

Introduced by Senators Speier and Romero

February 18, 2004

An act to amend Sections 6125, 6126, and 6126.4 of, and to add Section 6127 to, the Penal Code, relating to the Inspector General.

LEGISLATIVE COUNSEL'S DIGEST

SB 1342, as introduced, Speier. Inspector General.

Existing law establishes the office of the Inspector General relative to corrections, and generally provides for various duties and authority of the office.

This bill would create within the office of the Inspector General, the positions of Chief of Audits and Chief of Investigations, to be appointed by the Inspector General, subject to Senate confirmation, as specified.

The bill would require the Department of Corrections and the California Youth Authority to report all matters that could result in potential criminal prosecution to the Inspector General.

The bill would provide that the budget of the office of the Inspector General shall be fixed annually at $\frac{1}{4}$ of 1% of the amount approved for the budget of the Department of Corrections and the California Youth Authority.

The bill would further provide for public release of investigative reports, as specified.

The bill would also provide for referral of matters concerning employees for potential administrative action or potential criminal prosecution, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6125 of the Penal Code is amended to
2 read:

3 6125. (a) There is hereby created the independent office of
4 the Inspector General which shall not be a subdivision of any other
5 governmental entity. The Governor shall appoint the Inspector
6 General, *for a 10-year term and may not be removed except for*
7 *good cause*, subject to Senate confirmation of that appointment.
8 *The Inspector General may not assume office until fully*
9 *confirmed.*

10 (b) *There shall be created within the office of the Inspector*
11 *General, the position of Chief of Audits and the position of Chief*
12 *of Investigations, both to be filled by appointment by the Inspector*
13 *General, subject to Senate confirmation of the appointments. The*
14 *positions shall be paid the same as the pay for Chief Deputy*
15 *Inspector General.*

16 SEC. 2. Section 6126 of the Penal Code is amended to read:

17 6126. (a) The Inspector General shall be responsible for
18 reviewing departmental policy and procedures for conducting
19 audits of investigatory practices and other audits, as well as
20 conducting investigations of the Department of Corrections, the
21 Department of the Youth Authority, the Board of Prison Terms, the
22 Youthful Offender Parole Board, the Board of Corrections, the
23 Narcotic Addict Evaluation Authority, the Prison Industry
24 Authority, and the Youth and Adult Correctional Agency, as
25 requested by either the Secretary of the Youth and Adult
26 Correctional Agency or a Member of the Legislature, pursuant to
27 the approval of the Inspector General under policies to be
28 developed by the Inspector General. The Inspector General may,
29 under policies developed by the Inspector General, initiate an
30 investigation or an audit on his or her own accord.

31 (b) Upon completion of an investigation or audit, the Inspector
32 General shall provide a response to the requester.

33 (c) The Inspector General shall, during the course of an
34 investigatory audit, identify areas of full and partial compliance,
35 or noncompliance, with departmental investigatory policies and
36 procedures, specify deficiencies in the completion and
37 documentation of investigatory processes, and recommend
38 corrective actions, including, but not limited to, additional training



1 with respect to investigative policies, additional policies, or
2 changes in policy, as well as any other findings or
3 recommendations that the Inspector General deems appropriate.

4 *(d) The Department of Corrections and the California Youth*
5 *Authority shall report all matters that could result in potential*
6 *criminal prosecution to the Inspector General.*

7 *(e) The budget of the office of the Inspector General shall be*
8 *fixed annually at one quarter of one percent of the amount*
9 *approved for the budget of the Department of Corrections and the*
10 *California Youth Authority.*

11 SEC. 3. Section 6126.4 of the Penal Code is amended to read:

12 6126.4. ~~¶~~ *(a) Except as provided in subdivision (b), it is a*
13 *misdemeanor for the Inspector General or any employee or former*
14 *employee of the Inspector General to divulge or make known in*
15 *any manner not expressly permitted by law to any person not*
16 *employed by the Inspector General any particulars of any record,*
17 *document, or information the disclosure of which is restricted by*
18 *law from release to the public. This prohibition is also applicable*
19 *to any person or business entity that is contracting with or has*
20 *contracted with the Inspector General and to the employees and*
21 *former employees of that person or business entity or the*
22 *employees of any state agency or public entity that has assisted the*
23 *Inspector General in the course of any audit or investigation or that*
24 *has been furnished a draft copy of any report for comment or*
25 *review.*

26 *(b) There shall be a public investigative report released for*
27 *every investigation completed by the office of the Inspector*
28 *General. Referral for potential administrative action or potential*
29 *criminal prosecution shall be made pursuant to Section 6127. The*
30 *public investigative report shall differ from the full investigative*
31 *report only with respect to the fact that the Inspector General shall*
32 *have discretion to redact the names of individuals or specific*
33 *locations that if not redacted might hinder prosecution related to*
34 *the investigation. In a case where allegations were deemed*
35 *unfounded, all identifying information shall be redacted. The*
36 *public investigative report shall be made public as follows:*

37 *(1) In the case of an investigation that is referred only for*
38 *administrative action, no sooner than when administrative*
39 *proceedings have been concluded by the employing agency, or*
40 *when the employing agency decides not to pursue administrative*



1 *proceedings against the employee. The employing agency shall*
2 *timely inform the Inspector General of its decision to pursue or not*
3 *pursue administrative proceedings.*

4 (2) *In the case of an investigation that will be referred for*
5 *possible criminal prosecution or for both criminal prosecution and*
6 *administrative action, the report shall be made public no sooner*
7 *than when the criminal investigation has been concluded, or when*
8 *a decision has been made not to pursue a criminal investigation,*
9 *and no sooner than when administrative proceedings have been*
10 *concluded by the employing agency, or when the employing*
11 *agency decides not to pursue administrative proceedings against*
12 *the employee. The prosecuting agency and the employing agency*
13 *shall timely inform the Inspector General of its decision to pursue*
14 *or not pursue criminal or administrative proceedings, as*
15 *applicable.*

16 (3) *The public investigative report shall be posted on the Web*
17 *site of the office of the Inspector General and on the same day, sent*
18 *to the Governor. The Inspector General shall issue a public notice*
19 *that the report has been posted on the Web site.*

20 SEC. 4. Section 6127 is added to the Penal Code, to read:

21 6127. (a) When the Inspector General completes an
22 investigation where it finds that an employee has engaged in
23 conduct that would be subject to administrative action, the
24 Inspector General shall refer the matter to the appropriate
25 employing agency which shall be required to file the
26 administrative action.

27 (b) When the Inspector General completes an investigation
28 where it finds that an employee has engaged in criminal activity,
29 it shall refer the matter to the Attorney General, or a district
30 attorney of jurisdiction, or both, and shall immediately notify the
31 Youth and Adult Correctional Agency of the referral.

32 (c) The Inspector General shall report semiannually to the
33 Governor and the Legislature a summary of completed
34 investigative and audit reports and the disposition of those reports.
35 This summary shall highlight those reports which the affected
36 correctional agency has failed to address after the passage of more
37 than six months from the time the matter was referred to the
38 agency.

