

SB0054



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0054

Introduced 1/30/2009, by Sen. Susan Garrett - Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

5 ILCS 430/20-50

Amends the State Officials and Employees Ethics Act. With respect to an executive branch State employee who is the subject of an Executive Inspector General's investigation and whose agency head or ultimate jurisdictional authority agrees with the Inspector General as to disciplinary action against the employee, establishes procedures for providing a redacted version of the Inspector General's summary investigation report to the Executive Ethics Commission, to the employee, and to the public, under certain circumstances.

LRB096 04477 JAM 14529 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning ethics.

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 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. In the event that the head of the State agency
13 or the ultimate jurisdictional authority agrees with the
14 Executive Inspector General, on the basis of the investigation,
15 to impose discipline of any kind on a State employee, including
16 but not limited to reprimand, discharge, suspension, demotion,
17 change in duties or job description, or denial of promotion or
18 transfer, then within 30 days after that agreement the
19 Executive Inspector General shall deliver to the Executive
20 Ethics Commission the summary report of the investigation,
21 provided that all confidential information has been redacted.
22 Within 5 days, the Commission shall provide the State employee
23 subject to the agreed discipline with the redacted report and

1 allow the State employee 30 days in which to provide in writing
2 any reason why the redacted report should not be released to
3 the public. Within the same period, the Executive Inspector
4 General who issued the report may also provide in writing a
5 recommendation to the Commission about whether or not the
6 redacted report should be released to the public. Within 21
7 days after the expiration of the 30-day period for response by
8 the State employee and Executive Inspector General, the
9 Commission shall either: (1) make a written finding that
10 release of the redacted report is fair and in the public
11 interest and release the report; or (2) make a written finding
12 that release of the report is not fair, or not in the public
13 interest, and return the redacted report to the Executive
14 Inspector General. The Commission may also require further
15 redactions prior to the release of the report or may delay its
16 finding pending the conclusion of related judicial or
17 administrative proceedings. The report shall be delivered to
18 the appropriate ultimate jurisdictional authority and to the
19 head of each State agency affected by or involved in the
20 investigation, if appropriate.

21 (b) The summary report of the investigation shall include
22 the following:

23 (1) A description of any allegations or other
24 information received by the Executive Inspector General
25 pertinent to the investigation.

26 (2) A description of any alleged misconduct discovered

1 in the course of the investigation.

2 (3) Recommendations for any corrective or disciplinary
3 action to be taken in response to any alleged misconduct
4 described in the report, including but not limited to
5 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), if the
11 Executive Inspector General desires to file a petition for
12 leave to file a complaint, the Executive Inspector General
13 shall notify the Commission and the Attorney General. If the
14 Attorney General determines that reasonable cause exists to
15 believe that a violation has occurred, then the Executive
16 Inspector General, represented by the Attorney General, may
17 file with the Executive Ethics Commission a petition for leave
18 to file a complaint. The petition shall set forth the alleged
19 violation and the grounds that exist to support the petition.
20 The petition for leave to file a complaint must be filed with
21 the Commission within 18 months after the most recent act of
22 the alleged violation or of a series of alleged violations
23 except where there is reasonable cause to believe that
24 fraudulent concealment has occurred. To constitute fraudulent
25 concealment sufficient to toll this limitations period, there
26 must be an affirmative act or representation calculated to

1 prevent discovery of the fact that a violation has occurred. If
2 a petition for leave to file 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 (d) A copy of the petition must be served on all
9 respondents named in the complaint and on each respondent's
10 ultimate jurisdictional authority in the same manner as process
11 is served under the Code of Civil Procedure.

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

15 (f) The Commission shall meet, either in person or by
16 telephone, in a closed session to review the sufficiency of the
17 complaint. If the Commission finds that complaint is
18 sufficient, the Commission shall grant the petition for leave
19 to file the complaint. The Commission shall issue notice to the
20 Executive Inspector General and all respondents of the
21 Commission's ruling on the sufficiency of the complaint. If the
22 complaint is deemed to sufficiently allege a violation of this
23 Act, then the Commission shall notify the parties and shall
24 include a hearing date scheduled within 4 weeks after the date
25 of the notice, unless all of the parties consent to a later
26 date. If the complaint is deemed not to sufficiently allege a

1 violation, then the Commission shall send by certified mail,
2 return receipt requested, a notice to the parties of the
3 decision to dismiss the complaint.

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

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

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

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

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

22 (l) When the Inspector General concludes that there is
23 insufficient evidence that a violation has occurred, the
24 Inspector General shall close the investigation. At the request
25 of the subject of the investigation, the Inspector General
26 shall provide a written statement to the subject of the

1 investigation and to the Commission of the Inspector General's
2 decision to close the investigation. Closure by the Inspector
3 General does not bar the Inspector General from resuming the
4 investigation if circumstances warrant.

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