
HOUSE BILL 1909

State of Washington

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2005 Regular Session

By Representatives Hinkle, Pettigrew, Armstrong, Kessler, Holmquist, Miloscia, Priest, Dunshee, Nixon, Ericks, Williams, Haigh and Anderson

Read first time 02/09/2005. Referred to Committee on State Government Operations & Accountability.

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 sections 2 through 8 of this act unless the context clearly
7 requires otherwise.

8 (1) "Criminal justice agency" means a public agency that performs
9 the administration of criminal justice pursuant to a statute or
10 executive order; allocates a substantial part of its annual budget to
11 the administration of criminal justice; and performs activities
12 directly relating to the apprehension, prosecution, and adjudication of
13 criminal offenders.

14 (2) "Disclosable information" means public information that (a) is
15 not exempt from disclosure under chapter 42.17 RCW; and (b) does not
16 pertain to an ongoing investigation.

17 (3) "Fraud" means acts and practices of fraud in programs
18 administered by a government entity, including criminal or
19 administrative misconduct by staff, clients, or vendors.

1 (4) "Fraud unit" means fraud units created within government
2 entities to review state programs and activities.

3 (5) "Government entity" means a state agency, department, office,
4 officer, board commission, bureau, division, institution, or
5 institution of higher education. This includes individual state
6 agencies and programs, as well as those programs and activities that
7 cross agency lines. State government includes all elective offices in
8 the executive branch of government.

9 (6) "Office" means the office of inspector general.

10 NEW SECTION. **Sec. 2.** (1) The office of inspector general is
11 created within the office of the governor in order to create an
12 independent unit to:

13 (a) Conduct and supervise investigations relating to allegations of
14 fraud; and

15 (b) Inform the governor and the legislature about vulnerabilities
16 and deficiencies relating to the detection and prevention of fraud as
17 may be discovered as a result of completed investigations conducted or
18 coordinated by the office.

19 (2) The office is designated as a criminal justice agency.

20 NEW SECTION. **Sec. 3.** The inspector general is the head of the
21 office and is appointed by the governor on the basis of integrity and
22 demonstrated ability in law enforcement management, public
23 administration, and investigations. The inspector general shall report
24 directly to the governor.

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

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

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

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

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

1 (ii) The identification and prosecution of participants in the
2 fraud; and

3 (d) Provide reports to the governor and the legislature in
4 accordance with section 6 of this act, concerning the detection and
5 prevention of fraud, and to make recommendations for improvement of the
6 activities.

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

13 NEW SECTION. **Sec. 5.** (1) The office of inspector general has the
14 authority to apply for and execute all warrants and serve process of
15 law issued by the courts in enforcing the provisions of sections 2
16 through 8 of this act.

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

23 (3) Subpoenas issued in adjudicative proceedings are governed by
24 RCW 34.05.588(1).

25 (4) Subpoenas issued in the conduct of investigations required or
26 authorized by other statutory provisions or necessary in the
27 enforcement of other statutory provisions are governed by RCW
28 34.05.588(2).

29 NEW SECTION. **Sec. 6.** (1) The inspector general must submit a
30 report summarizing the activities of the office to the appropriate
31 committees of the senate and house of representatives by November 30,
32 2005, by November 30, 2006, and by November of every even-numbered year
33 thereafter. The report shall contain only disclosable information,
34 including:

35 (a) A description of significant fraud, and of vulnerabilities or

1 deficiencies relating to the prevention and detection of fraud,
2 discovered as a result of investigations completed during the reporting
3 period;

4 (b) A description of corrective action taken by government entities
5 regarding fraud discovered as a result of investigations conducted by
6 the office;

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

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

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

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

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

23 NEW SECTION. **Sec. 7.** In carrying out the provisions of sections
24 2 through 8 of this act, the inspector general may:

25 (1) Request information or assistance as is necessary for carrying
26 out the duties and responsibilities in sections 2 through 8 of this act
27 from a federal, state, or local governmental agency or unit of a
28 governmental agency;

29 (2) Issue subpoenas for witnesses, documents, information, and
30 other data necessary in the furtherance of an investigation conducted
31 by the office. Before issuing subpoenas to a government entity, the
32 inspector general must make a reasonable request to the government
33 entity for documents and information in possession of the government
34 entity;

35 (3) Administer oaths and take testimony, when appropriate in the
36 performance of the duties and responsibilities in sections 2 through 8
37 of this act, unless otherwise prohibited by law;

1 (4) To the extent and in the amount as may be provided by
2 appropriation, select, appoint, and employ personnel as may be
3 necessary to carry out the provisions of sections 2 through 8 of this
4 act;

5 (5) To the extent and in the amount as may be provided by
6 appropriation, enter into contracts and other arrangements for audits,
7 studies, analyses, and other services with public agencies and with
8 private persons, and make the payments necessary to carry out the
9 provisions of sections 2 through 8 of this act, subject to compliance
10 with civil service laws, collective bargaining agreements, and other
11 applicable law; and

12 (6) To the extent and in the amount as may be provided by
13 appropriation, purchase or lease facilities, equipment, and supplies
14 necessary to carry out the provisions of sections 2 through 8 of this
15 act.

16 NEW SECTION. **Sec. 8.** (1) In carrying out the provisions of
17 sections 2 through 8 of this act, the inspector general shall have
18 prompt access to all individuals, records, electronic data, reports,
19 audits, reviews, documents, and other materials available to a
20 government entity that relate to operations of the office that is not
21 otherwise prohibited from disclosure to the inspector general.

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

26 **Sec. 9.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read
27 as follows:

28 (1) It is an unfair practice for any employer, employment agency,
29 labor union, or other person to discharge, expel, or otherwise
30 discriminate against any person because he or she has opposed any
31 practices forbidden by this chapter, or because he or she has filed a
32 charge, testified, or assisted in any proceeding under this chapter.

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

1 (3) It is an unfair practice for any employer, employment agency,
2 labor union, government agency, government manager, or government
3 supervisor to discharge, expel, discriminate, or otherwise retaliate
4 against an individual assisting with an office of inspector general
5 investigation under sections 2 through 8 of this act, unless the
6 individual has made willful disregard for the truth.

7 NEW SECTION. Sec. 10. Sections 1 through 8 of this act constitute
8 a new chapter in Title 43 RCW.

9 NEW SECTION. Sec. 11. This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 July 1, 2005.

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