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**SUBSTITUTE HOUSE BILL 2334**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Government Operations (originally sponsored by Representatives Stevens, Thompson, Smith, Boldt, Sterk, Mulliken, Lambert, Hargrove, Sheahan, Backlund, Johnson, Campbell and McMahan)

Read first time 02/02/96.

1 AN ACT Relating to the appointment of an inspector general within  
2 the office of the state auditor; adding new sections to chapter 43.09  
3 RCW; adding new sections to chapter 43.131 RCW; and providing an  
4 effective date.

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

6 NEW SECTION. **Sec. 1.** Sections 1 through 8 of this act shall be  
7 known and cited as the inspector general act of 1996.

8 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
9 otherwise, the definitions in this section apply throughout sections 1  
10 through 8 of this act.

11 (1) "Fraud or abuse" means any criminal or administrative  
12 misconduct by staff, contractors, and vendors in any program or service  
13 administered by the department of social and health services. This  
14 does not include provider fraud as it relates to the department of  
15 social and health services' administration of funds pursuant to Title  
16 XIX of the social security act, medicaid.

17 (2) "Office" means the office of the inspector general.

1        NEW SECTION.     **Sec. 3.**     The office of inspector general is  
2 established within the office of the state auditor. The state auditor  
3 must appoint a person to head the office who is known as the inspector  
4 general. The auditor's appointment must be based solely on the basis  
5 of integrity and demonstrated ability in law enforcement management,  
6 public administration, and investigations.

7        NEW SECTION.     **Sec. 4.**     The mission of the inspector general and the  
8 office of inspector general is to:

9            (1) Conduct and supervise independent and objective investigations  
10 relating to allegations of fraud or abuse within, or in programs  
11 administered by, the department of social and health services;

12            (2) Provide leadership and coordination in recommending policies  
13 and procedures designed to detect and prevent fraud or abuse; and

14            (3) Provide a method of informing the secretary of the department  
15 of social and health services, the legislature, and the public about  
16 fraud or abuse identified by the inspector general or the office of the  
17 state auditor and the corrective action taken to deal with it.

18        NEW SECTION.     **Sec. 5.**     (1) It is the duty of the inspector general  
19 to:

20            (a) Conduct, supervise, coordinate, and provide policy direction  
21 for fraud or abuse investigations;

22            (b) Review and make recommendations regarding existing and proposed  
23 legislation and rules relating to the programs and operations of the  
24 department of social and health services as it relates to fraud and  
25 abuse;

26            (c) Recommend policies and improved systems to prevent fraud or  
27 abuse;

28            (d) Recommend policies for, and conduct, supervise, and coordinate,  
29 relationships between the department of social and health services and  
30 federal, state, and local governmental agencies, and nongovernmental  
31 entities, with respect to: (i) Matters relating to the prevention and  
32 detection of fraud or abuse; or (ii) the identification and prosecution  
33 of participants in the fraud or abuse; and

34            (e) Keep the secretary of the department of social and health  
35 services, the legislature, and the public informed by means of reports  
36 concerning fraud or abuse, the recommendations of the inspector general

1 to deal with the fraud or abuse, and the progress of the corrective  
2 action taken to deal with it.

3 (2) In carrying out the duties and responsibilities established in  
4 sections 2 through 8 of this act, the inspector general must refer to  
5 the appropriate prosecuting authority, for possible criminal  
6 prosecution, all investigations in which the inspector general  
7 concludes that there is probable cause to believe that a violation of  
8 federal or state criminal law has occurred. The inspector general may  
9 also recommend that the appropriate prosecuting attorney petition a  
10 special inquiry judge as provided in RCW 10.27.170.

11 NEW SECTION. **Sec. 6.** (1) The inspector general must submit a  
12 report summarizing the activities of the office to the appropriate  
13 committees of the senate and house of representatives by January 1,  
14 1997, and biennially thereafter. The report shall contain only  
15 disclosable information, including:

16 (a) A description of instances of fraud or abuse discovered as a  
17 result of inspector general investigations completed during the  
18 reporting period;

19 (b) Recommendations for improving the activities of the office with  
20 respect to the instances of fraud or abuse identified under (a) of this  
21 subsection;

22 (c) An identification of each significant recommendation described  
23 in the previous reports on which corrective action has or has not been  
24 completed; and

25 (d) A summary of matters referred to prosecution authorities during  
26 the reporting period and the charges filed and convictions entered  
27 during the reporting period that have resulted from referrals by the  
28 office.

29 The term "disclosable information" means public information that  
30 may be disclosed by the office without violation of any law.

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

34 NEW SECTION. **Sec. 7.** (1) In carrying out the provisions of  
35 sections 2 through 8 of this act, the inspector general is authorized  
36 to:

1 (a) Have prompt access to all individuals, records, electronic  
2 data, reports, audits, reviews, documents, and other materials  
3 available to the department of social and health services that relate  
4 to investigations of the office that are not otherwise prohibited from  
5 disclosure to the inspector general;

6 (b) Request information or assistance as may be necessary for  
7 carrying out the duties and responsibilities provided by sections 2  
8 through 8 of this act from a federal, state, or local governmental  
9 agency or unit of a governmental agency;

10 (c) Issue subpoenas for witnesses, documents, information, and  
11 other data necessary in the furtherance of an investigation conducted  
12 by the office. The subpoenas are enforceable under RCW 34.05.588.  
13 Prior to issuing subpoenas to a state agency, the inspector general  
14 must make a reasonable request to the agency for documents and  
15 information in possession of the agency;

16 (d) Administer oaths and take testimony, if necessary, in the  
17 performance of the duties and responsibilities provided in sections 2  
18 through 8 of this act, unless otherwise prohibited by law;

19 (e) To the extent and in amounts as may be provided by  
20 appropriations, enter into contracts and other arrangements for audits,  
21 studies, analyses, and other services with public agencies and with  
22 private persons, and make payments necessary to carry out the  
23 provisions of sections 2 through 8 of this act, subject to approval of  
24 the state auditor and in compliance with civil service laws, collective  
25 bargaining agreements, and other applicable law.

26 (2) The state auditor is authorized to:

27 (a) To the extent and in amounts as may be provided by  
28 appropriations, employ personnel as may be necessary to carry out the  
29 provisions of sections 2 through 8 of this act;

30 (b) To the extent and in amounts as may be provided by  
31 appropriations, purchase or lease facilities, equipment, and supplies  
32 necessary to carry out the provisions of sections 2 through 8 of this  
33 act; and

34 (c) Delegate to the inspector general any function of the state  
35 auditor under chapter 42.40 RCW.

36 NEW SECTION. **Sec. 8.** (1) The inspector general may receive and  
37 investigate complaints or information from an employee of the  
38 department of social and health services concerning improper

1 governmental action as defined in RCW 42.40.020(3). These activities  
2 are deemed to constitute fraud or abuse for the purposes of sections 2  
3 through 8 of this act. If the inspector general concludes that the  
4 complaint has been made in bad faith, for purposes of harassment, or is  
5 frivolous, the complaint need not be investigated.

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

12 (3) An employee who has authority to take, direct others to take,  
13 recommend, or approve personnel action, must not, with respect to the  
14 authority, take or threaten to take 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 (4) The provisions of RCW 42.40.050 regarding retaliation shall  
19 apply to an employee who in good faith reports improper governmental  
20 action under subsection (1) of this section.

21 (5) The inspector general may also investigate complaints filed  
22 with the office by persons who are not employees of the department of  
23 social and health services. However, this duty to investigate does not  
24 extend to a complaint where the inspector general finds that the  
25 complaint's allegations, if true, would not constitute fraud or abuse.

26 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act are each  
27 added to chapter 43.09 RCW.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.131  
29 RCW to read as follows:

30 The inspector general program and its powers and duties shall be  
31 terminated on June 30, 2001, as provided in section 11 of this act.

32 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.131  
33 RCW to read as follows:

34 The following acts or parts of acts, as now existing or hereafter  
35 amended, are each repealed, effective June 30, 2002:

36 (1) Section 1 of this act;

- 1 (2) Section 2 of this act;
- 2 (3) Section 3 of this act;
- 3 (4) Section 4 of this act;
- 4 (5) Section 5 of this act;
- 5 (6) Section 6 of this act;
- 6 (7) Section 7 of this act; and
- 7 (8) Section 8 of this act.

8 NEW SECTION. **Sec. 12.** This act shall take effect July 1, 1996.

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