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**SUBSTITUTE HOUSE BILL 1909**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on State Government Operations & Accountability (originally sponsored by Representatives Hinkle, Pettigrew, Armstrong, Kessler, Holmquist, Miloscia, Priest, Dunshee, Nixon, Ericks, Williams, Haigh and Anderson)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to the creation of the office of inspector general;  
2 amending RCW 49.60.210; adding a new chapter to Title 43 RCW; providing  
3 an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Disclosable information" means public information that (a) is  
8 not exempt from disclosure under chapter 42.17 RCW; and (b) does not  
9 pertain to an ongoing investigation.

10 (2) "Fraud" means acts and practices of fraud in programs  
11 administered by a government entity, including criminal or  
12 administrative misconduct by staff, clients, or vendors.

13 (3) "Fraud unit" means a fraud or investigation unit, division, or  
14 service created within the employment security department, the  
15 department of labor and industries, and except for the medicaid fraud  
16 unit, the department of social and health services, to review state  
17 programs and activities.

18 (4) "Government entity" means a state agency, department, office,  
19 officer, board commission, bureau, division, institution, or

1 institution of higher education. This includes individual state  
2 agencies and programs, as well as those programs and activities that  
3 cross agency lines. State government includes all elective offices in  
4 the executive branch of government.

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

6 NEW SECTION. **Sec. 2.** The office of inspector general is created  
7 within the office of the governor in order to create an independent  
8 unit to:

9 (1) Conduct and supervise investigations relating to allegations of  
10 fraud; and

11 (2) Inform the governor and the legislature about vulnerabilities  
12 and deficiencies relating to the detection and prevention of fraud as  
13 may be discovered as a result of completed investigations conducted or  
14 coordinated by the office.

15 NEW SECTION. **Sec. 3.** The inspector general is the head of the  
16 office and is appointed by the governor on the basis of integrity and  
17 demonstrated ability in law enforcement management, public  
18 administration, and investigations. The appointment of the inspector  
19 general is subject to the confirmation of the senate. The inspector  
20 general shall report directly to the governor.

21 NEW SECTION. **Sec. 4.** (1) The inspector general shall:

22 (a) Conduct, supervise, and coordinate fraud investigations and  
23 provide policy direction as it relates to program integrity and fraud;

24 (b) Review proposed legislation and rules relating to the detection  
25 and prevention of fraud in programs reviewed by fraud units, and make  
26 recommendations for improvement;

27 (c) Recommend policies for, and conduct, supervise, and coordinate,  
28 relationships between fraud units and federal, state, and local  
29 governmental agencies, and nongovernmental entities, with respect to:

30 (i) Matters relating to the prevention and detection of fraud in  
31 programs and operations reviewed by fraud units; or

32 (ii) The identification and prosecution of participants in the  
33 fraud; and

34 (d) Provide reports to the governor and the legislature in

1 accordance with section 6 of this act, concerning the detection and  
2 prevention of fraud, and to make recommendations for improvement of the  
3 activities.

4 (2) In carrying out the duties and responsibilities established in  
5 this chapter, the inspector general must refer all investigations in  
6 which the inspector general has found substantial evidence supporting  
7 a finding of a violation of federal or state criminal law to the  
8 appropriate prosecuting authority for possible criminal prosecution.

9 NEW SECTION. **Sec. 5.** (1) The office of inspector general has the  
10 authority to apply for and execute all warrants and serve process of  
11 law issued by the courts in enforcing the provisions of this chapter.

12 (2) The office of the inspector general has the full authority to  
13 administer oaths and take testimony thereunder, to issue subpoenas  
14 requiring the attendance of witnesses before the office, together with  
15 all books, memoranda, papers, and other documents, articles, or  
16 instruments, and to compel the disclosure by such witnesses of all  
17 facts known to them relative to the matters under investigation.

18 (3) Subpoenas issued in adjudicative proceedings are governed by  
19 RCW 34.05.588(1).

20 (4) Subpoenas issued in the conduct of investigations required or  
21 authorized by other statutory provisions or necessary in the  
22 enforcement of other statutory provisions are governed by RCW  
23 34.05.588(2).

24 NEW SECTION. **Sec. 6.** (1) The inspector general must submit a  
25 report summarizing the activities of the office to the appropriate  
26 committees of the senate and house of representatives by November 30,  
27 2005, by November 30, 2006, and by November of every even-numbered year  
28 thereafter. The report shall contain only disclosable information,  
29 including:

30 (a) A description of significant fraud, and of vulnerabilities or  
31 deficiencies relating to the prevention and detection of fraud,  
32 discovered as a result of investigations completed during the reporting  
33 period;

34 (b) A description of corrective action taken by government entities  
35 regarding fraud discovered as a result of investigations conducted by  
36 the office;

1 (c) Recommendations for improving the activities of the office with  
2 respect to the vulnerabilities or deficiencies identified under (a) of  
3 this subsection;

4 (d) An identification of each significant recommendation described  
5 in the previous reports on which corrective action has or has not been  
6 completed; and

7 (e) A summary of matters referred to prosecution authorities during  
8 the reporting period and the charges filed and convictions entered  
9 during the reporting period that have resulted from referrals by the  
10 office.

11 (2) The inspector general must forward a draft of the report to any  
12 government entity identified in the report not less than twenty days  
13 before the date that the report is to be issued.

14 (3) The governor must make copies of the report available to the  
15 public upon request and at a reasonable cost at the same time the  
16 report of the inspector general is provided to legislative committees.

17 NEW SECTION. **Sec. 7.** In carrying out the provisions of this  
18 chapter, the inspector general may:

19 (1) Request information or assistance as is necessary for carrying  
20 out the duties and responsibilities in this chapter from a federal,  
21 state, or local governmental agency or unit of a governmental agency;

22 (2) Issue subpoenas for witnesses, documents, information, and  
23 other data necessary in the furtherance of an investigation conducted  
24 by the office. Before issuing subpoenas to a government entity, the  
25 inspector general must make a reasonable request to the government  
26 entity for documents and information in possession of the government  
27 entity;

28 (3) Administer oaths and take testimony, when appropriate in the  
29 performance of the duties and responsibilities in this chapter, unless  
30 otherwise prohibited by law;

31 (4) To the extent and in the amount as may be provided by  
32 appropriation, select, appoint, and employ personnel as may be  
33 necessary to carry out the provisions of this chapter;

34 (5) To the extent and in the amount as may be provided by  
35 appropriation, enter into contracts and other arrangements for audits,  
36 studies, analyses, and other services with public agencies and with

1 private persons, and make the payments necessary to carry out the  
2 provisions of this chapter, subject to compliance with civil service  
3 laws, collective bargaining agreements, and other applicable law; and  
4 (6) To the extent and in the amount as may be provided by  
5 appropriation, purchase or lease facilities, equipment, and supplies  
6 necessary to carry out the provisions of this chapter.

7 NEW SECTION. **Sec. 8.** (1) In carrying out the provisions of this  
8 chapter, the inspector general shall have prompt access to all  
9 individuals, records, electronic data, reports, audits, reviews,  
10 documents, and other materials available to a government entity that  
11 relate to operations of the office that is not otherwise prohibited  
12 from disclosure to the inspector general.

13 (2) Whenever information or assistance requested under subsection  
14 (1) of this section is, in the judgment of the inspector general,  
15 unreasonably refused or not provided, the inspector general must report  
16 the circumstances to the governor immediately.

17 NEW SECTION. **Sec. 9.** (1) All powers, duties, and functions of the  
18 fraud units are transferred to the office of the inspector general.

19 (2)(a) All reports, documents, surveys, books, records, files,  
20 papers, or written material in the possession of the fraud units  
21 pertaining to the powers, functions, and duties transferred shall be  
22 delivered to the custody of the office of the inspector general. All  
23 cabinets, furniture, office equipment, motor vehicles, and other  
24 tangible property employed by the fraud units in carrying out the  
25 powers, functions, and duties transferred shall be made available to  
26 the office of the inspector general. All funds, credits, or other  
27 assets held in connection with the powers, functions, and duties  
28 transferred shall be assigned to the office of the inspector general.

29 (b) Any appropriations made to the fraud units for carrying out the  
30 powers, functions, and duties transferred shall, on the effective date  
31 of this section, be transferred and credited to the office of the  
32 inspector general.

33 (c) Whenever any question arises as to the transfer of any  
34 personnel, funds, books, documents, records, papers, files, equipment,  
35 or other tangible property used or held in the exercise of the powers

1 and the performance of the duties and functions transferred, the  
2 director of financial management shall make a determination as to the  
3 proper allocation and certify the same to the state agencies concerned.

4 (3) All employees of the fraud units engaged in performing the  
5 powers, functions, and duties transferred are transferred to the  
6 jurisdiction of the office of the inspector general, however they may  
7 remain physically located within the department from which they were  
8 transferred. All employees classified under chapter 41.06 RCW, the  
9 state civil service law, are assigned to the office of the inspector  
10 general to perform their usual duties upon the same terms as formerly,  
11 without any loss of rights, subject to any action that may be  
12 appropriate thereafter in accordance with the laws and rules governing  
13 state civil service.

14 (4) All rules and all pending business before the fraud units  
15 pertaining to the powers, functions, and duties transferred shall be  
16 continued and acted upon by the office of the inspector general. All  
17 existing contracts and obligations shall remain in full force and shall  
18 be performed by the office of the inspector general.

19 (5) The transfer of the powers, duties, functions, and personnel of  
20 the fraud units shall not affect the validity of any act performed  
21 before the effective date of this section.

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

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

33 **Sec. 10.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read  
34 as follows:

35 (1) It is an unfair practice for any employer, employment agency,  
36 labor union, or other person to discharge, expel, or otherwise

1 discriminate against any person because he or she has opposed any  
2 practices forbidden by this chapter, or because he or she has filed a  
3 charge, testified, or assisted in any proceeding under this chapter.

4 (2) It is an unfair practice for a government agency or government  
5 manager or supervisor to retaliate against a whistleblower as defined  
6 in chapter 42.40 RCW.

7 (3) It is an unfair practice for any employer, employment agency,  
8 labor union, government agency, government manager, or government  
9 supervisor to discharge, expel, discriminate, or otherwise retaliate  
10 against an individual assisting with an office of inspector general  
11 investigation under chapter 43.-- RCW (sections 1 through 9 of this  
12 act), unless the individual has made willful disregard for the truth.

13 NEW SECTION. Sec. 11. Sections 1 through 9 of this act constitute  
14 a new chapter in Title 43 RCW.

15 NEW SECTION. Sec. 12. This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 July 1, 2005.

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