

FORMATTING NOTE:

In initiatives, legislative bills and other proposed measures, language that is to be deleted from current statutes is represented by a "strikethrough" character and language that is to be added is underlined. Because these special characters cannot be formatted in all Internet browsers, a different set of symbols is used for presenting these proposals on-line. The symbols are as follows:

- Text that is surrounded by (({- text here -})) is text that will be DELETED FROM the existing statute if the proposed measure is approved.
- Text that is surrounded by {+ text here +} is text that will be ADDED TO the existing statute if the proposed measure is approved.
- {+ NEW SECTION+} (found at the beginning of a section or paragraph) indicates that ALL of the text in that section will become law if the proposed measure is approved.

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INITIATIVE 221

AN ACT relating to the Office of State Inspector General; adding a new chapter to Title 43 RCW; reenacting and amending RCW 43.17.010; amending RCW 43.17.020; and adding a new section to chapter 41.06 RCW.

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

NEW SECTION. Sec. 1. Purpose- It is the purpose of this chapter to create a new oversight and supervisory agency to enforce honesty and integrity in all facets of society.

NEW SECTION. Sec. 2. Duties- This agency shall be required to investigate complaints of neglect, malfeasance or abuse by any governmental agencies or employees, and to investigate and enforce fair and ethical practices by anyone doing business in the State.

NEW SECTION. Sec. 3. Definitions- Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter:

- (1) "Office," or "agency" or "department" refers to the Office of State Inspector General;
- (2) "General Public" refers to any person, group or entity not affiliated with this agency;
- (3) "Lay Individual" means anyone not affiliated with governmental, bar or police agencies, nor business or special interest proponents;
- (4) "Unwary or helpless individuals" means those being cheated, abused, bullied, or exploited, or those whose lives or property are in jeopardy of unfair or unjustifiable disruption;
- (5) "Fair and ethical practices" means that which does not cheat nor injure others;
- (6) "Fairness and common sense" means that with which reasonable minds would concur and agree;
- (7) "Reasonable minds" means fair, impartial and benevolent.

NEW SECTION. Sec. 4. Vestment of Powers- There is created an oversight agency in state government to be known as the Office of State

Inspector General, to monitor and enforce honesty and ethics, and improve trustworthiness, reliability and accountability in governmental, societal and business practices. The Office is vested with all powers as are authorized by law, and the Legislature shall from time to time review agency structures and procedures towards improving operational effectiveness.

NEW SECTION. Sec. 6. Independence of Agency- (1) It is intended that the Office of State Inspector General, a civilian post, shall be a People's Advocate in guarding against fraud or abuse from any quarter. Recognizing that maintaining the independence and integrity of this agency is critical, it shall remain independent of social, capital or political interests; and care shall be taken to prevent undue influence over this agency by bar or police organizations, or any other vested interests who themselves might be subject to scrutiny by this agency. (2) In maintaining it's purely objective and benevolent mission, under no circumstances shall this agency exercise any police powers over the general public, nor shall it serve or be used as a vanguard for any particular social, capital or political interests or agendas.

NEW SECTION. Sec. 5. Funding- (1) The Office of State Inspector General shall be financed by: (a) the State General Fund; (b) and federal grants for which it qualifies; and (c) any gifts, grants or endowments it receives from public or private entities. (2) The Office shall be authorized to purchase facilities, equipment and supplies in the conducting of it's business, and to enter into contracts with public or private entities for studies or other services. (3) The Office shall undergo a complete annual audit, and shall publish an annual report summarizing it's activities. (4) All files and reports of this agency shall be available for public review, with the exception of materials deemed confidential for good and justifiable cause, or deemed classified for military purposes.

NEW SECTION. Sec. 6. Oversight by Executive Committee- An Executive Committee shall be established to oversee agency operations, to approve executive appointments within the agency, and to accept reconsideration appeals from agency decisions. The Executive Committee shall be comprised of six members, the majority of whom shall be lay individuals, and the Legislature shall determine the manner in which such members are to be selected and installed, and their terms, so as best to assure integrity and continuity of mission.

NEW SECTION. Sec. 7. Directorship- (1) The administrative head of the Office shall be the Director. Applicants for the position of director of this agency shall undergo civil service examinations to ascertain that they qualify to stand for election at large. (2) The director shall be limited to a maximum of two four-year terms, and paid a salary in accordance with RCW 43.03.040. (3) The director may be dismissed mid-term for good cause by a recall of the electorate, and by a court action instituted by the Attorney General. (4) Exercising supervisory responsibilities over the agency, the Director may employ such assistants and personnel as are deemed necessary for the general administration of the Office, after consulting with and obtaining the approval of the Executive Committee. The director shall appoint a deputy director, an office personnel director, and such other assistant or division directors as may be needed to administer the office. This employment shall be in accordance with State Civil Service law, Chapter

41.06, except as otherwise provided. (5) The deputy director shall have charge and general supervision of the Office in the absence or disability of the Director and, in case of vacancy in the office, the deputy director shall continue in charge of the Office until a successor is qualified and appointed.

NEW SECTION. Sec. 8. Volunteers- The director may enlist the assistance of qualified volunteers from the public sector as provided by State Internship codes. Provided, that those applying as volunteers with this agency, be they law students, police cadets, or any others, shall undergo the same rigorous qualifying examinations as those appointed to full-time staff.

NEW SECTION. Sec. 9. Consulting Committees- (1) The Office may appoint state-wide committees or councils on such matters as come within the Office's responsibilities. Such committees and councils shall have substantial consumer representation, and may be paid travel expenses in accordance with RCW 43.03.050 and RCW 43.03.060, or per diem allowances as circumstances require. (2) The Office may also appoint such committees and councils as may be required by federal legislation as a condition to receipt of federal funds for the Office.

NEW SECTION. Sec. 10. Grounds for Removal- (1) The Director shall be responsible for the official acts of all agency personnel under his direction. (2) Recognizing that a cross section of the populace would likely yield a certain percentage of individuals who are abusive, devious or dishonest, or otherwise unbalanced, dysfunctional or potentially dangerous in their dealings with the public, this agency shall appoint only those individuals of the highest integrity and dedication. All appointments within this agency shall be with an eye to competency and dedication, rather than to filling any enforced or artificial quota system. All prospective personnel in this agency shall undergo intelligence and psychological testing to ascertain basic sanity, reasoning powers, and moral stability, and to uncover any personal biases or agenda they might harbor. (3) To maintain a stable and reliable workforce, periodic counseling shall be available for personnel who may be experiencing difficulties in their personal lives, and temporary reassignment to less-taxing decision making duties should be available for those who may be having difficulty coping. (4) The agency shall have procedures for reviewing complaints of abuse or remiss by agency personnel, or any unreasonable or malevolent attitudes. A Board of Supervisors shall be established to advise personnel, randomly examine files, and otherwise assure that cases are being handled in a proper, professional, and timely manner. (5) Any neglect, abuse, or betrayal of the public trust shall be grounds for immediate suspension or dismissal per state personnel processes, and/or criminal prosecution under RCW 43.01.125, or any other applicable statutes. (6) Personnel at any level may be subject to recall by an informed electorate; Provided, that pursuant to Constitutional provisions against reckless or irresponsible abuse of speech, any reports which appear misleading, malicious or libelous and designed to merely embarrass, harass or intimidate any personnel of this agency may be viewed as media assault, and this agency may seek equal time and space to rebut unfounded allegations.

NEW SECTION. Sec. 11. Authority to Conduct Hearings- (1) While efforts shall be made to resolve complaints quickly and amicably, this

agency shall have authority to gather, evaluate and decide facts through a hearings process. The agency shall have authority to issue subpoenas, convene and conduct hearings, take testimony and exhibits, and issue Findings of Facts and Decisions. (2) The Office of State Inspector General shall determine the time, manner, locale and format of any particular hearing. Hearings shall be convened at a location convenient to the parties, whenever practical. Municipalities may be requested to provide hearing facilities, if needed. (3) A Hearings Handbook shall be provided to all parties, and hearings rules shall be simple and concise, easily understood and applied by anyone, and devoid of legal jargon or obscure legal principles. (4) The agency may appoint volunteer personnel to mute, inarticulate or non-lingual individuals needing assistance. (5) The Office shall assign an Administrative Law Judge to preside over hearings, and issue Findings of Fact and Decision. (6) Court Reporters may be present to transcribe proceedings, but in any cases all hearings shall be carefully audio or video recorded to assure completely accurate transcripts of proceedings. (7) Hearings shall be convened within 60 days of a complaints' receipt, and shall be decided within 60 days thereafter. Any case unresolved within that period may be remanded to an office of special counsel for further proceedings, or court action. The reasons for any such delay shall be specified. (8) In those rare instances where a completely fair and just decision is difficult or impossible based on the facts, the Hearings Examiner shall state the facts and basis for such, and the case may be remanded to a panel of judges for a compromise decision, at the discretion of the Office. (9) Any appeals for reconsideration from a decision shall be directed to a Review Board, which may amend a decision in the interests of fairness. (10) The 'adversarial' system of justice at play in most court settings appears to allow lawyers to lie misrepresent facts or factors, or otherwise harm innocent parties whenever convenient to prevail. Such practices shall not be tolerated by this agency. Anyone whomsoever found to be lying, falsifying or misrepresenting any fact or issue before a hearing by this agency shall be remanded for prosecution by the Attorney General for felonious deception. (11) All decisions by this agency shall be based strictly on fairness and common sense as might be reached by any reasonable minds, and shall be decided on a case-by-case basis rather than on any precedent. All agency decisions shall include a full explanation of the facts and basis of the decision.

NEW SECTION. Sec. 12. Authority to Rectify Wrongdoing- (1) The Office shall have authority to rectify wrongdoing or deficiencies deemed to be harmful or disruptive to the general public, or any innocent, helpless, or unwary parties, and may do any of the following to rectify cases satisfactorily: (a) issue cease and desist warnings, (b) require some form of corrective action or restitution, (c) work with the Department of Licensing, or another relevant agency, in compelling adherence, and (d) issue fines for wrongdoing, or any willful disregard of it's injunctions. (2) The Office shall have authority to levy fines for wrongdoing in the amount of \$10. per day against individuals, \$25 per day against businesses or those acting on behalf of businesses, and up to \$1,000. per day against governmental agencies or bodies. (3) In cases of delinquent or unpaid fines, the Office may apply liens against the personal or business property of intentional transgressors, or liens converted to judgments against the wages or future earnings of wrongdoers. (4) While not intended to levy

damage awards or criminal penalties for negligent or intentional injurious practices as might be ascertained through civil or criminal proceedings in a court of law, this agency may work with the courts in securing injunctions against personally harmful or abusive practices, and shall in all cases support injured parties against obdurate parties in any court proceedings to whatever extent possible. (5) Injunctions sought by this agency shall be at the District Court level where applicable, and any court actions by this agency shall take precedence over all other cases, and be decided promptly.

NEW SECTION. Sec. 13. Authority to Intercede Upon or Act to Revise Agency Actions or Decisions- (1) The agency may review complaints of abuse or unfairness by any governmental action, and shall act to revise, amend or overturn any action deemed to be unfair, harmful or unjust. Where life or property are in imminent jeopardy of unfair or unjustifiable disruption, this agency shall have authority to seek injunctions towards suspending any departmental order pending review by this agency; and thereafter to revise, amend or overturn any action deemed to be petty, overly burdensome or cruel. (2) This agency shall have prompt and ready access to all public offices, facilities and records, and public employee cooperation with this agency shall be mandatory. It shall be unlawful for any public employee to fail to report known abuses by another. (3) In cases of alleged misconduct or malfeasance by executive or legislative officials, the Office shall have authority to submit prima facie evidence to a judicial panel convened for the purpose, and investigations shall proceed upon warrant of probable cause and merit. (4) While having authority to fine, fire or recommend the arrest of any public employee for malfeasance or crimes, this responsibility shall not extend to federal personnel operating in the state, except to notify federal agencies of reports, and thereafter seek to enjoin such activities.

NEW SECTION. Sec. 14. Judicial Performance Not Exempt from Review- (1) The concept of checks and balances being crucial to a democracy which serves it's people, the independence of judges does not imply that they should be unaccountable for ineptness, abuses or crimes in office. The judiciary being a branch of government, any incorrect or unjust decision is an act of the United States Government, itself. Abuse of judicial office being unacceptable and akin to fraud, judicial performance shall not be exempt from review by this agency. (2) Americans have a right to demand that justice be mandatory in their courts, and there should be no statutory time limits on the Constitutional right to due process. This agency shall accept complaints of judicial neglect or abuse, and shall be authorized to review court decisions deemed to be contrary to fairness and common sense. (3) The Legislature shall establish processes to reactivate cases reflecting other than fairness and common sense, and the Office shall work through the courts to revise, amend or overturn unjust decisions (4) To facilitate review of court cases, this agency may enlist the assistance of volunteer shut-ins from the public sector, such as the elderly, infirm or incarcerated, who are otherwise competent and qualified. (5) Any certifiable findings of judicial neglect or abuse, such as disrespectfulness towards litigants, bias constituting obstruction of justice, deliberate evasion or misconstruance of facts leading to decisions reflecting other than fairness and common sense, or chronic bad decisions requiring appeal, shall be reported to appropriate venues with recommendations for

reprimand or censure. (6) Should it subsequently be devised that a Sentencing Authority will assign defendants, rather than individual judges or prosecutors who may be less expert at corrections, this agency shall assist in examining facts and factors towards best placement, from the standpoint of safety and rehabilitation in those facilities.

NEW SECTION. Sec. 15. Filing Complaints- (1) Complaints filed with this agency shall be submitted in writing, and the agency may require a Sworn Affidavit from complainants attesting to the accuracy and truthfulness of their allegations, for hearings and examinations to proceed. The agency may, at its discretion, accept anonymous complaints, when circumstances warrant. (2) It being conceivable that frivolous, deceitful or malicious complaints might be filed by petty, spiteful or troublesome individuals merely for the sake of harassment or obstruction, the agency may require doubtful or suspect complainants to post a bond, or submit to a polygraph examination, for hearings to convene. (3) It shall be unlawful for anyone to retaliate against any complainant filing a grievance with this agency, but by the same token, obviously frivolous complaints shall be prosecutable under harassment statutes.

NEW SECTION. Sec. 16. Appeals- (1) Anyone aggrieved by any action of this agency may appeal to state court, or any federal agency having monitoring jurisdiction over state agencies. Provided, that appellants post any required bond pertinent to the filing of such appeals. (2) Any appeals to other agencies notwithstanding, any decision or orders instituted by this agency shall remain in effect until such time as they might be overturned on review. (3) Should the federal government subsequently establish a Federal Judge Advocate agency specific to such appeals, appeals shall be directed to that agency.

NEW SECTION. Sec. 17. Competency Tests, Performance Bonds- (1) Should it subsequently be required by law that all public employees dealing with or affecting the public must carry a performance bond against intentional misconduct which harms the public, this agency may conduct investigations to determine culpability and extent of damages, and shall thenupon assist injured parties in any court action to order restitution from the bond surety. (2) And should it subsequently be required by law that prospective voters or jurors should undergo psychological or intelligence testing to ascertain basic sanity, reasoning powers, moral stability and any biases they might harbor, this agency shall assist in conducting tests, compiling results and disseminating recommendations.

NEW SECTION. Sec. 18. Proposed Legislations by Agency to Correct Dangerous and Wide-Spread Violations- (1) To maintain its impartial viewpoint, this agency is not intended act as a vanguard for any particular social causes. However, it can and should act to protect against wide-spread fraud or any dangerous conditions it finds in the course of its work. To this extent it could, at its own discretion, forward proposed legislations towards preventing abuses. (2) The public shall be notified of any such proposed legislations by this agency, and be afforded opportunities to register well-founded views on each. The public may also challenge any such proposed legislations in state court during their review period. (3) Should it subsequently be required by law that any governing or legislative body must first

present proposed legislations that affect the public to this Office to ascertain Constitutional muster before they are voted on, this agency may publish a commentary on how such proposed bills benefit, or fail to benefit, the public.

NEW SECTION. Sec. 19. A new section is added to Chapter 41.06 RCW to read as follows: |The Civil Service provisions of this chapter shall not apply in the Office of State Inspector General to the director, the deputy director, or any assistant or division directors, and one confidential secretary for each of these officers.

NEW SECTION. Sec. 20. RCW 43.17.010 and 1993 SP,S C 2 S 16, 1993 C 472 S 17, and 1993C 280 S 18 are each reenacted and amended to read as follows: There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community trade, and community development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, ((and)) (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide, {+ and (16) the office of state inspector general. +}

NEW SECTION. Sec. 21 RCW 43.17.020 and 1995 1st sp. s. c2s2 (Referendum Bill No. 45 are each amended as follows: There shall be a chief executive officer of each department to be known as: (1) the secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community trade, and community development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, ((and)) (15) the director of financial institutions, and (16) the director of the office of state inspector general. Such officers, except the secretary of transportation, the director of fish and wildlife, and the director of the office of state inspector general, shall be appointed by the Governor, with the consent of the Senate, and hold office at the pleasure of the Governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission, as prescribed by RCW 77.04.055. And the director of the office of state inspector general would be elected at large in special and general elections.

NEW SECTION. Sec. 22. Sections 1 through 18 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 23. Severability- Should any section, subsection, paragraph, clause, phrase, sentence or word of this act be declared unconstitutional or invalid for any reason, such decision shall not

effect the validity or enactment of the remaining portions of the chapter.

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