



State Government Administration Committee

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1 AMENDMENT TO SENATE BILL 157

2 AMENDMENT NO. _____. Amend Senate Bill 157 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Sections 5-10, 20-50, 20-90, 20-95, and
6 50-5 as follows:

7 (5 ILCS 430/5-10)

8 Sec. 5-10. Ethics training.

9 (a) Each officer, member, and employee must complete, at
10 least annually beginning in 2004, an ethics training program
11 conducted by the appropriate State agency. Each ultimate
12 jurisdictional authority must implement an ethics training
13 program for its officers, members, and employees.

14 (b) Each ultimate jurisdictional authority subject to the
15 Executive Ethics Commission shall submit to the Executive
16 Ethics Commission, at least annually, or more frequently as

1 required by that Commission, an annual report that (1)
2 summarizes ethics training that was completed during the
3 previous year, and (2) lays out the plan for the ethics
4 training programs in the coming year.

5 (c) These ethics training programs shall be overseen by the
6 appropriate Ethics Commission and Inspector General appointed
7 pursuant to this Act in consultation with the Office of the
8 Attorney General.

9 (d) Each Inspector General, or the Executive Ethics
10 Commission with respect to the ethics training of persons
11 subject to the Executive Ethics Commission, shall set standards
12 and determine the hours and frequency of training necessary for
13 each position or category of positions. A person who fills a
14 vacancy in an elective or appointed position that requires
15 training and a person employed in a position that requires
16 training must complete his or her initial ethics training
17 within 6 months after commencement of his or her office or
18 employment.

19 (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

20 (5 ILCS 430/20-50)

21 Sec. 20-50. Investigation reports; complaint procedure.

22 (a) Until 3 years after the effective date of this
23 amendatory Act of the 95th General Assembly, within 10 days
24 after an Executive Inspector General begins an investigation,
25 the Executive Inspector General shall provide the Executive

1 Ethics Commission with (1) a summary of allegations and alleged
2 violations, the reason for opening the investigation, and the
3 unique tracking number assigned to the investigation and (2)
4 any additional information requested by the Executive Ethics
5 Commission. At any time, if ~~if~~ an Executive Inspector General,
6 upon the conclusion of an investigation, determines that
7 reasonable cause exists to believe that a violation has
8 occurred, then the Executive Inspector General shall issue a
9 summary report of the investigation. The report shall be
10 delivered to the appropriate ultimate jurisdictional authority
11 and to the head of each State agency affected by or involved in
12 the investigation, if appropriate.

13 (a-5) Not more than 60 days after delivering a summary
14 report to the appropriate ultimate jurisdictional authority
15 and to the head of each State agency, the Executive Inspector
16 General shall deliver the summary report to the Executive
17 Ethics Commission. The Executive Inspector General shall also
18 provide the Executive Ethics Commission with a report detailing
19 the discipline related to the summary report, if any, that the
20 ultimate jurisdictional authority or head of the State agency
21 has imposed or intends to impose. The Executive Inspector
22 General shall provide any additional information requested by
23 the Executive Ethics Commission. In the event the Executive
24 Inspector General seeks to file a petition for leave to file a
25 complaint with the Executive Ethics Commission pursuant to
26 subsection (c), the Executive Inspector General shall not

1 deliver the summary report to the Executive Ethics Commission
2 and instead shall notify the Commission and the Attorney
3 General. If the Attorney General does not file a petition for
4 leave to file a complaint with the Executive Ethics Commission
5 within the time permitted by statute, the Executive Inspector
6 General must deliver a summary report to the Executive Ethics
7 Commission within 30 days.

8 Any report delivered to the Executive Ethics Commission
9 under this subsection shall not contain the name and office or
10 position title of any individual person. This subsection
11 applies only until 3 years after the effective date of this
12 amendatory Act of the 95th General Assembly.

13 (b) The summary report of the investigation shall include
14 the following:

15 (1) A description of any allegations or other
16 information received by the Executive Inspector General
17 pertinent to the investigation.

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

20 (2.5) Until 3 years after the effective date of this
21 amendatory Act of the 95th General Assembly, a specific
22 recommendation for any corrective or disciplinary action
23 to be taken in response to any alleged misconduct described
24 in the report, including but not limited to suspension or
25 discharge.

26 (3) Prior to and then beginning again 3 years after the

1 effective date of this amendatory Act of the 95th General
2 Assembly, recommendations ~~Recommendations~~ for any
3 corrective or disciplinary action to be taken in response
4 to any alleged misconduct described in the report,
5 including but not limited to discharge.

6 (4) Other information the Executive Inspector General
7 deems relevant to the investigation or resulting
8 recommendations.

9 (c) Not less than 30 days after delivery of the summary
10 report of an investigation under subsection (a) to the
11 appropriate ultimate jurisdictional authority and to the head
12 of each State agency affected by or involved in the
13 investigation, if the Executive Inspector General desires to
14 file a petition for leave to file a complaint, the Executive
15 Inspector General shall notify the Commission and the Attorney
16 General. If the Attorney General determines that reasonable
17 cause exists to believe that a violation has occurred, then the
18 Executive Inspector General, represented by the Attorney
19 General, may file with the Executive Ethics Commission a
20 petition for leave to file a complaint. The petition shall set
21 forth the alleged violation and the grounds that exist to
22 support the petition. The petition for leave to file a
23 complaint must be filed with the Commission within 18 months
24 after the most recent act of the alleged violation or of a
25 series of alleged violations except where there is reasonable
26 cause to believe that fraudulent concealment has occurred. To

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

10 (d) A copy of the petition must be served on all
11 respondents named in the complaint and on each respondent's
12 ultimate jurisdictional authority in the same manner as process
13 is served under the Code of Civil Procedure.

14 (e) A respondent may file objections to the petition for
15 leave to file a complaint within 30 days after notice of the
16 petition has been served on the respondent.

17 (f) The Commission shall meet, either in person or by
18 telephone, in a closed session to review the sufficiency of the
19 complaint. If the Commission finds that complaint is
20 sufficient, the Commission shall grant the petition for leave
21 to file the complaint. The Commission shall issue notice to the
22 Executive Inspector General and all respondents of the
23 Commission's ruling on the sufficiency of the complaint. If the
24 complaint is deemed to sufficiently allege a violation of this
25 Act, then the Commission shall notify the parties and shall
26 include a hearing date scheduled within 4 weeks after the date

1 of the notice, unless all of the parties consent to a later
2 date. If the complaint is deemed not to sufficiently allege a
3 violation, then the Commission shall send by certified mail,
4 return receipt requested, a notice to the parties of the
5 decision to dismiss the complaint.

6 (g) On the scheduled date the Commission shall conduct a
7 closed meeting, either in person or, if the parties consent, by
8 telephone, on the complaint and allow all parties the
9 opportunity to present testimony and evidence. All such
10 proceedings shall be transcribed.

11 (h) Within an appropriate time limit set by rules of the
12 Executive Ethics Commission, the Commission shall (i) dismiss
13 the complaint or (ii) issue a recommendation of discipline to
14 the respondent and the respondent's ultimate jurisdictional
15 authority or impose an administrative fine upon the respondent,
16 or both.

17 (i) The proceedings on any complaint filed with the
18 Commission shall be conducted pursuant to rules promulgated by
19 the Commission.

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

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

24 (l) When the Inspector General concludes that there is
25 insufficient evidence that a violation has occurred, the
26 Inspector General shall close the investigation. At the request

1 of the subject of the investigation, the Inspector General
2 shall provide a written statement to the subject of the
3 investigation and to the Commission of the Inspector General's
4 decision to close the investigation. Closure by the Inspector
5 General does not bar the Inspector General from resuming the
6 investigation if circumstances warrant.

7 (Source: P.A. 93-617, eff. 12-9-03.)

8 (5 ILCS 430/20-90)

9 Sec. 20-90. Confidentiality.

10 (a) The identity of any individual providing information or
11 reporting any possible or alleged misconduct to an Executive
12 Inspector General or the Executive Ethics Commission shall be
13 kept confidential and may not be disclosed without the consent
14 of that individual, unless the individual consents to
15 disclosure of his or her name or disclosure of the individual's
16 identity is otherwise required by law. The confidentiality
17 granted by this subsection does not preclude the disclosure of
18 the identity of a person in any capacity other than as the
19 source of an allegation.

20 (a-5) Each summary provided to the Executive Ethics
21 Commission by an Executive Inspector General within 10 days
22 after beginning an investigation, as required by subsection (a)
23 of Section 20-50, and each report provided to the Executive
24 Ethics Commission by an Executive Inspector General under
25 subsection (a-5) of Section 20-50 shall be kept confidential

1 and may not be disclosed.

2 (b) Subject to the provisions of Section 20-50(c),
3 commissioners, employees, and agents of the Executive Ethics
4 Commission, the Executive Inspectors General, and employees
5 and agents of each Office of an Executive Inspector General
6 shall keep confidential and shall not disclose information
7 exempted from disclosure under the Freedom of Information Act
8 or by this Act.

9 (Source: P.A. 93-617, eff. 12-9-03.)

10 (5 ILCS 430/20-95)

11 Sec. 20-95. Exemptions.

12 (a) Documents generated by an ethics officer under this
13 Act, except Section 5-50, are exempt from the provisions of the
14 Freedom of Information Act.

15 (a-5) Summaries provided to the Executive Ethics
16 Commission by an Executive Inspector General within 10 days
17 after beginning an investigation, as required by subsection (a)
18 of Section 20-50, and reports provided to the Executive Ethics
19 Commission by an Executive Inspector General under subsection
20 (a-5) of Section 20-50 are exempt from the provisions of the
21 Freedom of Information Act.

22 (b) Any allegations and related documents submitted to an
23 Executive Inspector General and any pleadings and related
24 documents brought before the Executive Ethics Commission are
25 exempt from the provisions of the Freedom of Information Act so

1 long as the Executive Ethics Commission does not make a finding
2 of a violation of this Act. If the Executive Ethics Commission
3 finds that a violation has occurred, the entire record of
4 proceedings before the Commission, the decision and
5 recommendation, and the mandatory report from the agency head
6 or ultimate jurisdictional authority to the Executive Ethics
7 Commission are not exempt from the provisions of the Freedom of
8 Information Act but information contained therein that is
9 otherwise exempt from the Freedom of Information Act must be
10 redacted before disclosure as provided in Section 8 of the
11 Freedom of Information Act.

12 (c) Meetings of the Commission under Sections 20-5 and
13 20-15 of this Act are exempt from the provisions of the Open
14 Meetings Act.

15 (d) Unless otherwise provided in this Act, all
16 investigatory files and reports of the Office of an Executive
17 Inspector General, other than quarterly reports, are
18 confidential, are exempt from disclosure under the Freedom of
19 Information Act, and shall not be divulged to any person or
20 agency, except as necessary (i) to the appropriate law
21 enforcement authority if the matter is referred pursuant to
22 this Act, (ii) to the ultimate jurisdictional authority, (iii)
23 to the Executive Ethics Commission; or (iv) to another
24 Inspector General appointed pursuant to this Act.

25 (Source: P.A. 93-617, eff. 12-9-03.)

1 (5 ILCS 430/50-5)

2 Sec. 50-5. Penalties.

3 (a) A person is guilty of a Class A misdemeanor if that
4 person intentionally violates (i) subsection (a-5) of Section
5 20-90 or (ii) any provision of Section 5-15, 5-30, 5-40, or
6 5-45 or Article 15.

7 (b) A person who intentionally violates any provision of
8 Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business
9 offense subject to a fine of at least \$1,001 and up to \$5,000.

10 (c) A person who intentionally violates any provision of
11 Article 10 is guilty of a business offense and subject to a
12 fine of at least \$1,001 and up to \$5,000.

13 (d) Any person who intentionally makes a false report
14 alleging a violation of any provision of this Act to an ethics
15 commission, an inspector general, the State Police, a State's
16 Attorney, the Attorney General, or any other law enforcement
17 official is guilty of a Class A misdemeanor.

18 (e) An ethics commission may levy an administrative fine of
19 up to \$5,000 against any person who violates this Act, who
20 intentionally obstructs or interferes with an investigation
21 conducted under this Act by an inspector general, or who
22 intentionally makes a false, frivolous, or bad faith
23 allegation.

24 (f) In addition to any other penalty that may apply,
25 whether criminal or civil, a State employee who intentionally
26 violates any provision of Section 5-15, 5-20, 5-30, 5-35, 5-40,

1 or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is
2 subject to discipline or discharge by the appropriate ultimate
3 jurisdictional authority.

4 (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)".