



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB5461**

Introduced 2/5/2010, by Rep. Elizabeth Coulson

#### SYNOPSIS AS INTRODUCED:

5 ILCS 430/5-10  
5 ILCS 430/20-50  
5 ILCS 430/20-90  
5 ILCS 430/20-95  
5 ILCS 430/50-5

Amends the State Officials and Employees Ethics Act. Makes changes with respect to (i) executive branch ethics training and (ii) investigations and reports by Executive Inspectors General.

LRB096 17431 JAM 32787 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 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. These ethics  
14 training programs shall be overseen by the appropriate Ethics  
15 Commission and Inspector General appointed pursuant to this Act  
16 in consultation with the Office of the Attorney General.

17 (b) Each ultimate jurisdictional authority subject to the  
18 Executive Ethics Commission shall submit to the Executive  
19 Ethics Commission, at least annually, or more frequently as  
20 required by that Commission, an annual report that summarizes  
21 ethics training that was completed during the previous year,  
22 and lays out the plan for the ethics training programs in the  
23 coming year.

1           (c) Each Inspector General, or the Executive Ethics  
2 Commission with respect to the ethics training of persons  
3 subject to the Executive Ethics Commission, shall set standards  
4 and determine the hours and frequency of training necessary for  
5 each position or category of positions. A person who fills a  
6 vacancy in an elective or appointed position that requires  
7 training and a person employed in a position that requires  
8 training must complete his or her initial ethics training  
9 within 30 days after commencement of his or her office or  
10 employment.

11           (d) Upon completion of the ethics training program, each  
12 officer, member, and employee must certify in writing that the  
13 person has completed the training program. Each officer,  
14 member, and employee must provide to his or her ethics officer  
15 a signed copy of the certification by the deadline for  
16 completion of the ethics training program.

17           (e) The ethics training provided under this Act by the  
18 Secretary of State may be expanded to satisfy the requirement  
19 of Section 4.5 of the Lobbyist Registration Act.

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

21           (5 ILCS 430/20-50)

22           Sec. 20-50. Investigation reports.

23           (a) With respect to complaints received by an Executive  
24 Inspector General prior to July 1, 2012, within 10 days after  
25 an Executive Inspector General begins an investigation, the

1 Executive Inspector General shall provide the Executive Ethics  
2 Commission with (1) a summary of allegations and alleged  
3 violations, the reason for opening the investigation, and the  
4 unique tracking number assigned to the investigation and (2)  
5 any additional information requested by the Executive Ethics  
6 Commission. At any time, if ~~if~~ an Executive Inspector General,  
7 upon the conclusion of an investigation, determines that  
8 reasonable cause exists to believe that a violation has  
9 occurred, then the Executive Inspector General shall issue a  
10 summary report of the investigation. The report shall be  
11 delivered to the appropriate ultimate jurisdictional authority  
12 and to the head of each State agency affected by or involved in  
13 the investigation, if appropriate. The appropriate ultimate  
14 jurisdictional authority or agency head shall respond to the  
15 summary report within 20 days, in writing, to the Executive  
16 Inspector General. The response shall include a description of  
17 any corrective or disciplinary action to be imposed.

18 (a-5) With respect to complaints received by an Executive  
19 Inspector General prior to July 1, 2012, not more than 60 days  
20 after delivering a summary report to the appropriate ultimate  
21 jurisdictional authority and to the head of each State agency,  
22 the Executive Inspector General shall deliver the summary  
23 report to the Executive Ethics Commission. The Executive  
24 Inspector General shall also provide the Executive Ethics  
25 Commission with a report detailing the discipline related to  
26 the summary report, if any, that the ultimate jurisdictional

1 authority or head of the State agency has imposed or intends to  
2 impose. The Executive Inspector General shall provide any  
3 additional information requested by the Executive Ethics  
4 Commission. In the event the Executive Inspector General seeks  
5 to file a petition for leave to file a complaint with the  
6 Executive Ethics Commission pursuant to subsection (c), the  
7 Executive Inspector General shall not deliver the summary  
8 report to the Executive Ethics Commission and instead shall  
9 notify the Commission and the Attorney General. If the Attorney  
10 General does not file a petition for leave to file a complaint  
11 with the Executive Ethics Commission within the time permitted  
12 by statute, the Executive Inspector General must deliver a  
13 summary report to the Executive Ethics Commission within 30  
14 days.

15 Any report delivered to the Executive Ethics Commission  
16 under this subsection shall not contain the name, office, or  
17 position title of any individual person.

18 (b) The summary report of the investigation shall include  
19 the following:

20 (1) A description of any allegations or other  
21 information received by the Executive Inspector General  
22 pertinent to the investigation.

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

25 (2.5) With respect to complaints received by an  
26 Executive Inspector General prior to July 1, 2012, a

1 specific recommendation for any corrective or disciplinary  
2 action to be taken in response to any alleged misconduct  
3 described in the report, including but not limited to  
4 suspension or discharge.

5 (3) With respect to complaints received by an Executive  
6 Inspector General on or after July 1, 2012, recommendations  
7 ~~Recommendations~~ for any corrective or disciplinary action  
8 to be taken in response to any alleged misconduct described  
9 in the report, including but not limited to discharge.

10 (4) Other information the Executive Inspector General  
11 deems relevant to the investigation or resulting  
12 recommendations.

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

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

20 (c-5) Within 30 days after receiving a response from the  
21 appropriate ultimate jurisdictional authority or agency head  
22 under subsection (a), if the Executive Inspector General does  
23 not believe that a complaint should be filed, the Executive  
24 Inspector General shall deliver to the Executive Ethics  
25 Commission a statement setting forth the basis for the decision  
26 not to file a complaint and a copy of the summary report and

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

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



1 Ethics Commission and the appropriate Executive Inspector  
2 General.

3 (d) A copy of the complaint filed with the Executive Ethics  
4 Commission must be served on all respondents named in the  
5 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 (e) 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 (f) 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 Executive  
16 Inspector General, Attorney General, and all respondents of the  
17 Commission's ruling on the sufficiency of the complaint. If the  
18 complaint is deemed to sufficiently allege a violation of this  
19 Act, then the Commission shall include a hearing date scheduled  
20 within 4 weeks after the date of the notice, unless all of the  
21 parties consent to a later date. If the complaint is deemed not  
22 to sufficiently allege a violation, then the Commission shall  
23 send by certified mail, return receipt requested, a notice to  
24 the Executive Inspector General, Attorney General, and all  
25 respondents of the decision to dismiss the complaint.

26 (g) On the scheduled date the Commission shall conduct a

1 closed meeting, either in person or, if the parties consent, by  
2 telephone, on the complaint and allow all parties the  
3 opportunity to present testimony and evidence. All such  
4 proceedings shall be transcribed.

5 (h) Within an appropriate time limit set by rules of the  
6 Executive Ethics Commission, the Commission shall (i) dismiss  
7 the complaint, (ii) issue a recommendation of discipline to the  
8 respondent and the respondent's ultimate jurisdictional  
9 authority, (iii) impose an administrative fine upon the  
10 respondent, (iv) issue injunctive relief as described in  
11 Section 50-10, or (v) impose a combination of (ii) through  
12 (iv).

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

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

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

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

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

2 (5 ILCS 430/20-90)

3 Sec. 20-90. Confidentiality.

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

14 (a-5) Each summary provided to the Executive Ethics  
15 Commission by an Executive Inspector General within 10 days  
16 after beginning an investigation, as required by subsection (a)  
17 of Section 20-50, and each report provided to the Executive  
18 Ethics Commission by an Executive Inspector General under  
19 subsection (a-5) of Section 20-50 shall be kept confidential  
20 and may not be disclosed.

21 (b) Subject to the provisions of Section 20-52,  
22 commissioners, employees, and agents of the Executive Ethics  
23 Commission, the Executive Inspectors General, and employees  
24 and agents of each Office of an Executive Inspector General,  
25 the Attorney General, and the employees and agents of the

1 office of the Attorney General shall keep confidential and  
2 shall not disclose information exempted from disclosure under  
3 the Freedom of Information Act or by this Act.

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

5 (5 ILCS 430/20-95)

6 Sec. 20-95. Exemptions.

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

10 (b) Any allegations and related documents submitted to an  
11 Executive Inspector General and any pleadings and related  
12 documents brought before the Executive Ethics Commission are  
13 exempt from the provisions of the Freedom of Information Act so  
14 long as the Executive Ethics Commission does not make a finding  
15 of a violation of this Act. If the Executive Ethics Commission  
16 finds that a violation has occurred, the entire record of  
17 proceedings before the Commission, the decision and  
18 recommendation, and the response from the agency head or  
19 ultimate jurisdictional authority to the Executive Ethics  
20 Commission are not exempt from the provisions of the Freedom of  
21 Information Act but information contained therein that is  
22 otherwise exempt from the Freedom of Information Act must be  
23 redacted before disclosure as provided in the Freedom of  
24 Information Act. A summary report released by the Executive  
25 Ethics Commission under Section 20-52 is a public record, but

1 information redacted by the Executive Ethics Commission shall  
2 not be part of the public record.

3 (c) Meetings of the Commission are exempt from the  
4 provisions of the Open Meetings Act.

5 (d) Unless otherwise provided in this Act, all  
6 investigatory files ~~and reports~~ of the Office of an Executive  
7 Inspector General, ~~other than monthly reports required under~~  
8 ~~Section 20-85,~~ are confidential, are exempt from disclosure  
9 under the Freedom of Information Act, and shall not be divulged  
10 to any person or agency, except as necessary (i) to a law  
11 enforcement authority, (ii) to the ultimate jurisdictional  
12 authority, (iii) to the Executive Ethics Commission; or (iv) to  
13 another Inspector General appointed pursuant to this Act.  
14 Investigatory reports, including summary reports of  
15 investigations, and monthly reports of the Office of an  
16 Executive Inspector General are not exempt from the provisions  
17 of the Freedom of Information Act, but information contained  
18 therein that is otherwise exempt from the Freedom of  
19 Information Act must be redacted before disclosure as provided  
20 in the Freedom of Information Act.

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

22 (5 ILCS 430/50-5)

23 Sec. 50-5. Penalties.

24 (a) A person is guilty of a Class A misdemeanor if that  
25 person intentionally violates (i) subsection (a-5) of Section

1 20-90 or (ii) any provision of Section 5-15, 5-30, 5-40, or  
2 5-45 or Article 15.

3 (a-1) An ethics commission may levy an administrative fine  
4 for a violation of Section 5-45 of this Act of up to 3 times the  
5 total annual compensation that would have been obtained in  
6 violation of Section 5-45.

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 5-5, 5-15, 5-20, 5-30, 5-35,

1 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or  
2 25-90 is subject to discipline or discharge by the appropriate  
3 ultimate jurisdictional authority.  
4 (Source: P.A. 96-555, eff. 8-18-09.)