION. **Sec. 12.** (1) All powers, duties, and functions of
27 the department of social and health services division of fraud
28 investigations pertaining to the investigation of fraud and abuse and
29 other duties set out under sections 1 through 11 of this act are
30 transferred to the office of inspector general of the state auditor's
31 office.

32 (2)(a) All reports, documents, surveys, books, records, files,
33 papers, or written material in the possession of the department of
34 social and health services division of fraud investigations pertaining
35 to the powers, functions, and duties transferred shall be delivered to
36 the custody of the office of inspector general of the state auditor's
37 office.

1 (b) Any appropriations made to the department of social and health
2 services division of fraud investigations for carrying out the powers,
3 functions, and duties transferred shall, on the effective date of this
4 section, be transferred and credited to the office of inspector general
5 of the state auditor's office.

6 (c) Whenever any question arises as to the transfer of any
7 personnel, funds, books, documents, records, papers, files, equipment,
8 or other tangible property used or held in the exercise of the powers
9 and the performance of the duties and functions transferred, the
10 director of financial management shall make a determination as to the
11 proper allocation and certify the same to the state agencies concerned.

12 (3) All rules and all pending business before the department of
13 social and health services division of fraud investigations pertaining
14 to the powers, functions, and duties transferred shall be continued and
15 acted upon by the office of inspector general of the state auditor's
16 office. All existing contracts and obligations shall remain in full
17 force and shall be performed by the office of inspector general of the
18 state auditor's office.

19 (4) The transfer of the powers, duties, and functions of the
20 department of social and health services division of fraud
21 investigations shall not affect the validity of any act performed
22 before the effective date of this section.

23 (5) If apportionments of budgeted funds are required because of the
24 transfers directed by this section, the director of financial
25 management shall certify the apportionments to the agencies affected,
26 the state auditor, and the state treasurer. Each of these shall make
27 the appropriate transfer and adjustments in funds and appropriation
28 accounts and equipment records in accordance with the certification.

29 (6) Nothing contained in this section may be construed to alter any
30 existing collective bargaining unit or the provisions of any existing
31 collective bargaining agreement until the agreement has expired or
32 until the bargaining unit has been modified by action of the personnel
33 board as provided by law.

34 NEW SECTION. **Sec. 13.** Sections 1 through 11 of this act are each
35 added to chapter 43.09 RCW.

36 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 1999.

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