

BILL ANALYSIS

Senate Research Center
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S.B. 1188
By: Harris
Administration
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DIGEST AND PURPOSE

The State of Texas receives significant amounts of federal funding and grants that are distributed and administered by state agencies. Some recent events, such as those at the Texas Department of Health, suggest that present agency oversight efforts do not sufficiently address the possibility of abuse, misuse, and inefficiencies in the distribution of those funds. Agencies that both oversee and distribute federal funds and grants are often placed in a “conflicted mission.” This “conflicted mission” is systemic within state agencies whose missions involve both oversight and distribution of funds. It appears that the audit/investigating functions in these agencies are viewed as a secondary function in relation to the overall programs which the agencies are responsible for implementing. Currently, at least nine different agencies administer federal funds that are specific to their individual missions with little attention paid to similar or parallel missions carried out by other agencies. As proposed, S.B. 1188 creates the Office of the Inspector General in order for the state to better ensure that a coordinated, centralized, and independent review process is in place to maximize the efficiencies in using federal funds or grants.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 3C, Government Code, by adding Chapter 328, as follows:

CHAPTER 328. INSPECTOR GENERAL

Sec. 328.001. CREATION. Provides that the office of inspector general is created.

Sec. 328.002. APPOINTMENT; TERM; QUALIFICATIONS. Requires the legislative audit committee (committee) to appoint a person to serve as inspector general, for a two-year term expiring February 1 of each odd-numbered year, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, and financial, legal, and managerial analysis.

Sec. 328.003. VACANCY. Requires a successor to be appointed for the unexpired term, in the case of a vacancy in the position of inspector general.

Sec. 328.004. REMOVAL FOR CAUSE. Authorizes the legislative audit committee to remove the inspector general from office for cause, including substantial neglect of duty, gross misconduct, or conviction of a crime. Requires the committee, if the legislative audit committee removes the inspector general from office, to notify the inspector general of the cause for removal in writing and requires the committee send a copy of the written notification to both houses of the legislature.

Sec. 328.005. ASSISTANT INSPECTORS GENERAL; STAFF. Authorizes the inspector

general to appoint assistant inspectors general and employ staff as necessary to perform the duties of the office of inspector general subject to the General Appropriations Act.

Sec. 328.006. **POLITICAL ACTIVITY PROHIBITED.** Prohibits the inspector general or an employee of the office of inspector general from holding, or being a candidate for, any elective public office before the third anniversary of the date the inspector general or employee completes the term of office or period of employment, as applicable. Prohibits the inspector general or an employee of the office of inspector general from holding office in a political party or political committee or participate in a political campaign of a candidate for public office.

Sec. 328.007. **ACCOUNTABILITY AND AUTONOMY.** Requires the inspector general to report to the legislative audit committee as necessary to carry out the duties of the office of inspector general. Authorizes the legislative audit committee to supervise the activities of the office of the inspector general, but is prohibited from preventing the inspector general from initiating, carrying out, or completing an audit or investigation, or from issuing a subpoena during the course of an audit or investigation.

Sec. 328.008. **POWERS AND DUTIES.** Requires the office of inspector general to perform certain requirements.

Sec. 328.009. **APPLICABILITY.** Requires the inspector general to perform the duties under this chapter only as they relate to the use of state or federal funds by a person receiving a grant from or contracting with certain state agencies.

Sec. 328.010. **ACCESS TO INFORMATION; ASSISTANCE.** Provides that the inspector general, in administering this chapter, is entitled to certain privileges. Authorizes the inspector general to issue subpoenas to compel the production of information, documents, reports, answers, records, accounts, papers, or other data and documentary evidence necessary to administer this chapter. Authorizes a district court to enforce a subpoena issued by the inspector general under this chapter.

Sec. 328.011. **COMPLAINTS; INFORMATION.** Authorizes the inspector general, in the administration of this chapter, to receive and investigate complaints or information concerning the possible existence of certain problems. Prohibits the inspector general from disclosing the identity of the person who makes the complaint or provides the information without that person's consent unless the inspector general determines that disclosure is unavoidable during the course of the investigation. Prohibits a person who has authority to take, direct others to take, recommend, or approve any personnel action from taking or threatening to take any action against another person for making a complaint or disclosing information to the inspector general, unless the complaint or disclosure of information was made with the knowledge that it was false or with wilful disregard for its veracity.

Sec. 328.012. **AUDITS.** Requires the inspector general, in conducting an audit under this chapter, to comply with applicable state and federal law and conduct the audit in accordance with generally accepted auditing standards as prescribed by the state auditor, the Institute of Internal Auditors, and the United States General Accounting Office. Requires the inspector general to establish guidelines for determining when it is appropriate to require an independent audit and requires the inspector general to take action necessary to ensure that any audit conducted by an independent auditor complies with the requirements of this section.

Sec. 328.013. **COOPERATION WITH OTHER STATE AGENCIES.** Requires the inspector general to cooperate with the state auditor and the comptroller in administering this chapter.

Sec. 328.014. **REPORT OF VIOLATION OF CRIMINAL LAW.** Requires the inspector

general to promptly report to the attorney general and to the local attorney representing the state in the prosecution of felonies if as a result of an audit or investigation under this chapter the inspector general has reasonable cause to believe that a violation of state criminal law has occurred. Requires the inspector general to promptly report to the United States district attorney for the appropriate judicial district if as a result of an audit or investigation under this chapter the inspector general has reasonable cause to believe that a violation of federal criminal law has occurred.

Sec. 328.015. REPORT. Requires the inspector general to prepare and submit to the legislative audit committee not later than December 31 of each even-numbered year a written report that summarizes the activities of the office of the inspector general during the preceding two-year period. Requires the report to include certain information. Requires the legislative audit, not later than the 30th day after the date of receipt of a report under this section, to send the report to the governor and the presiding officer of each house of the legislature and is required to include with the report any written recommendation the committee determines is appropriate. Requires the committee, on request, to also make copies of the report available to the public at reasonable cost. Requires the inspector general to immediately report to the legislative audit committee on receipt of information indicating a particularly serious or flagrant problem, abuse, or deficiency relating to the administration of a program or operation, as determined by the inspector general. Requires the committee, not later than the seventh day after the date of receipt of a report under this subsection, to send the report to the governor and the presiding officer of each house of the legislature and requires to include with the report any written recommendation the committee determines is appropriate.

SECTION 2. Requires the legislative audit committee, as soon as possible after the effective date of this Act, but not later than January 1, 2002, to appoint an inspector general. Provides that the initial term of the inspector general ends on February 1, 2003. Makes application of this Act prospective regarding the qualifications and responsibilities of the inspector general.

SECTION 3. Effective date: September 1, 2001.