



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1426

Introduced 2/13/2019, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

- 5 ILCS 430/25-5
- 5 ILCS 430/25-20
- 5 ILCS 430/25-50
- 5 ILCS 430/25-52

Amends the State Officials and Employees Ethics Act. Provides that the appointing authorities shall (rather than may) appoint both members of the General Assembly and members of the general public to the Legislative Ethics Commission. Provides that the Legislative Inspector General may issue subpoenas to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas without the advance approval of the Legislative Ethics Commission. Provides that a complaint with the Legislative Ethics Commission must be filed within 12 months after the Legislative Inspector General's initiation of an investigation (currently, 18 months after the most recent act of the alleged violation or of a series of alleged violations). Provides that the Legislative Ethics Commission shall make available to the public any summary report in which a subject of the report is a current or former member of the General Assembly, and the Legislative Inspector General found that reasonable cause exists to believe that a violation has occurred. Requires that publicly available summary reports be posted on the websites of the Legislative Ethics Commission and the Legislative Inspector General.

LRB101 07991 RJF 53048 b

1 AN ACT concerning government.

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

4 Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Sections 25-5, 25-20, 25-50, and 25-52 as
6 follows:

7 (5 ILCS 430/25-5)

8 Sec. 25-5. Legislative Ethics Commission.

9 (a) The Legislative Ethics Commission is created.

10 (b) The Legislative Ethics Commission shall consist of 8
11 commissioners appointed 2 each by the President and Minority
12 Leader of the Senate and the Speaker and Minority Leader of the
13 House of Representatives.

14 The terms of the initial commissioners shall commence upon
15 qualification. Each appointing authority shall designate one
16 appointee who shall serve for a 2-year term running through
17 June 30, 2005. Each appointing authority shall designate one
18 appointee who shall serve for a 4-year term running through
19 June 30, 2007. The initial appointments shall be made within 60
20 days after the effective date of this Act.

21 After the initial terms, commissioners shall serve for
22 4-year terms commencing on July 1 of the year of appointment
23 and running through June 30 of the fourth following year.

1 Commissioners may be reappointed to one or more subsequent
2 terms.

3 Vacancies occurring other than at the end of a term shall
4 be filled by the appointing authority only for the balance of
5 the term of the commissioner whose office is vacant.

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

8 (c) The appointing authorities shall appoint commissioners
9 who have experience holding governmental office or employment
10 and shall ~~may~~ appoint commissioners who are members of the
11 General Assembly as well as commissioners from the general
12 public. A commissioner who is a member of the General Assembly
13 must recuse himself or herself from participating in any matter
14 relating to any investigation or proceeding in which he or she
15 is the subject or is a complainant. A person is not eligible to
16 serve as a commissioner if that person (i) has been convicted
17 of a felony or a crime of dishonesty or moral turpitude, (ii)
18 is, or was within the preceding 12 months, engaged in
19 activities that require registration under the Lobbyist
20 Registration Act, (iii) is a relative of the appointing
21 authority, (iv) is a State officer or employee other than a
22 member of the General Assembly, or (v) is a candidate for
23 statewide office, federal office, or judicial office.

24 (c-5) If a commissioner is required to recuse himself or
25 herself from participating in a matter as provided in
26 subsection (c), the recusal shall create a temporary vacancy

1 for the limited purpose of consideration of the matter for
2 which the commissioner recused himself or herself, and the
3 appointing authority for the recusing commissioner shall make a
4 temporary appointment to fill the vacancy for consideration of
5 the matter for which the commissioner recused himself or
6 herself.

7 (d) The Legislative Ethics Commission shall have
8 jurisdiction over current and former members of the General
9 Assembly regarding events occurring during a member's term of
10 office and current and former State employees regarding events
11 occurring during any period of employment where the State
12 employee's ultimate jurisdictional authority is (i) a
13 legislative leader, (ii) the Senate Operations Commission, or
14 (iii) the Joint Committee on Legislative Support Services. The
15 jurisdiction of the Commission is limited to matters arising
16 under this Act.

17 An officer or executive branch State employee serving on a
18 legislative branch board or commission remains subject to the
19 jurisdiction of the Executive Ethics Commission and is not
20 subject to the jurisdiction of the Legislative Ethics
21 Commission.

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

1 terms of officers shall be for 2 years commencing July 1 and
2 running through June 30 of the second following year. Meetings
3 shall be held at the call of the chairperson or any 3
4 commissioners. Official action by the Commission shall require
5 the affirmative vote of 5 commissioners, and a quorum shall
6 consist of 5 commissioners. Commissioners shall receive no
7 compensation but may be reimbursed for their reasonable
8 expenses actually incurred in the performance of their duties.

9 (f) No commissioner, other than a commissioner who is a
10 member of the General Assembly, or employee of the Legislative
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 (f-5) No commissioner who is a member of the General
24 Assembly may be a candidate for statewide office, federal
25 office, or judicial office. If a commissioner who is a member
26 of the General Assembly files petitions to be a candidate for a

1 statewide office, federal office, or judicial office, he or she
2 shall be deemed to have resigned from his or her position as a
3 commissioner on the date his or her name is certified for the
4 ballot by the State Board of Elections or local election
5 authority and his or her position as a commissioner shall be
6 deemed vacant. Such person may not be reappointed to the
7 Commission during any time he or she is a candidate for
8 statewide office, federal office, or judicial office.

9 (g) An appointing authority may remove a commissioner only
10 for cause.

11 (h) The Legislative Ethics Commission shall appoint an
12 Executive Director subject to the approval of at least 3 of the
13 4 legislative leaders. The compensation of the Executive
14 Director shall be as determined by the Commission. The
15 Executive Director of the Legislative Ethics Commission may
16 employ, subject to the approval of at least 3 of the 4
17 legislative leaders, and determine the compensation of staff,
18 as appropriations permit.

19 (i) In consultation with the Legislative Inspector
20 General, the Legislative Ethics Commission may develop
21 comprehensive training for members and employees under its
22 jurisdiction that includes, but is not limited to, sexual
23 harassment, employment discrimination, and workplace civility.
24 The training may be recommended to the ultimate jurisdictional
25 authorities and may be approved by the Commission to satisfy
26 the sexual harassment training required under Section 5-10.5 or

1 be provided in addition to the annual sexual harassment
2 training required under Section 5-10.5. The Commission may seek
3 input from governmental agencies or private entities for
4 guidance in developing such training.

5 (Source: P.A. 100-588, eff. 6-8-18; revised 10-11-18.)

6 (5 ILCS 430/25-20)

7 Sec. 25-20. Duties of the Legislative Inspector General.
8 In addition to duties otherwise assigned by law, the
9 Legislative Inspector General shall have the following duties:

10 (1) To receive and investigate allegations of
11 violations of this Act. Except as otherwise provided in
12 paragraph (1.5), an investigation may not be initiated more
13 than one year after the most recent act of the alleged
14 violation or of a series of alleged violations except where
15 there is reasonable cause to believe that fraudulent
16 concealment has occurred. To constitute fraudulent
17 concealment sufficient to toll this limitations period,
18 there must be an affirmative act or representation
19 calculated to prevent discovery of the fact that a
20 violation has occurred. The Legislative Inspector General
21 shall have the discretion to determine the appropriate
22 means of investigation as permitted by law.

23 (1.5) Notwithstanding any provision of law to the
24 contrary, the Legislative Inspector General, whether
25 appointed by the Legislative Ethics Commission or the

1 General Assembly, may initiate an investigation based on
2 information provided to the Office of the Legislative
3 Inspector General or the Legislative Ethics Commission
4 during the period from December 1, 2014 through November 3,
5 2017. Any investigation initiated under this paragraph
6 (1.5) must be initiated within one year after the effective
7 date of this amendatory Act of the 100th General Assembly.

8 Notwithstanding any provision of law to the contrary,
9 the Legislative Inspector General, through the Attorney
10 General, shall have the authority to file a complaint
11 related to any founded violations that occurred during the
12 period December 1, 2014 through November 3, 2017 to the
13 Legislative Ethics Commission, and the Commission shall
14 have jurisdiction to conduct administrative hearings
15 related to any pleadings filed by the Legislative Inspector
16 General, provided the complaint is filed with the
17 Commission no later than 6 months after the summary report
18 is provided to the Attorney General in accordance with
19 subsection (c) of Section 25-50.

20 (2) To request information relating to an
21 investigation from any person when the Legislative
22 Inspector General deems that information necessary in
23 conducting an investigation.

24 (3) To issue subpoenas, ~~with the advance approval of~~
25 ~~the Commission,~~ to compel the attendance of witnesses for
26 the purposes of testimony and production of documents and

1 other items for inspection and copying and to make service
2 of those subpoenas and subpoenas issued under item (7) of
3 Section 25-15.

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

5 (5) To file pleadings in the name of the Legislative
6 Inspector General with the Legislative Ethics Commission,
7 through the Attorney General, as provided in this Article
8 if the Attorney General finds that reasonable cause exists
9 to believe that a violation has occurred.

10 (6) To assist and coordinate the ethics officers for
11 State agencies under the jurisdiction of the Legislative
12 Inspector General and to work with those ethics officers.

13 (7) To participate in or conduct, when appropriate,
14 multi-jurisdictional investigations.

15 (8) To request, as the Legislative Inspector General
16 deems appropriate, from ethics officers of State agencies
17 under his or her jurisdiction, reports or information on
18 (i) the content of a State agency's ethics training program
19 and (ii) the percentage of new officers and employees who
20 have completed ethics training.

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

1 (10) To post information to the Legislative Inspector
2 General's website explaining to complainants and subjects
3 of an investigation the legal limitations on the
4 Legislative Inspector General's ability to provide
5 information to them and a general overview of the
6 investigation process.

7 (Source: P.A. 100-553, eff. 11-16-17; 100-588, eff. 6-8-18.)

8 (5 ILCS 430/25-50)

9 Sec. 25-50. Investigation reports.

10 (a) If the Legislative Inspector General, upon the
11 conclusion of an investigation, determines that reasonable
12 cause exists to believe that a violation has occurred, then the
13 Legislative Inspector General shall issue a summary report of
14 the investigation. The report shall be delivered to the
15 appropriate ultimate jurisdictional authority, to the head of
16 each State agency affected by or involved in the investigation,
17 if appropriate, and the member, if any, that is the subject of
18 the report. The appropriate ultimate jurisdictional authority
19 or agency head and the member, if any, that is the subject of
20 the report shall respond to the summary report within 20 days,
21 in writing, to the Legislative Inspector General. If the
22 ultimate jurisdictional authority is the subject of the report,
23 he or she may only respond to the summary report in his or her
24 capacity as the subject of the report and shall not respond in
25 his or her capacity as the ultimate jurisdictional authority.

1 The response shall include a description of any corrective or
2 disciplinary action to be imposed. If the appropriate ultimate
3 jurisdictional authority or the member that is the subject of
4 the report does not respond within 20 days, or within an
5 extended time as agreed to by the Legislative Inspector
6 General, the Legislative Inspector General may proceed under
7 subsection (c) as if a response had been received. A member
8 receiving and responding to a report under this Section shall
9 be deemed to be acting in his or her official capacity.

10 (b) The summary report of the investigation shall include
11 the following:

12 (1) A description of any allegations or other
13 information received by the Legislative Inspector General
14 pertinent to the investigation.

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

17 (3) Recommendations for any corrective or disciplinary
18 action to be taken in response to any alleged misconduct
19 described in the report, including but not limited to
20 discharge.

21 (4) Other information the Legislative Inspector
22 General deems relevant to the investigation or resulting
23 recommendations.

24 (c) Within 30 days after receiving a response from the
25 appropriate ultimate jurisdictional authority or agency head
26 under subsection (a), the Legislative Inspector General shall

1 notify the Commission and the Attorney General if the
2 Legislative Inspector General believes that a complaint should
3 be filed with the Commission. If the Legislative Inspector
4 General desires to file a complaint with the Commission, the
5 Legislative Inspector General shall submit the summary report
6 and supporting documents to the Attorney General. If the
7 Attorney General concludes that there is insufficient evidence
8 that a violation has occurred, the Attorney General shall
9 notify the Legislative Inspector General and the Legislative
10 Inspector General shall deliver to the Legislative Ethics
11 Commission a copy of the summary report and response from the
12 ultimate jurisdictional authority or agency head. If the
13 Attorney General determines that reasonable cause exists to
14 believe that a violation has occurred, then the Legislative
15 Inspector General, represented by the Attorney General, may
16 file with the Legislative Ethics Commission a complaint. The
17 complaint shall set forth the alleged violation and the grounds
18 that exist to support the complaint. Except as provided under
19 subsection (1.5) of Section 20, the complaint must be filed
20 with the Commission within 12 months after the Legislative
21 Inspector General's initiation of an investigation ~~18 months~~
22 ~~after the most recent act of the alleged violation or of a~~
23 ~~series of alleged violations except where there is reasonable~~
24 ~~cause to believe that fraudulent concealment has occurred. To~~
25 ~~constitute fraudulent concealment sufficient to toll this~~
26 ~~limitations period, there must be an affirmative act or~~

1 ~~representation calculated to prevent discovery of the fact that~~
2 ~~a violation has occurred.~~ If a complaint is not filed with the
3 Commission within 6 months after notice by the Inspector
4 General to the Commission and the Attorney General, then the
5 Commission may set a meeting of the Commission at which the
6 Attorney General shall appear and provide a status report to
7 the Commission.

8 (c-5) Within 30 days after receiving a response from the
9 appropriate ultimate jurisdictional authority or agency head
10 under subsection (a), if the Legislative Inspector General does
11 not believe that a complaint should be filed, the Legislative
12 Inspector General shall deliver to the Legislative Ethics
13 Commission a statement setting forth the basis for the decision
14 not to file a complaint and a copy of the summary report and
15 response from the ultimate jurisdictional authority or agency
16 head. The Inspector General may also submit a redacted version
17 of the summary report and response from the ultimate
18 jurisdictional authority if the Inspector General believes
19 either contains information that, in the opinion of the
20 Inspector General, should be redacted prior to releasing the
21 report, may interfere with an ongoing investigation, or
22 identifies an informant or complainant.

23 (c-10) If, after reviewing the documents, the Commission
24 believes that further investigation is warranted, the
25 Commission may request that the Legislative Inspector General
26 provide additional information or conduct further

1 investigation. The Commission may also refer the summary report
2 and response from the ultimate jurisdictional authority to the
3 Attorney General for further investigation or review. If the
4 Commission requests the Attorney General to investigate or
5 review, the Commission must notify the Attorney General and the
6 Legislative Inspector General. The Attorney General may not
7 begin an investigation or review until receipt of notice from
8 the Commission. If, after review, the Attorney General
9 determines that reasonable cause exists to believe that a
10 violation has occurred, then the Attorney General may file a
11 complaint with the Legislative Ethics Commission. If the
12 Attorney General concludes that there is insufficient evidence
13 that a violation has occurred, the Attorney General shall
14 notify the Legislative Ethics Commission and the appropriate
15 Legislative Inspector General.

16 (d) A copy of the complaint filed with the Legislative
17 Ethics Commission must be served on all respondents named in
18 the complaint and on each respondent's ultimate jurisdictional
19 authority in the same manner as process is served under the
20 Code of Civil Procedure.

21 (e) A respondent may file objections to the complaint
22 within 30 days after notice of the petition has been served on
23 the respondent.

24 (f) The Commission shall meet, at least 30 days after the
25 complaint is served on all respondents either in person or by
26 telephone, in a closed session to review the sufficiency of the

1 complaint. The Commission shall issue notice by certified mail,
2 return receipt requested, to the Legislative Inspector
3 General, the Attorney General, and all respondents of the
4 Commission's ruling on the sufficiency of the complaint. If the
5 complaint is deemed to sufficiently allege a violation of this
6 Act, then the Commission shall include a hearing date scheduled
7 within 4 weeks after the date of the notice, unless all of the
8 parties consent to a later date. If the complaint is deemed not
9 to sufficiently allege a violation, then the Commission shall
10 send by certified mail, return receipt requested, a notice to
11 the Legislative Inspector General, the Attorney General, and
12 all respondents the decision to dismiss the complaint.

13 (g) On the scheduled date the Commission shall conduct a
14 closed meeting, either in person or, if the parties consent, by
15 telephone, on the complaint and allow all parties the
16 opportunity to present testimony and evidence. All such
17 proceedings shall be transcribed.

18 (h) Within an appropriate time limit set by rules of the
19 Legislative Ethics Commission, the Commission shall (i)
20 dismiss the complaint, (ii) issue a recommendation of
21 discipline to the respondent and the respondent's ultimate
22 jurisdictional authority, (iii) impose an administrative fine
23 upon the respondent, (iv) issue injunctive relief as described
24 in Section 50-10, or (v) impose a combination of (ii) through
25 (iv).

26 (i) The proceedings on any complaint filed with the

1 Commission shall be conducted pursuant to rules promulgated by
2 the Commission.

3 (j) The Commission may designate hearing officers to
4 conduct proceedings as determined by rule of the Commission.

5 (k) In all proceedings before the Commission, the standard
6 of proof is by a preponderance of the evidence.

7 (l) Within 30 days after the issuance of a final
8 administrative decision that concludes that a violation
9 occurred, the Legislative Ethics Commission shall make public
10 the entire record of proceedings before the Commission, the
11 decision, any recommendation, any discipline imposed, and the
12 response from the agency head or ultimate jurisdictional
13 authority to the Legislative Ethics Commission.

14 (Source: P.A. 100-588, eff. 6-8-18.)

15 (5 ILCS 430/25-52)

16 Sec. 25-52. Release of summary reports.

17 (a) Within 60 days after receipt of a summary report and
18 response from the ultimate jurisdictional authority or agency
19 head that resulted in a suspension of at least 3 days or
20 termination of employment, the Legislative Ethics Commission
21 shall make available to the public the report and response or a
22 redacted version of the report and response. The Legislative
23 Ethics Commission shall also make available to the public any
24 summary report in which a subject of the report is a current or
25 former member of the General Assembly, and the Legislative

1 Inspector General found that reasonable cause exists to believe
2 that a violation has occurred. The Legislative Ethics
3 Commission may make available to the public any other summary
4 report and response of the ultimate jurisdictional authority or
5 agency head or a redacted version of the report and response.
6 Publicly available summary reports shall be posted on the
7 websites of the Legislative Ethics Commission and the
8 Legislative Inspector General.

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

20 (c) The Legislative Ethics Commission may withhold
21 publication of the report or response if the Legislative
22 Inspector General or Attorney General certifies that
23 publication will interfere with an ongoing investigation.

24 (Source: P.A. 96-555, eff. 8-18-09.)