

SENATE BILL REPORT

SB 5329

As of February 7, 2011

Title: An act relating to the creation of the division of special investigations within the office of the state auditor.

Brief Description: Creating a division of special investigations within the office of the state auditor.

Sponsors: Senators Carrell, Zarelli, Stevens, Becker, Baumgartner, Hewitt, King, Swecker and Holmquist Newbry.

Brief History:

Committee Activity: Human Services & Corrections: 2/03/11.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: The Division of Fraud Investigation (DFI) within the Department of Social and Health Services (DSHS) conducts investigations into allegations of fraud within programs administered by DSHS. Investigations focus on welfare and vendor fraud. Welfare fraud is fraud against DSHS programs including unlawful practices in obtaining cash assistance, medical assistance, and/or food assistance. A vendor is a person or entity that has a legal contract with DSHS to provide goods or services to DSHS or its clients. DFI can refer cases to local prosecutors to file criminal charges.

The State Auditor's Office (SAO) reviews financial information and compliance with state, federal and local laws on the part of all local governments, including schools, and all state agencies, including institutions of higher education. The SAO also performs special investigations of fraud and whistleblower cases and referrals from its citizen hotline. In addition, the SAO conducts performance audits of state agencies and local governments.

Summary of Bill: A Division of Special Investigations (DSI) is established in the SAO. The Auditor appoints the DSI Director who must be chosen solely upon the basis of integrity and demonstrated ability in law enforcement management, public administration and conducting investigations. DSI is responsible for:

- conducting, supervising, and coordinating fraud and abuse investigations;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- recommending policies for and coordinating activities carried out or financed by DSHS for purposes of preventing and detecting fraud or abuse;
- conducting, supervising, and coordinating relationships between DSHS and federal, state, and local governments and nongovernmental agencies with respect to the prevention of fraud and abuse or the identification of participants in fraud or abuse activities; and
- keeping the Auditor and Legislature apprised of fraud detection and prevention activities and making recommendations for improvements.

The DSI Director must refer to the appropriate prosecuting attorney or the Attorney General's Office for possible criminal prosecution of any incident of fraud or abuse which is supported by substantial evidence.

The DSI Director must submit a report summarizing the activities of DSI to the appropriate legislative committees by November 30, 2011, and biennially thereafter. The report is to contain the following information:

- a description of significant fraud or abuse, and fraud and abuse prevention and detect vulnerabilities, discovered by DSI during the reporting period;
- a description of the corrective action taken by DSHS as a result of the DSI's investigations;
- recommendations for improving DSI's activities;
- an identification of each significant recommendation described in previous DSI reports on which corrective action has or has not been completed; and
- a summary of the cases, including charges filed and convictions obtained, referred to prosecuting authorities during the reporting period.

In carrying out his responsibilities, the DSI Director is authorized to:

- have prompt access to individuals, reports, and documents that relate to an investigation which is not otherwise prohibited from disclosure;
- request information or assistance, as necessary, in carrying out his duties;
- issue subpoenas for witnesses, documents, information, and other data in furtherance of the investigation;
- administer oaths and take testimony; and
- enter into contracts and other arrangements for audits, studies, analyses, and other services.

The Director may receive and investigate complaints or information from a DSHS employee or a citizen concerning possible fraud or abuse. The Director cannot disclose the identity of a complainant without the consent of the complainant unless the disclosure is unavoidable during the course of the investigation.

The Director may enter into contracts or interagency agreements with other state agencies to investigate allegations of fraud or abuse in those agencies. The requesting agency must reimburse the SAO for the cost of the investigation.

All powers, duties, functions, and personnel of the DSHS DFI are transferred to the DSI within the SAO. Any appropriations made to DSHS DFI for carrying out the powers, duties,

and responsibilities of DFI that are transferred to DSI, must be transferred and credited to the SAO.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We are concerned about the significant drop in investigations referred for prosecution over the years, from a high of over 2000 in 1993 to fewer than 100 in 2010. Also, we are concerned about the drop in the number of fraud investigators at DSHS as well. In 1998 there were slightly more than 80 Full Time Equivalents devoted to fraud investigations and in 2011 there were about 45, a drop of almost 50 percent. There needs to be an increased focus on fraud investigations and since the SAO is skilled at performing investigations and takes them seriously, the SAO is a better agency within which to conduct welfare fraud investigations.

OTHER: The Welfare Advocates Group (WAG) supports moving the fraud investigations to the SAO.

Persons Testifying: PRO: Senator Carrell, prime sponsor.

OTHER: Lonnie Johns-Brown, WAG.