



DAVID CRAIG

STATE REPRESENTATIVE
CHAIRMAN, ASSEMBLY COMMITTEE ON FINANCIAL INSTITUTIONS

Assembly Committee on State Affairs and Government Operations
Public Hearing, 15 December 2015
Assembly Bill 382
Representative David Craig, 83rd Assembly District

Chairman Swearingen and Committee Members,

Thank you for hearing testimony on Assembly Bill 382,

Assembly Bill 382 is an attempt to increase legislative oversight of government agencies and allows citizens an additional avenue by which to contest agency action. Generally, the statutory process under which the Legislative Audit Bureau (LAB) operates is a reactive process. Too often, by the time a potential problem in government has been identified, an audit is ordered, and the audit report comes back to the legislature, the political will to pursue reform is lost. The Legislative Office of Inspector General created by this legislation would complement the Audit Bureau, by providing a proactive organization that will pursue waste, fraud, and abuse continually. Under the bill, this program would be funded using already appropriated funds. I have little doubt that this investment in government oversight will more than pay for itself in taxpayer savings.

This legislation would expand on the work of the LAB by placing Inspectors General, who work for the legislature, inside select state agencies. These Inspectors General would have carte blanche to investigate waste, fraud, and abuse within agencies. Additionally, at the joint direction of the committee chairs of jurisdiction in the Assembly and Senate or by the joint direction of the Assembly Speaker and the Senate Majority Leader, Inspectors General could be directed to review specific agency programs or initiatives, making legislative committees more engaged in oversight. In addition to this new oversight, citizens affected by agency action will gain the ability to petition an inspector general to determine if the action was consistent with the law or administrative rule. In closing, this new oversight authority will help make our government more responsible not only to the legislature, but also to our constituents who deal with our executive agencies on a daily business.

Again, I appreciate your hearing of this bill today and I look forward to answering any questions you may have.

Stephen L. Nass

Wisconsin State Senator

**Testimony of Senator Steve Nass
2015 Assembly Bill 382 – Legislative Office of Inspector General
December 16, 2015**

Thank you members of the Assembly Committee on State Affairs and Government Operation for the opportunity to discuss Assembly Bill 382 with you. This legislation creates another tool in the state's ongoing fight against waste, fraud and misconduct within state government.

AB 382 creates the Office of Inspector General as a nonpartisan service agency of the Legislature. The bill does the following:

-The Legislative Office of Inspector General would consist of 13 inspectors general and their staff. The inspectors general would be assigned to the following state agencies:

- 1.) Department of Administration
- 2.) Department of Agriculture, Trade and Consumer Protection
- 3.) Department of Children and Families
- 4.) Department of Corrections
- 5.) Department of Financial Institutions
- 6.) Department of Health Services
- 7.) Department of Natural Resources
- 8.) Department of Public Instruction
- 9.) Department of Revenue
- 10.) Department of Safety and Professional Services
- 11.) Department of Transportation
- 12.) Department of Workforce Development
- 13.) Government Accountability Board
- 14.) University of Wisconsin System
- 15.) Wisconsin Economic Development Corporation
- 16.) Wisconsin Housing and Economic Development Authority

-The Joint Committee on Legislative Organization appoints each inspector general for a six-year term expiring March 1 of the odd-numbered year.

-Each state agency must make office space available for use by the inspector general assigned to that agency. It requires each agency to pay for the services provided by the inspector general.

-Each inspector general and their staff serve as unclassified employees within the state civil service system.

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-Upon request of an inspector general, the Legislative Audit Bureau shall provide assistance to the inspector general in carrying out their duties.

-An inspector general may examine the accounts and other financial records of the agency to which they are assigned. They may also review the performance and program accomplishments within the assigned agency. The bill specifies that an inspector general must at all times have access to all records of the agency with or without prior notice requesting access.

-An inspector general is required to report any indications of fraud in an agency to the Department of Justice. They are also charged with investigating incidents of waste, abuse or inefficiency in their assigned agency and filing a report detailing the finding of those investigations with the appropriate legislative standing committee. Also, the Office of Inspector General must file with each house of the Legislature an annual report summarizing the activities of the inspectors general.

-The Speaker of the Assembly and the Senate Majority Leader, jointly, may direct the inspector general in an agency to conduct a review of a specific matter within a program or relating to financial expenditures. This same power applies to the chairs of the standing committee in each house, jointly, making such a request on matters under the committees' jurisdiction.

-At the discretion of each inspector general, they may review claims by any person that an agency action or order has adversely impacted a substantial interest of that person. The individual making such a request must do so prior to the commencement of a contested case or other similar state agency review process. If an inspector general commences a review of this type, he or she must determine whether the agency action or order was inconsistent with any law or administrative rule. All determinations of inconsistency must be reported to the chair of each standing committee with jurisdiction, the Joint Legislative Audit Committee, and the Joint Committee for Review of Administrative Rules.

All levels of government struggle with developing procedures for preventing and addressing waste, fraud, inefficiency and misconduct. While in Wisconsin we already have a significant contributor to these efforts in the Legislative Audit Bureau, their mission often relates to conducting a thorough study of the problem in the aftermath and identifying potential policy recommendations for the Legislature.

AB 382 attempts to create a more proactive authority aimed at prevention and more timely intervention in ongoing situations of waste, fraud and abuse in state government. Properly functioning inspectors general could limit taxpayer losses, more rapidly identify fraud cases requiring involvement of law enforcement/Department of Justice, and lead to a more timely sharing of information on such situations with the Legislature.

We envision the Office of Inspector General working in a complimentary manner with the Legislative Audit Bureau. Each will have functionally different duties, while sharing an overall mission of combating waste, fraud, inefficiency and misconduct in state government operations.

The bill envisions a financing system for the Office of Inspector General based on assessing costs of the inspectors general activities to each agency for the investigations. This financing mechanism would be the most cost effective for taxpayers.

Since the 1980s, the Legislature has permitted the executive branch to increase its administrative powers and spending authority, but repeatedly failed to utilize the oversight powers of the legislative branch to protect the interests of the taxpayers. Regardless of the party in control of the two houses, legislators both knowingly and unwittingly have empowered the executive branch to resist our oversight authority. These long term structural changes have increased the potential risks of waste, fraud and abuse in state government. Taxpayers have often been frustrated with the Legislature's plodding response to serious problems within state government.

Passage of AB 382 and the creation of the Office of Inspector General would be a major step forward for the Legislature in developing a more aggressive approach to our constitutionally obligated oversight duties. Confronting waste, fraud and abuse should not be seen as a Democrat or Republican issue. It should be a bipartisan obligation of every member of the Legislature to protect the interests of the people we serve.

I respectfully ask for the committee's support of AB 382.



**Testimony to the Assembly Committee on
State Affairs and Government Operations in
Opposition to Assembly Bill 382,
Creating a Legislative Office of Inspector General**

December 16, 2015

Dear Distinguished Members of the Assembly:

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign, which is now in its twentieth year as an advocate for clean and open government in our beloved state.

The Wisconsin Democracy Campaign Opposes Assembly Bill 382 for the following five reasons:

1. Cost

One of the sponsors of the bill, Rep. David Craig, has estimated that each new inspector general position would cost between \$70,000 and \$120,000 a year, and that doesn't include their staffs. This will add more than \$1 million to the state budget, which is already out of balance. Plus, the expense of the inspector general and staff will be borne by each agency, many of which even now do not have enough funds to do their jobs properly.

2. Redundancy

We already have the Legislative Audit Bureau in place, which is doing a tremendous job, according to comments by our elected officials

in both parties who sit on the Legislative Audit Committee. It's now in its 50th year, and it already is empowered to go after fraud, waste, and abuse. In fact, on its website, it says: "We investigate allegations of fraud and other improper acts by state agencies, employees, and contractors." And in 2007, the Wisconsin legislature, through Act 126, created a fraud, waste, and mismanagement hotline (<http://legis.wisconsin.gov/lab/hotline/>) that allows the public and individuals within state government to report suspected fraud and other improper acts by state agencies, employees, and contractors, which the Legislative Audit Bureau then investigates.

We don't need the inspectors general because we already have the LAB.

3. Separation of Powers

Putting inspectors general who are appointed and directed by the legislature into executive branch agencies creates a separation of powers problem. Today in Wisconsin, we have an inspector general for the Department of Children and Families, for example, but that inspector general is appointed by the Secretary of that Department, not by the legislature. It's not appropriate for the legislature to put its own people in the executive branch.

4. Consolidation of One-Party Rule

Our last two reasons for opposing this bill are the most important ones.

We are deeply concerned that this bill would consolidate one-party rule.

When you have a situation like you have today, when one party already controls both chambers, that party, under this bill, would have the power to further entrench its power in several ways.

First, since the Joint Committee on Legislative Organization would appoint the inspector generals, and since that committee is dominated by the party that controls both chambers, the committee could vote to appoint inspectors general who are “their folks,” regardless of the language in the bill about the need for nonpartisanship.

Second, since the bill would authorize the Speaker of the Assembly and the Senate Majority Leader to jointly direct the inspectors general, and since the Speaker and the Majority Leader are from the same party, this again gives the party that controls both chambers enormous leverage to boss around agencies in partisan ways.

Third, by appointing inspectors general for six-year terms, the leaders of the Joint Committee on Legislative Organization could install their people well into the future, enabling them to exercise influence over the bureaucracy even after they may no longer be in power.

5. Invitation to Corruption

Our last point is also a very important one: **This bill is an open invitation to corruption.** It would allow the inspector general to review claims by any individual that he or she has been adversely and substantially affected by an agency action or order. If that individual happened to be a big donor to the party in power that appointed the inspector general, there would be a strong incentive for the inspector general to side with the donor and not the agency, regardless of the public good.

For these reasons, the Wisconsin Democracy Campaign strongly opposes this bill.

Thank you.



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December 16, 2015

To: Assembly Committee on State Affairs and Government Operations

Re: Opposition to AB 382

The League of Women Voters supports an open governmental system that is accountable, responsive and capable of making decisions. AB 382 provides for the creation of new positions of “inspector general” in each of 13 state agencies, and it allows these inspectors to act independently and without accountability.

According to the legislative analysis, the inspectors may review claims by any person who has been adversely affected by an agency action. The bill provides that if an inspector general elects to review a claim, the inspector must determine whether the agency action or order was inconsistent with any law or administrative rule. The inspectors must report all such determinations to the appropriate standing committees in each house, the Joint Legislative Audit Committee, and the Joint Committee for Review of Administrative Rules. Given that these legislative committees are already tasked with oversight, this legislation adds another layer of bureaucracy.

In addition, this legislation duplicates the work of the Legislative Audit Bureau, which has long (and even recently) been praised for its nonpartisan work by leaders of both political parties.

This bill also is an intrusion by the legislative branch into the agencies of the executive branch. The inspectors would be appointed by and report to the legislature, but the agencies would have to fund the costs associated with these new positions from their own budgets. These funds are supposed to come from discoveries of waste, abuse or inefficiencies. Is that not a built-in incentive to insure judgments of waste or inefficiency in an agency that serves citizens?

We believe this legislation is a waste of tax dollars, in that it creates an additional layer of bureaucracy to carry out a function already being well addressed by the Legislative Audit Bureau.

AB 382 is an unfunded mandate and an abuse of power by the legislative branch. It should be rejected.