

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Toll Highway Act is amended by adding  
5 Section 8.5 as follows:

6 (605 ILCS 10/8.5 new)

7 Sec. 8.5. Toll Highway Inspector General.

8 (a) The Governor shall, with the advice and consent of the  
9 Senate by three-fifths of the elected members concurring by  
10 record vote, appoint a Toll Highway Inspector General for the  
11 purpose of detection, deterrence, and prevention of fraud,  
12 corruption, and mismanagement in the Authority. The Toll  
13 Highway Inspector General shall serve a 5-year term. If, during  
14 a recess of the Senate, there is a vacancy in the office of the  
15 Toll Highway Inspector General, the Governor shall make a  
16 temporary appointment until the next meeting of the Senate when  
17 the Governor shall make a nomination to fill that office. No  
18 person rejected for the office of the Toll Highway Inspector  
19 General shall, except by the Senate's request, be nominated  
20 again for that office at the same session of the Senate or be  
21 appointed to that office during a recess of that Senate. The  
22 Governor may not appoint a relative, as defined by item (6) of  
23 Section 10-15 of the State Officials and Employees Ethics Act,

1 as the Toll Highway Inspector General. The Toll Highway  
2 Inspector General may be removed only for cause and may be  
3 removed only by the Governor.

4 (b) The Toll Highway Inspector General shall have the  
5 following qualifications:

6 (1) has not been convicted of any felony under the laws  
7 of this State, another state, or the United States;

8 (2) has earned a baccalaureate degree from an  
9 institution of higher education; and

10 (3) has 5 or more years of cumulative service (i) with  
11 a federal, state, or local law enforcement agency, at least  
12 2 years of which have been in a progressive investigatory  
13 capacity; (ii) as a federal, state, or local prosecutor;  
14 (iii) as a federal or state judge with a criminal docket;  
15 (iv) as a senior manager or executive of a federal, state,  
16 or local agency; or (v) representing any combination of (i)  
17 through (iv).

18 (c) The term of the initial Toll Highway Inspector General  
19 shall commence upon qualification and shall run through June  
20 30, 2015. The initial appointments shall be made within 60 days  
21 after the effective date of this amendatory Act of the 96th  
22 General Assembly. After the initial term, each Toll Highway  
23 Inspector General shall serve for 5-year terms commencing on  
24 July 1 of the year of appointment and running through June 30  
25 of the fifth following year. A Toll Highway Inspector General  
26 may be reappointed to one or more subsequent terms. A vacancy

1 occurring other than at the end of a term shall be filled by  
2 the Governor only for the balance of the term of the Toll  
3 Highway Inspector General whose office is vacant. Terms shall  
4 run regardless of whether the position is filled.

5 (d) The Toll Highway Inspector General shall have  
6 jurisdiction over the Authority and all board members,  
7 officers, and employees of, and vendors, subcontractors, and  
8 others doing business with the Authority. The jurisdiction of  
9 the Toll Highway Inspector General is to investigate  
10 allegations of fraud, waste, abuse, mismanagement, misconduct,  
11 nonfeasance, misfeasance, or malfeasance. Investigations may  
12 be based on complaints from any source, including anonymous  
13 sources, and may be self-initiated, without a complaint. An  
14 investigation may not be initiated more than five years after  
15 the most recent act of the alleged violation or of a series of  
16 alleged violations except where there is reasonable cause to  
17 believe that fraudulent concealment has occurred. To  
18 constitute fraudulent concealment sufficient to toll this  
19 limitations period, there must be an affirmative act or  
20 representation calculated to prevent discovery of the fact that  
21 a violation has occurred. The authority to investigate alleged  
22 violations of the State Officials and Employees Ethics Act by  
23 officers, employees, vendors, subcontractors, and others doing  
24 business with the Authority shall remain with the Office of the  
25 Governor's Executive Inspector General. The Toll Highway  
26 Inspector General shall refer allegations of misconduct under

1 the State Officials and Employees Ethics Act to the Office of  
2 the Governor's Executive Inspector General for investigation.  
3 Upon completion of its investigation into such allegations, the  
4 Office of the Governor's Executive Inspector General shall  
5 report the results to the Toll Highway Inspector General, and  
6 the results of the investigation shall remain subject to any  
7 applicable confidentiality provisions in the State Officials  
8 and Employees Ethics Act. Where an investigation into a target  
9 or targets is split between allegations of misconduct under the  
10 State Officials and Employees Ethics Act, investigated by the  
11 Office of the Governor's Executive Inspector General, and  
12 allegations that are not of misconduct under the State  
13 Officials and Employees Ethics Act, investigated by the Toll  
14 Highway Inspector General, the Toll Highway Inspector General  
15 shall take reasonable steps, including continued consultation  
16 with the Office of the Governor's Executive Inspector General,  
17 to ensure that its investigation will not interfere with or  
18 disrupt any investigation by the Office of the Governor's  
19 Executive Inspector General or law enforcement authorities. In  
20 instances in which the Toll Highway Inspector General continues  
21 to investigate other allegations associated with allegations  
22 that have been referred to the Office of the Governor's  
23 Executive Inspector General pursuant to this subsection, the  
24 Toll Highway Inspector General shall report the results of its  
25 investigation to the Office of the Governor's Executive  
26 Inspector General.

1       (e)(1) If the Toll Highway Inspector General, upon the  
2 conclusion of an investigation, determines that reasonable  
3 cause exists to believe that fraud, waste, abuse,  
4 mismanagement, misconduct, nonfeasance, misfeasance, or  
5 malfeasance has occurred, then the Toll Highway Inspector  
6 General shall issue a summary report of the investigation. The  
7 report shall be delivered to the appropriate authority pursuant  
8 to paragraph (3) of subsection (f) of this Section, which shall  
9 have 20 days to respond to the report.

10       (2) The summary report of the investigation shall  
11 include the following:

12           (A) a description of any allegations or other  
13 information received by the Toll Highway Inspector  
14 General pertinent to the investigation.

15           (B) a description of any alleged misconduct  
16 discovered in the course of the investigation.

17           (C) recommendations for any corrective or  
18 disciplinary action to be taken in response to any  
19 alleged misconduct described in the report, including  
20 but not limited to discharge.

21           (D) other information the Toll Highway Inspector  
22 General deems relevant to the investigation or  
23 resulting recommendations.

24       (3) Within 60 days after issuance of a final summary  
25 report that resulted in a suspension of at least 3 days or  
26 termination of employment, the Toll Highway Inspector

1 General shall make the report available to the public by  
2 presenting the report to the Board of the Authority and by  
3 posting to the Authority's public website. The Toll Highway  
4 Inspector General shall redact information in the summary  
5 report that may reveal the identity of witnesses,  
6 complainants, or informants or if the Toll Highway  
7 Inspector General determines it is appropriate to protect  
8 the identity of a person before the report is made public.  
9 The Toll Highway Inspector General may also redact any  
10 information that he or she believes should not be made  
11 public, taking into consideration the factors set forth in  
12 this subsection and paragraph (1) of subsection (k) of this  
13 Section and other factors deemed relevant by the Toll  
14 Highway Inspector General to protect the Authority and any  
15 investigations by the Toll Highway Inspector General,  
16 other inspector general offices or law enforcement  
17 agencies. Prior to publication, the Toll Highway Inspector  
18 General shall permit the respondents and the appropriate  
19 authority pursuant to paragraph (3) of subsection (f) of  
20 this Section to review the report and the documents to be  
21 made public and offer suggestions for redaction or provide  
22 a response that shall be made public with the summary  
23 report, provided, however, that the Toll Highway Inspector  
24 General shall have the sole and final authority to decide  
25 what redactions should be made. The Toll Highway Inspector  
26 General may make available to the public any other summary

1 report and any such responses or a redacted version of the  
2 report and responses.

3 (4) When the Toll Highway Inspector General concludes  
4 that there is insufficient evidence that a violation has  
5 occurred, the Toll Highway Inspector General shall close  
6 the investigation. The Toll Highway Inspector General  
7 shall provide the appropriate authority pursuant to  
8 paragraph (3) of subsection (f) of this Section with a  
9 written statement of the Toll Highway Inspector General's  
10 decision to close the investigation. At the request of the  
11 subject of the investigation, the Toll Highway Inspector  
12 General shall provide a written statement to the subject of  
13 the investigation of the Toll Highway Inspector General's  
14 decision to close the investigation. Closure by the Toll  
15 Highway Inspector General does not bar the Toll Highway  
16 Inspector General from resuming the investigation if  
17 circumstances warrant.

18 (f) The Toll Highway Inspector General shall:

19 (1) have access to all information and personnel  
20 necessary to perform the duties of the office.

21 (2) have the power to subpoena witnesses and compel the  
22 production of books and papers pertinent to an  
23 investigation authorized by this Section. A subpoena may be  
24 issued under this subparagraph (2) only by the Toll Highway  
25 Inspector General and not by members of the Toll Highway  
26 Inspector General's staff. Any person subpoenaed by the

1 Toll Highway Inspector General has the same rights, under  
2 Illinois law, as a person subpoenaed by a grand jury. The  
3 power to subpoena or to compel the production of books and  
4 papers, however, shall not extend to the person or  
5 documents of a labor organization or its representatives  
6 insofar as the person or documents of a labor organization  
7 relate to the function of representing an employee subject  
8 to investigation under this Section. Subject to a person's  
9 privilege against self-incrimination, any person who fails  
10 to appear in response to a subpoena, answer any question,  
11 or produce any books or papers pertinent to an  
12 investigation under this Section, except as otherwise  
13 provided in this Section, or who knowingly gives false  
14 testimony in relation to an investigation under this  
15 Section is guilty of a Class A misdemeanor.

16 (3) submit reports as required by this Section and  
17 applicable administrative rules. Final reports and  
18 recommendations shall be submitted to the Authority's  
19 Executive Director and the Board of Directors for  
20 investigations not involving the Board. Final reports and  
21 recommendations shall be submitted to the Chair of the  
22 Board and to the Governor for investigations of any Board  
23 member other than the Chair of the Board. Final reports and  
24 recommendations for investigations of the Chair of the  
25 Board shall be submitted to the Governor.

26 (4) assist and coordinate with the ethics officer for



1       the Authority.

2           (5) participate in or conduct, when appropriate,  
3       multi-jurisdictional investigations provided the  
4       investigation involves the Authority in some way,  
5       including, but not limited to, joint investigations with  
6       the Office of the Governor's Executive Inspector General,  
7       or with State, local, or federal law enforcement  
8       authorities.

9           (6) serve as the Authority's primary liaison with law  
10       enforcement, investigatory, and prosecutorial agencies  
11       and, in that capacity, the Toll Highway Inspector General  
12       may request any information or assistance that may be  
13       necessary for carrying out the duties and responsibilities  
14       provided by this Section from any local, state, or federal  
15       governmental agency or unit thereof.

16           (7) review hiring and employment files of the Authority  
17       to ensure compliance with Rutan v. Republican Party of  
18       Illinois, 497 U.S. 62 (1990), and with all applicable  
19       employment laws.

20           (8) establish a policy that ensures the appropriate  
21       handling and correct recording of all investigations  
22       conducted by the Office, and ensures that the policy is  
23       accessible via the Internet in order that those seeking to  
24       report suspected wrongdoing are familiar with the process  
25       and that the subjects of those allegations are treated  
26       fairly.

1           (9) receive and investigate complaints or information  
2           from an employee of the Authority concerning the possible  
3           existence of an activity constituting a violation of law,  
4           rules or regulations, mismanagement, abuse of authority,  
5           or substantial and specific danger to the public health and  
6           safety. Any employee of the Authority who knowingly files a  
7           false complaint or files a complaint with reckless  
8           disregard for the truth or falsity of the facts underlying  
9           the complaint may be subject to discipline.

10           (10) review, coordinate, and recommend methods and  
11           procedures to increase the integrity of the Authority.

12           (g) Within six months of appointment, the initial Toll  
13           Highway Inspector General shall propose rules, in accordance  
14           with the provisions of the Illinois Administrative Procedure  
15           Act, establishing minimum requirements for initiating,  
16           conducting, and completing investigations. The rules must  
17           establish criteria for determining, based upon the nature of  
18           the allegation, the appropriate method of investigation, which  
19           may include, but is not limited to, site visits, telephone  
20           contacts, personal interviews, or requests for written  
21           responses. The rules must establish the process, contents, and  
22           timing for final reports and recommendations by the Toll  
23           Highway Inspector General and for a response and any remedial,  
24           disciplinary, or both action by an individual or individuals  
25           receiving the final reports and recommendations. The rules must  
26           also clarify how the Office of the Toll Highway Inspector

1 General shall interact with other local, state, and federal law  
2 enforcement authorities and investigations. Such rules shall  
3 provide that investigations and inquiries by the Office of the  
4 Toll Highway Inspector General must be conducted in compliance  
5 with the provisions of any collective bargaining agreement that  
6 applies to the affected employees of the Authority and that any  
7 recommendation for discipline or other action against any  
8 employee by the Office of the Toll Highway Inspector General  
9 must comply with the provisions of any applicable collective  
10 bargaining agreement.

11 (h) The Office of the Toll Highway Inspector General shall  
12 be an independent office of the Authority. Within its annual  
13 budget, the Authority shall provide a clearly delineated budget  
14 for the Office of the Toll Highway Inspector General. The  
15 budget of the Office of the Toll Highway Inspector General  
16 shall be adequate to support an independent and effective  
17 office. Except with the consent of the Toll Highway Inspector  
18 General, the Authority shall not reduce the budget of the  
19 Office of the Toll Highway Inspector General by more than 10  
20 percent (i) within any fiscal year or (ii) over the five-year  
21 term of each Toll Highway Inspector General. To the extent  
22 allowed by law and the Authority's policies, the Toll Highway  
23 Inspector General shall have sole responsibility for  
24 organizing the Office of the Toll Highway Inspector General  
25 within the budget established by the Toll Highway Board,  
26 including the recruitment, supervision, and discipline of the

1 employees of that office. The Toll Highway Inspector General  
2 shall report directly to the Board of Directors of the  
3 Authority with respect to the prompt and efficient operation of  
4 the Office of the Tollway Highway Inspector General.

5 (i) (1) No Toll Highway Inspector General or employee of the  
6 Office of the Toll Highway Inspector General may, during his or  
7 her term of appointment or employment:

8 (A) become a candidate for any elective office;

9 (B) hold any other elected or appointed public  
10 office except for appointments on governmental  
11 advisory boards or study commissions or as otherwise  
12 expressly authorized by law;

13 (C) be actively involved in the affairs of any  
14 political party or political organization; or

15 (D) advocate for the appointment of another person  
16 to an appointed public office or elected office or  
17 position or actively participate in any campaign for  
18 any elective office. As used in this paragraph (1),  
19 "appointed public office" means a position authorized  
20 by law that is filled by an appointing authority as  
21 provided by law and does not include employment by  
22 hiring in the ordinary course of business.

23 (2) No Toll Inspector General or employee of the Office  
24 of the Toll Highway Inspector General may, for one year  
25 after the termination of his or her appointment or  
26 employment:

1           (A) become a candidate for any elective office;

2           (B) hold any elected public office; or

3           (C) hold any appointed State, county, or local  
4           judicial office.

5           (3) The requirements of subparagraph (C) of paragraph  
6           (2) of this subsection may be waived by the Executive  
7           Ethics Commission.

8           (j) All Board members, officers and employees of the  
9           Authority have a duty to cooperate with the Toll Highway  
10           Inspector General and employees of the Office of the Toll  
11           Highway Inspector General in any investigation undertaken  
12           pursuant to this Section. Failure to cooperate includes, but is  
13           not limited to, intentional omissions and knowing false  
14           statements. Failure to cooperate with an investigation  
15           pursuant to this Section is grounds for disciplinary action,  
16           including termination of employment. Nothing in this Section  
17           limits or alters a person's existing rights or protections  
18           under State or federal law.

19           (k)(1) The identity of any individual providing  
20           information or reporting any possible or alleged  
21           misconduct to the Toll Highway Inspector General shall be  
22           kept confidential and may not be disclosed without the  
23           consent of that individual, unless the individual consents  
24           to disclosure of his or her name or disclosure of the  
25           individual's identity is otherwise required by law. The  
26           confidentiality granted by this subsection does not

1 preclude the disclosure of the identity of a person in any  
2 capacity other than as the source of an allegation.

3 (2) Subject to the provisions of subsection (e) of this  
4 Section, the Toll Highway Inspector General, and employees  
5 and agents of the Office of the Toll Highway Inspector  
6 General, shall keep confidential and shall not disclose  
7 information exempted from disclosure under the Freedom of  
8 Information Act or by this Act.

9 (1) If the Toll Highway Inspector General determines that  
10 any alleged misconduct involves any person not subject to the  
11 jurisdiction of the Toll Highway Inspector General, the Toll  
12 Highway Inspector General shall refer the reported allegations  
13 to the appropriate Inspector General, appropriate ethics  
14 commission or other appropriate body. If the Toll Highway  
15 Inspector General determines that any alleged misconduct may  
16 give rise to criminal penalties, the Toll Highway Inspector  
17 General may refer the allegations regarding that misconduct to  
18 the appropriate law enforcement authority. If a Toll Highway  
19 Inspector General determines that any alleged misconduct  
20 resulted in the loss of public funds in an amount of \$5,000 or  
21 greater, the Toll Highway Inspector General shall refer the  
22 allegations regarding that misconduct to the Attorney General  
23 and any other appropriate law enforcement authority.

24 (m) The Toll Highway Inspector General shall provide to the  
25 Governor, the Board of the Authority, and the General Assembly  
26 a summary of reports and investigations made under this Section

1 no later than March 31 and September 30 of each year. The  
2 summaries shall detail the final disposition of the Inspector  
3 General's recommendations. The summaries shall not contain any  
4 confidential or identifying information concerning the  
5 subjects of the reports and investigations. The summaries shall  
6 also include detailed, recommended administrative actions and  
7 matters for consideration by the Governor, the Board of the  
8 Authority, and the General Assembly.

9 (n) Any employee of the Authority subject to investigation  
10 or inquiry by the Toll Highway Inspector General or any agent  
11 or representative of the Toll Highway Inspector General  
12 concerning misconduct that is criminal in nature shall have the  
13 right to be notified of the right to remain silent during the  
14 investigation or inquiry and the right to be represented in the  
15 investigation or inquiry by an attorney or a representative of  
16 a labor organization that is the exclusive collective  
17 bargaining representative of employees of the Authority. Any  
18 investigation or inquiry by the Toll Highway Inspector General  
19 or any agent or representative of the Toll Highway Inspector  
20 General must be conducted with an awareness of the provisions  
21 of a collective bargaining agreement that applies to the  
22 employees of the Authority and with an awareness of the rights  
23 of the employees as set forth in State and federal law and  
24 applicable judicial decisions. Any recommendations for  
25 discipline or any action taken against any employee by the Toll  
26 Highway Inspector General or any representative or agent of the

1 Toll Highway Inspector General must comply with the provisions  
2 of the collective bargaining agreement that applies to the  
3 employee.