

**SUBJECT:** Reporting and use of peace officers by the HHSC Inspector General

**COMMITTEE:** Government Reform — committee substitute recommended

**VOTE:** 5 ayes — Callegari, Pitts, Berman, Rodriguez, W. Smith  
0 nays  
2 absent — Leibowitz, Miles

**WITNESSES:** For — James Ratley, Association of Certified Fraud Examiners;  
(*Registered, but did not testify:* Suzanna Hupp; Tuck McClain; Manal Melhem, Public Citizen)  
  
Against — None  
  
On — Brian Flood, Health and Human Services – Office of the Inspector General; Dan Wattles, State Auditor’s Office

**BACKGROUND:** The Health and Human Services Commission (HHSC), through the commission’s Office of the Inspector General (OIG), is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services.  
  
Law enforcement can obtain financial records directly from a financial institution by requesting that a grand jury issue a subpoena for the institution to provide these records.

**DIGEST:** CSHB 1433 would allow HHSC to employ peace officers to assist the inspector general in investigating and enforcing state law regarding fraud and abuse in the provision of health and human services. The inspector general would not have to obtain approval from the HHSC commissioner to issue a subpoena in connection with an investigation.  
  
The state auditor could provide information and assistance to the inspector general upon request. The inspector general could meet with the State Auditor’s Office to coordinate audits and investigations, share information, or schedule work plans. The state auditor would have access

to all information maintained by the inspector general, including confidential information and internal records.

The inspector general would inform the governor and the state auditor of the initiation and status of an audit, investigation, or review. The inspector general would report to the general counsel of the governor and to the state auditor any problem relating to the operation or administration of a program administered by a health and human services agency or any flagrant interference with an investigation, audit, or review.

The OIG would prepare a final report on reviews the office conducted, and these reports would be subject to public information requirements. A report would summarize the OIG's actions in a review and would describe any findings of wrongdoing. Reports regarding OIG audits, investigations, or reviews would be provided to specified entities with interest in the report's findings, including the head of the agency under review, high ranking state officials, and law enforcement and licensing agencies, as appropriate.

The report submitted semiannually by the HHSC and the Office of the Attorney General regarding fraud, waste, and abuse under programs administered by a health and human services agency would focus on only those programs that were state or federally funded. The report would include separate descriptions of major investigations, audits, or reviews completed by the OIG. It also would include discussions of actions taken to prevent fraud or assist another agency in the prevention of fraud.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 1433 would increase coordination between the state auditor and the HHSC's Office of Inspector General, reducing barriers to information sharing. The bill also would increase the visibility of OIG investigations and audits by requiring reports on investigations, audits, and reviews to be distributed to interested entities.

The use of peace officers would allow OIG to obtain relevant knowledge more quickly, enhancing the ability to recover assets in cases of fraud or abuse of public benefit funds. Law enforcement can obtain financial records directly from financial institutions by requesting a subpoena from a grand jury. The civil and administrative subpoena process, which is OIG's only current instrument to obtain private bank records requires that

banks inform the customer of the document request, allowing the customer to contest the request. This lengthier process affords the subject of an investigation time to shift funds before bank records can be obtained. CSHB 1433 would allow the OIG to conduct investigations more efficiently while maintaining adequate provisions for the confidentiality of people under investigation.

OPPONENTS  
SAY:

No apparent opposition.