



Sen. Susan Garrett

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LRB095 07535 JAM 33428 a

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 Section 20-50 as follows:

6 (5 ILCS 430/20-50)

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

8 (a) If an Executive Inspector General, upon the conclusion
9 of an investigation, determines that reasonable cause exists to
10 believe that a violation has occurred, then the Executive
11 Inspector General shall issue a summary report of the
12 investigation. The report shall be delivered to the appropriate
13 ultimate jurisdictional authority and to the head of each State
14 agency affected by or involved in the investigation, if
15 appropriate. In the event that the findings relate to a
16 violation of this Act, then the Executive Inspector General

1 shall also deliver to the Executive Ethics Commission a
2 redacted version of the summary report of the investigation,
3 with all confidential information removed. If, however, the
4 Executive Inspector General intends to file a petition for
5 leave to file a complaint before the Executive Ethics
6 Commission, then the Executive Inspector General shall inform
7 the Commission of that intention and no summary report shall be
8 delivered to the Commission unless and until a decision is made
9 not to file a petition. If the Commission does receive a
10 redacted report from the Executive Inspector General, then,
11 within 5 days after receiving it, the Commission shall provide
12 each State employee who is the subject of a finding of a
13 violation of this Act with the redacted report and allow that
14 State employee 30 days in which to provide in writing any
15 reason why the redacted report should not be released to the
16 public. Within the same period, the Executive Inspector General
17 who issued the report may also provide in writing a
18 recommendation to the Commission about whether or not the
19 redacted report should be released to the public. Within 21
20 days after the expiration of the 30-day period for response by
21 the State employee and Executive Inspector General, the
22 Commission shall either: (1) make a written finding that
23 release of the redacted report is fair and in the public
24 interest and release the report; or (2) make a written finding
25 that release of the report is not fair, or not in the public
26 interest, and return the redacted report to the Executive

1 Inspector General. The Commission, with the consent of the
2 Executive Inspector General, also may require further
3 redactions prior to the release of the report, if those
4 redactions relate to further protections of the identity of the
5 employees at issue; or the Commission may delay its finding
6 pending the conclusion of related judicial or administrative
7 proceedings. Once the Commission releases a report to the
8 public, the Executive Inspector General may comment publicly on
9 the report and related investigation.

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 Executive 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 Executive Inspector General
22 deems relevant to the investigation or resulting
23 recommendations.

24 (c) Not less than 30 days after delivery of the summary
25 report of an investigation under subsection (a), if the
26 Executive Inspector General desires to file a petition for

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

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

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

4 (f) The Commission shall meet, either in person or by
5 telephone, in a closed session to review the sufficiency of the
6 complaint. If the Commission finds that complaint is
7 sufficient, the Commission shall grant the petition for leave
8 to file the complaint. The Commission shall issue notice to the
9 Executive Inspector General and all respondents of the
10 Commission's ruling on the sufficiency of the complaint. If the
11 complaint is deemed to sufficiently allege a violation of this
12 Act, then the Commission shall notify the parties and shall
13 include a hearing date scheduled within 4 weeks after the date
14 of the notice, unless all of the parties consent to a later
15 date. If the complaint is deemed not to sufficiently allege a
16 violation, then the Commission shall send by certified mail,
17 return receipt requested, a notice to the parties of the
18 decision to dismiss the complaint.

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

24 (h) Within an appropriate time limit set by rules of the
25 Executive Ethics Commission, the Commission shall (i) dismiss
26 the complaint or (ii) issue a recommendation of discipline to

1 the respondent and the respondent's ultimate jurisdictional
2 authority or impose an administrative fine upon the respondent,
3 or both.

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

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

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

11 (l) When the Inspector General concludes that there is
12 insufficient evidence that a violation has occurred, the
13 Inspector General shall close the investigation. At the request
14 of the subject of the investigation, the Inspector General
15 shall provide a written statement to the subject of the
16 investigation and to the Commission of the Inspector General's
17 decision to close the investigation. Closure by the Inspector
18 General does not bar the Inspector General from resuming the
19 investigation if circumstances warrant.

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