

SB0085



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0085

Introduced 1/18/2017, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

New Act

Creates the Local Government Inspector General Act. Provides that the purpose of the Act is to establish an independent entity to which allegations of incompetence, neglect of duty, malfeasance in office, corruption, or official misconduct involving units of local government, including their officers, employees, and agents, or elected or appointed local officials, may be reported and investigated with the assistance of the Attorney General. Creates the Local Government Ethics Commission and the Office of the Local Government Inspector General and provides that members of the Commission and the Inspector General shall be appointed by the Governor with the advice and consent of the Senate. Sets forth the procedures of investigating a complaint and the issuing of reports. Defines terms.

LRB100 04005 AWJ 14010 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Local
5 Government Inspector General Act.

6 Section 5. Definitions. For purposes of this Act:

7 "Local official" means: (i) any official appointed or
8 elected to an office of a county, municipality, township,
9 special district, or unit designated as a unit of local
10 government by law, or (ii) an office created by ordinance,
11 resolution, or contract of any unit of local government.

12 "Unit of local government" has the meaning provided in
13 Section 1 of Article VII of the Illinois Constitution.

14 Section 10. Scope. This Act shall apply only to those units
15 of local government that do not have their own inspector
16 general.

17 Section 15. Purpose. The purpose of this Act is to
18 establish an independent entity: (1) to which allegations of
19 incompetence, neglect of duty, malfeasance in office,
20 corruption, or official misconduct involving units of local
21 government, including their officers, employees, and agents,

1 or elected or appointed local officials may be reported; and
2 (2) that has the authority to investigate allegations of
3 incompetence, neglect of duty, malfeasance in office,
4 corruption, or official misconduct involving units of local
5 government, including their officers, employees, and agents,
6 or elected or appointed local officials, with the assistance of
7 the Attorney General.

8 Section 20. Local Government Ethics Commission.

9 (a) The Local Government Ethics Commission is created.

10 (b) The Local Government Ethics Commission shall consist of
11 9 commissioners appointed by the Governor, with the advice and
12 consent of the Senate. Any nomination not acted upon by the
13 Senate within 60 session days of the receipt thereof shall be
14 deemed to have received the advice and consent of the Senate.
15 If, during a recess of the Senate, there is a vacancy in an
16 office of commissioner, the Governor shall make a temporary
17 appointment until the next meeting of the Senate when the
18 Governor shall make a nomination to fill that office. No person
19 rejected for an office of commissioner shall, except by the
20 Senate's request, be nominated again for that office at the
21 same session of the Senate or be appointed to that office
22 during a recess of that Senate.

23 Commissioners shall serve for 4-year terms commencing on
24 July 1 of the year of appointment and running through June 30
25 of the fourth following year. Commissioners may be reappointed

1 to one or more subsequent terms.

2 Vacancies occurring other than at the end of a term shall
3 be filled by the Governor only for the balance of the term of
4 the commissioner whose office is vacant. The Governor may
5 remove a commissioner only for cause.

6 Terms shall run regardless of whether the position is
7 filled.

8 (c) The Governor shall appoint commissioners who have
9 experience holding governmental office or employment and shall
10 appoint commissioners from the general public. A person is not
11 eligible to serve as a commissioner if that person (i) has been
12 convicted of a felony or a crime of dishonesty or moral
13 turpitude, (ii) is, or was within the preceding 12 months,
14 engaged in activities that require registration under the
15 Lobbyist Registration Act, (iii) is related to the appointing
16 authority, or (iv) is a State officer or employee.

17 (d) The Local Government Ethics Commission shall have
18 jurisdiction over all units of local government and local
19 officials, and all vendors and others doing business with any
20 unit of local government or local official.

21 (e) The Local Government Ethics Commission must meet,
22 either in person or by other technological means, at least
23 monthly and as often as necessary. At the first meeting of the
24 Local Government Ethics Commission, the commissioners shall
25 choose from their number a chairperson and other officers that
26 they deem appropriate. The terms of officers shall be for 2

1 years commencing July 1 and running through June 30 of the
2 second following year. Meetings shall be held at the call of
3 the chairperson or any 3 commissioners. Official action by the
4 Commission shall require the affirmative vote of 5
5 commissioners, and a quorum shall consist of 5 commissioners.
6 Commissioners shall receive compensation in an amount equal to
7 the compensation of members of the State Board of Elections and
8 may be reimbursed for their reasonable expenses actually
9 incurred in the performance of their duties.

10 (f) No commissioner or employee of the Local Government
11 Ethics Commission may during his or her term of appointment or
12 employment:

13 (1) become a candidate for any elective office;

14 (2) hold any other elected or appointed public office
15 except for appointments on governmental advisory boards or
16 study commissions or as otherwise expressly authorized by
17 law;

18 (3) be actively involved in the affairs of any
19 political party or political organization; or

20 (4) advocate for the appointment of another person to
21 an appointed or elected office or position or actively
22 participate in any campaign for any elective office.

23 (g) The Local Government Ethics Commission shall appoint an
24 Executive Director. The compensation of the Executive Director
25 shall be as determined by the Commission. The Executive
26 Director of the Local Government Ethics Commission may employ

1 and determine the compensation of staff, as appropriations
2 permit.

3 Section 25. Local Government Inspector General.

4 (a) There is created the Office of the Local Government
5 Inspector General.

6 (b) The Local Government Inspector General shall be
7 appointed by the Governor, with the advice and consent of the
8 Senate. Any nomination not acted upon by the Senate within 60
9 session days of the receipt thereof shall be deemed to have
10 received the advice and consent of the Senate. If, during a
11 recess of the Senate, there is a vacancy in an office of Local
12 Government Inspector General, the Governor shall make a
13 temporary appointment until the next meeting of the Senate when
14 the Governor shall make a nomination to fill the office. No
15 person rejected for the office of Local Government Inspector
16 General shall, except by the Senate's request, be nominated
17 again for that office at the same session of the Senate or be
18 appointed to that office during a recess of that Senate.

19 Nothing in this Act precludes the appointment by any unit
20 of local government or any local official of any other
21 inspector general required or permitted by law.

22 The Local Government Inspector General shall have the
23 following qualifications:

24 (1) has not been convicted of any felony under the laws
25 of this State, another State, or the United States;

1 (2) has earned a baccalaureate degree from an
2 institution of higher education; and

3 (3) has 5 or more years of cumulative service (A) with
4 a federal, State, or local law enforcement agency, at least
5 2 years of which have been in a progressive investigatory
6 capacity; (B) as a federal, State, or local prosecutor; (C)
7 as a senior manager or executive of a federal, State, or
8 local agency; (D) as a member, an officer, or a State or
9 federal judge; or (E) representing any combination of (A)
10 through (D).

11 The term of the Local Government Inspector General shall be
12 for 5 years, commencing on July 1 of the year of appointment
13 and running through June 30 of the fifth following year. The
14 Local Government Inspector General may be reappointed to one or
15 more subsequent terms. A vacancy occurring other than at the
16 end of a term shall be filled by the Governor for the balance
17 of the current term.

18 (c) The Local Government Inspector General shall have
19 jurisdiction over all units of local government and local
20 officials, and all vendors and others doing business with any
21 unit of local government or local official.

22 The jurisdiction of the Local Government Inspector General
23 is to investigate allegations of fraud, waste, abuse,
24 mismanagement, misconduct, nonfeasance, misfeasance,
25 malfeasance, or violations of other related laws and rules.

26 (d) The compensation for the Local Government Inspector

1 General shall be determined by the Governor and shall be made
2 from appropriations made to the Office of the Governor for this
3 purpose. The Local Government Inspector General has full
4 authority to organize the Office of the Local Government
5 Inspector General, including the employment and determination
6 of the compensation of staff, such as deputies, assistants, and
7 other employees, as appropriations permit.

8 (e) No Local Government Inspector General or employee of
9 the Office of the Local Government Inspector General may,
10 during his or her term of appointment or employment:

11 (1) become a candidate for any elective office;

12 (2) hold any other elected or appointed public office
13 except for appointments on governmental advisory boards or
14 study commissions or as otherwise expressly authorized by
15 law;

16 (3) be actively involved in the affairs of any
17 political party or political organization; or

18 (4) advocate for the appointment of another person to
19 an appointed or elected office or position or actively
20 participate in any campaign for any elective office.

21 In this subsection an appointed public office means a
22 position authorized by law that is filled by an appointing
23 authority as provided by law and does not include employment by
24 hiring in the ordinary course of business.

25 (f) No Local Government Inspector General or employee of
26 the Office of the Local Government Inspector General may, for

1 one year after the termination of his or her appointment or
2 employment:

- 3 (1) become a candidate for any elective office;
4 (2) hold any elected public office; or
5 (3) hold any appointed State, county, or local judicial
6 office.

7 (g) The Local Government Inspector General may be removed
8 only for cause and may be removed only by the Governor. At the
9 time of the removal, the Governor must report to the Senate the
10 justification for the removal.

11 Section 30. Duties of the Local Government Inspector
12 General. In addition to duties otherwise assigned by law, the
13 Local Government Inspector General shall have the following
14 duties:

- 15 (1) To receive and investigate allegations of
16 incompetence, neglect of duty, malfeasance in office,
17 corruption, or official misconduct by local officials. An
18 investigation may not be initiated more than one year after
19 the most recent act of the alleged violation or of a series
20 of alleged violations except where there is reasonable
21 cause to believe that fraudulent concealment has occurred.
22 To constitute fraudulent concealment sufficient to toll
23 this limitations period, there must be an affirmative act
24 or representation calculated to prevent discovery of the
25 fact that a violation has occurred. The Local Government

1 Inspector General shall have the discretion to determine
2 the appropriate means of investigation as permitted by law.

3 (2) To request information relating to an
4 investigation from any person when the Local Government
5 Inspector General deems that information necessary in
6 conducting an investigation.

7 (3) To issue subpoenas to compel the attendance of
8 witnesses for the purposes of testimony and production of
9 documents and other items for inspection and copying and to
10 make service of those subpoenas.

11 (4) To submit reports as required by this Act.

12 (5) To file pleadings in the name of the Local
13 Government Inspector General with the Local Government
14 Ethics Commission, through the Attorney General, as
15 provided in this Act if the Attorney General finds that
16 reasonable cause exists to believe that a violation has
17 occurred.

18 (6) To participate in or conduct, when appropriate,
19 multi-jurisdictional investigations.

20 (7) To establish a policy that ensures the appropriate
21 handling and correct recording of all investigations
22 conducted by the Office, and to ensure that the policy is
23 accessible via the Internet in order that those seeking to
24 report those allegations are familiar with the process and
25 that the subjects of those allegations are treated fairly.

1 Section 35. Administrative subpoena; compliance. A person
2 duly subpoenaed for testimony, documents, or other items who
3 neglects or refuses to testify or produce documents or other
4 items under the requirements of the subpoena shall be subject
5 to punishment as may be determined by a court of competent
6 jurisdiction. Nothing in this Section limits or alters a
7 person's existing rights or protections under State or federal
8 law.

9 Section 40. Standing; representation.

10 (a) Only the Local Government Inspector General or the
11 Attorney General may bring actions before the Local Government
12 Ethics Commission.

13 (b) The Attorney General shall represent the Local
14 Government Inspector General in all proceedings before the
15 Commission. Whenever the Attorney General is sick or absent, or
16 unable to attend, or is interested in any matter or proceeding
17 under this Act, upon the filing of a petition under seal by any
18 person with standing, the Supreme Court (or any other court of
19 competent jurisdiction as designated and determined by rule of
20 the Supreme Court) may appoint some competent attorney to
21 prosecute or defend that matter or proceeding, and the attorney
22 so appointed shall have the same power and authority in
23 relation to that matter or proceeding as the Attorney General
24 would have had if present and attending to the same.

25 (c) Attorneys representing the Local Government General in

1 proceedings before the Local Government Ethics Commission,
2 except an attorney appointed under subsection (b), shall be
3 appointed or retained by the Attorney General, shall be under
4 the supervision, direction, and control of the Attorney
5 General, and shall serve at the pleasure of the Attorney
6 General. The compensation of any attorneys appointed or
7 retained in accordance with this subsection or subsection (b)
8 shall be paid by the appropriate Office of the Local Government
9 Inspector General.

10 Section 45. Investigation reports.

11 (a) If the Local Government Inspector General, upon the
12 conclusion of an investigation, determines that reasonable
13 cause exists to believe that a violation has occurred, then the
14 Local Government Inspector General shall issue a summary report
15 of the investigation. The report shall be delivered to the
16 appropriate ultimate jurisdictional authority affected by or
17 involved in the investigation, if appropriate. The appropriate
18 ultimate jurisdictional authority shall respond to the summary
19 report within 20 days, in writing, to the Local Government
20 Inspector General. The response shall include a description of
21 any corrective or disciplinary action to be imposed.

22 (b) The summary report of the investigation shall include
23 the following:

24 (1) A description of any allegations or other
25 information received by the Local Government Inspector

1 General pertinent to the investigation.

2 (2) A description of any alleged misconduct discovered
3 in the course of the investigation.

4 (3) Recommendations for any corrective or disciplinary
5 action to be taken in response to any alleged misconduct
6 described in the report, including but not limited to
7 discharge.

8 (4) Other information the Local Government Inspector
9 General deems relevant to the investigation or resulting
10 recommendations.

11 (c) Within 30 days after receiving a response from the
12 appropriate ultimate jurisdictional authority under subsection
13 (a), the Local Government Inspector General shall notify the
14 Local Government Ethics Commission and the Attorney General if
15 the Local Government Inspector General believes that a
16 complaint should be filed with the Commission. If the Local
17 Government Inspector General desires to file a complaint with
18 the Commission, the Local Government Inspector General shall
19 submit the summary report and supporting documents to the
20 Attorney General. If the Attorney General concludes that there
21 is insufficient evidence that a violation has occurred, the
22 Attorney General shall notify the Local Government Inspector
23 General and the Local Government Inspector General shall
24 deliver to the Local Government Ethics Commission a copy of the
25 summary report and response from the ultimate jurisdictional
26 authority or agency head. If the Attorney General determines

1 that reasonable cause exists to believe that a violation has
2 occurred, then the Local Government Inspector General,
3 represented by the Attorney General, may file with the Local
4 Government Ethics Commission a complaint. The complaint shall
5 set forth the alleged violation and the grounds that exist to
6 support the complaint. The complaint must be filed with the
7 Commission within 18 months after the most recent act of the
8 alleged violation or of a series of alleged violations except
9 where there is reasonable cause to believe that fraudulent
10 concealment has occurred. To constitute fraudulent concealment
11 sufficient to toll this limitations period, there must be an
12 affirmative act or representation calculated to prevent
13 discovery of the fact that a violation has occurred. If a
14 complaint is not filed with the Commission within 6 months
15 after notice by the Local Government Inspector General to the
16 Commission and the Attorney General, then the Commission may
17 set a meeting of the Commission at which the Attorney General
18 shall appear and provide a status report to the Commission.

19 (d) Within 30 days after receiving a response from the
20 appropriate ultimate jurisdictional authority under subsection
21 (a), if the Local Government Inspector General does not believe
22 that a complaint should be filed, the Local Government
23 Inspector General shall deliver to the Local Government Ethics
24 Commission a statement setting forth the basis for the decision
25 not to file a complaint and a copy of the summary report and
26 response from the ultimate jurisdictional authority or agency

1 head. The Local Government Inspector General may also submit a
2 redacted version of the summary report and response from the
3 ultimate jurisdictional authority if the Local Government
4 Inspector General believes either contains information that,
5 in the opinion of the Local Government Inspector General,
6 should be redacted prior to releasing the report, may interfere
7 with an ongoing investigation, or identifies an informant or
8 complainant.

9 (e) If, after reviewing the documents, the Commission
10 believes that further investigation is warranted, the
11 Commission may request that the Local Government Inspector
12 General provide additional information or conduct further
13 investigation. The Commission may also appoint a Special Local
14 Government Inspector General to investigate or refer the
15 summary report and response from the ultimate jurisdictional
16 authority to the Attorney General for further investigation or
17 review. If the Commission requests the Attorney General to
18 investigate or review, the Commission must notify the Attorney
19 General and the Local Government Inspector General. The
20 Attorney General may not begin an investigation or review until
21 receipt of notice from the Commission. If, after review, the
22 Attorney General determines that reasonable cause exists to
23 believe that a violation has occurred, then the Attorney
24 General may file a complaint with the Local Government Ethics
25 Commission. If the Attorney General concludes that there is
26 insufficient evidence that a violation has occurred, the

1 Attorney General shall notify the Local Government Ethics
2 Commission and the Local Government Inspector General.

3 (f) A copy of the complaint filed with the Local Government
4 Ethics Commission must be served on all respondents named in
5 the complaint and on each respondent's ultimate jurisdictional
6 authority in the same manner as process is served under the
7 Code of Civil Procedure.

8 (g) A respondent may file objections to the complaint
9 within 30 days after notice of the petition has been served on
10 the respondent.

11 (h) The Commission shall meet, either in person or by
12 telephone, at least 30 days after the complaint is served on
13 all respondents in a closed session to review the sufficiency
14 of the complaint. The Commission shall issue notice by
15 certified mail, return receipt requested, to the Local
16 Government Inspector General, Attorney General, and all
17 respondents of the Commission's ruling on the sufficiency of
18 the complaint. If the complaint is deemed to sufficiently
19 allege a violation of this Act, then the Commission shall
20 include a hearing date scheduled within 4 weeks after the date
21 of the notice, unless all of the parties consent to a later
22 date. If the complaint is deemed not to sufficiently allege a
23 violation, then the Commission shall send by certified mail,
24 return receipt requested, a notice to the Local Government
25 Inspector General, Attorney General, and all respondents of the
26 decision to dismiss the complaint.

1 (i) On the scheduled date the Commission shall conduct a
2 closed meeting, either in person or, if the parties consent, by
3 telephone, on the complaint and allow all parties the
4 opportunity to present testimony and evidence. All such
5 proceedings shall be transcribed.

6 (j) Within an appropriate time limit set by rules of the
7 Local Government Ethics Commission, the Commission shall (i)
8 dismiss the complaint, (ii) issue a recommendation of
9 discipline to the respondent and the respondent's ultimate
10 jurisdictional authority, (iii) impose an administrative fine
11 upon the respondent, (iv) issue injunctive relief, or (v)
12 impose a combination of (ii) through (iv).

13 (k) The proceedings on any complaint filed with the
14 Commission shall be conducted pursuant to rules promulgated by
15 the Commission.

16 (l) The Commission may designate hearing officers to
17 conduct proceedings as determined by rule of the Commission.

18 (m) In all proceedings before the Commission, the standard
19 of proof is by a preponderance of the evidence.

20 (n) Within 30 days after the issuance of a final
21 administrative decision that concludes that a violation
22 occurred, the Local Government Ethics Commission shall make
23 public the entire record of proceedings before the Commission,
24 the decision, any recommendation, any discipline imposed, and
25 the response from the agency head or ultimate jurisdictional
26 authority to the Local Government Ethics Commission.

1 Section 50. Closed investigations. When the Local
2 Government Inspector General concludes that there is
3 insufficient evidence that a violation has occurred, the Local
4 Government Inspector General shall close the investigation.
5 The Local Government Inspector General shall provide the
6 Commission with a written statement of the Local Government
7 Inspector General's decision to close the investigation. At the
8 request of the subject of the investigation, the Local
9 Government Inspector General shall provide a written statement
10 to the subject of the investigation of the Inspector General's
11 decision to close the investigation. Closure by the Local
12 Government Inspector General does not bar the Local Government
13 Inspector General from resuming the investigation if
14 circumstances warrant. The Commission also has the discretion
15 to request that the Local Government Inspector General conduct
16 further investigation of any matter closed pursuant to this
17 Section, to appoint a Special Local Government Inspector
18 General to investigate, or to refer the allegations to the
19 Attorney General for further investigation or review. If the
20 Commission requests the Attorney General to investigate or
21 review, the Commission must notify the Attorney General and the
22 Inspector General. The Attorney General may not begin an
23 investigation or review until receipt of notice from the
24 Commission.

1 Section 55. Release of summary reports.

2 (a) Within 60 days after receipt of a summary report and
3 response from the ultimate jurisdictional authority or agency
4 head that resulted in a suspension of at least 3 days or
5 termination of employment, the Local Government Ethics
6 Commission shall make available to the public the report and
7 response or a redacted version of the report and response. The
8 Local Government Ethics Commission may make available to the
9 public any other summary report and response of the ultimate
10 jurisdictional authority or a redacted version of the report
11 and response.

12 (b) The Commission shall redact information in the summary
13 report that may reveal the identity of witnesses, complainants,
14 or informants or if the Commission determines it is appropriate
15 to protect the identity of a person before the report is made
16 public. The Commission may also redact any information it
17 believes should not be made public. Prior to publication, the
18 Commission shall permit the respondents, the Local Government
19 Inspector General, and Attorney General to review documents to
20 be made public and offer suggestions for redaction or provide a
21 response that shall be made public with the summary report.

22 (c) The Commission may withhold publication of the report
23 or response if the Local Government Inspector General or
24 Attorney General certifies that releasing the report to the
25 public will interfere with an ongoing investigation.

1 Section 60. Cooperation in investigations. It is the duty
2 of every officer and employee under the jurisdiction of the
3 Local Government Inspector General to cooperate with the Local
4 Government Inspector General and the Attorney General in any
5 investigation undertaken pursuant to this Act. Failure to
6 cooperate includes, but is not limited to, intentional
7 omissions and knowing false statements. Failure to cooperate
8 with an investigation of the Local Government Inspector General
9 or the Attorney General is grounds for disciplinary action,
10 including dismissal. Nothing in this Section limits or alters a
11 person's existing rights or protections under State or federal
12 law.

13 Section 65. Referrals of investigations. If the Local
14 Government Inspector General determines that any alleged
15 misconduct involves any person not subject to the jurisdiction
16 of the Local Government Ethics Commission, the Local Government
17 Inspector General shall refer the reported allegations to the
18 appropriate Inspector General, appropriate ethics commission,
19 or other appropriate body. If the Local Government Inspector
20 General determines that any alleged misconduct may give rise to
21 criminal penalties, the Local Government Inspector General may
22 refer the allegations regarding that misconduct to the
23 appropriate law enforcement authority. If a Local Government
24 Inspector General determines that any alleged misconduct
25 resulted in the loss of public funds in an amount of \$5,000 or

1 greater, the Local Government Inspector General shall refer the
2 allegations regarding that misconduct to the Attorney General
3 and any other appropriate law enforcement authority.

4 Section 70. Quarterly reports by the Attorney General. The
5 Attorney General shall submit quarterly reports to the Local
6 Government Ethics Commission, on dates determined by the Local
7 Government Ethics Commission, indicating:

8 (1) the number of complaints received from the Local
9 Government Inspector General since the date of the last
10 report;

11 (2) the number of complaints for which the Attorney
12 General has determined reasonable cause exists to believe
13 that a violation has occurred since the date of the last
14 report; and

15 (3) the number of complaints still under review by the
16 Attorney General.