



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3389

Introduced 2/16/2018, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

- 5 ILCS 430/25-15
- 5 ILCS 430/25-20
- 5 ILCS 430/25-50

Amends the State Officials and Employees Ethics Act. Provides that the Legislative Ethics Commission shall adopt (rather than promulgate) rules under the Administrative Procedure Act governing (rather than rules governing) the performance of its duties and the exercise of its powers and governing the investigations of the Legislative Inspector General. Provides that the Commission shall adopt no rule requiring the Legislative Inspector General to seek the Commission's advance approval before commencing any investigation or issuing a subpoena. Provides that any existing rule, as of the effective date of the amendatory Act, requiring the Legislative Inspector General to seek the Commission's advance approval before commencing any investigation or issuing a subpoena is void. Removes language providing that the Legislative Inspector General needs the advance approval of the Commission to issue subpoenas. Provides that the Legislative Inspector General may publish a summary report for an investigation upon issuance of a final administrative decision that concludes that a violation occurred unless a supermajority of the Commission votes to suppress the report. Effective immediately.

LRB100 18780 MJP 34016 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 25-15, 25-20, and 25-50 as
6 follows:

7 (5 ILCS 430/25-15)

8 Sec. 25-15. Duties of the Legislative Ethics Commission.
9 In addition to duties otherwise assigned by law, the
10 Legislative Ethics Commission shall have the following duties:

11 (1) To adopt ~~promulgate~~ rules under the Illinois
12 Administrative Act governing the performance of its duties
13 and the exercise of its powers and governing the
14 investigations of the Legislative Inspector General;
15 except that, the Legislative Ethics Commission shall adopt
16 no rule requiring the Legislative Inspector General to seek
17 the Commission's advance approval before commencing any
18 investigation authorized under this Article or issuing a
19 subpoena under this Article. Any existing rule, as of the
20 effective date of this amendatory Act of the 100th General
21 Assembly, requiring the Legislative Inspector General to
22 seek the Commission's advance approval before commencing
23 any investigation or issuing a subpoena is void.

1 (2) To conduct administrative hearings and rule on
2 matters brought before the Commission only upon the receipt
3 of pleadings filed by the Legislative Inspector General and
4 not upon its own prerogative, but may appoint special
5 Legislative Inspectors General as provided in Section
6 25-21. Any other allegations of misconduct received by the
7 Commission from a person other than the Legislative
8 Inspector General shall be referred to the Office of the
9 Legislative Inspector General.

10 (3) To prepare and publish manuals and guides and,
11 working with the Office of the Attorney General, oversee
12 training of employees under its jurisdiction that explains
13 their duties.

14 (4) To prepare public information materials to
15 facilitate compliance, implementation, and enforcement of
16 this Act.

17 (5) To submit reports as required by this Act.

18 (6) To the extent authorized by this Act, to make
19 rulings, issue recommendations, and impose administrative
20 fines, if appropriate, in connection with the
21 implementation and interpretation of this Act. The powers
22 and duties of the Commission are limited to matters clearly
23 within the purview of this Act.

24 (7) To issue subpoenas with respect to matters pending
25 before the Commission, subject to the provisions of this
26 Article and in the discretion of the Commission, to compel

1 the attendance of witnesses for purposes of testimony and
2 the production of documents and other items for inspection
3 and copying.

4 (8) To appoint special Legislative Inspectors General
5 as provided in Section 25-21.

6 (9) To conspicuously display on the Commission's
7 website the procedures for reporting a violation of this
8 Act, including how to report violations via email or
9 online.

10 (Source: P.A. 100-554, eff. 11-16-17.)

11 (5 ILCS 430/25-20)

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

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

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

3 (1.5) Notwithstanding any provision of law to the
4 contrary, the Legislative Inspector General, whether
5 appointed by the Legislative Ethics Commission or the
6 General Assembly, may initiate an investigation based on
7 information provided to the Office of the Legislative
8 Inspector General or the Legislative Ethics Commission
9 during the period from December 1, 2014 through November 3,
10 2017. Any investigation initiated under this paragraph
11 (1.5) must be initiated within one year after the effective
12 date of this amendatory Act of the 100th General Assembly.

13 (2) To request information relating to an
14 investigation from any person when the Legislative
15 Inspector General deems that information necessary in
16 conducting an investigation.

17 (3) To issue subpoenas, ~~with the advance approval of~~
18 ~~the Commission,~~ to compel the attendance of witnesses for
19 the purposes of testimony and production of documents and
20 other items for inspection and copying and to make service
21 of those subpoenas and subpoenas issued under item (7) of
22 Section 25-15.

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

24 (5) To file pleadings in the name of the Legislative
25 Inspector General with the Legislative Ethics Commission,
26 through the Attorney General, as provided in this Article

1 if the Attorney General finds that reasonable cause exists
2 to believe that a violation has occurred.

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

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

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

14 (9) To establish a policy that ensures the appropriate
15 handling and correct recording of all investigations of
16 allegations and to ensure that the policy is accessible via
17 the Internet in order that those seeking to report those
18 allegations are familiar with the process and that the
19 subjects of those allegations are treated fairly.

20 (Source: P.A. 100-553, eff. 11-16-17.)

21 (5 ILCS 430/25-50)

22 Sec. 25-50. Investigation reports.

23 (a) If the Legislative Inspector General, upon the
24 conclusion of an investigation, determines that reasonable
25 cause exists to believe that a violation has occurred, then the

1 Legislative Inspector General shall issue a summary report of
2 the investigation. The report shall be delivered to the
3 appropriate ultimate jurisdictional authority and to the head
4 of each State agency affected by or involved in the
5 investigation, if appropriate. The appropriate ultimate
6 jurisdictional authority or agency head shall respond to the
7 summary report within 20 days, in writing, to the Legislative
8 Inspector General. The response shall include a description of
9 any corrective or disciplinary action to be imposed. The
10 Legislative Inspector General may publish a summary report
11 issued under this subsection upon issuance of a final
12 administrative decision that concludes that a violation
13 occurred unless a supermajority of the Commission votes to
14 suppress the report.

15 (b) The summary report of the investigation shall include
16 the following:

17 (1) A description of any allegations or other
18 information received by the Legislative Inspector General
19 pertinent to the investigation.

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

22 (3) Recommendations for any corrective or disciplinary
23 action to be taken in response to any alleged misconduct
24 described in the report, including but not limited to
25 discharge.

26 (4) Other information the Legislative Inspector

1 General deems relevant to the investigation or resulting
2 recommendations.

3 (c) Within 30 days after receiving a response from the
4 appropriate ultimate jurisdictional authority or agency head
5 under subsection (a), the Legislative Inspector General shall
6 notify the Commission and the Attorney General if the
7 Legislative Inspector General believes that a complaint should
8 be filed with the Commission. If the Legislative Inspector
9 General desires to file a complaint with the Commission, the
10 Legislative Inspector General shall submit the summary report
11 and supporting documents to the Attorney General. 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 Inspector General and the Legislative
15 Inspector General shall deliver to the Legislative Ethics
16 Commission a copy of the summary report and response from the
17 ultimate jurisdictional authority or agency head. If the
18 Attorney General determines that reasonable cause exists to
19 believe that a violation has occurred, then the Legislative
20 Inspector General, represented by the Attorney General, may
21 file with the Legislative Ethics Commission a complaint. The
22 complaint shall set forth the alleged violation and the grounds
23 that exist to support the complaint. The complaint must be
24 filed with the Commission within 18 months after the most
25 recent act of the alleged violation or of a series of alleged
26 violations except where there is reasonable cause to believe

1 that fraudulent concealment has occurred. To constitute
2 fraudulent concealment sufficient to toll this limitations
3 period, there must be an affirmative act or representation
4 calculated to prevent discovery of the fact that a violation
5 has occurred. If a complaint is not filed with the Commission
6 within 6 months after notice by the Inspector General to the
7 Commission and the Attorney General, then the Commission may
8 set a meeting of the Commission at which the Attorney General
9 shall appear and provide a status report to the Commission.

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

25 (c-10) If, after reviewing the documents, the Commission
26 believes that further investigation is warranted, the

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

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

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

26 (f) The Commission shall meet, at least 30 days after the

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

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

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

1 (iv).

2 (i) The proceedings on any complaint filed with the
3 Commission shall be conducted pursuant to rules promulgated by
4 the Commission.

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

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

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

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.