

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 in accordance with the rights of the
21 employees as set forth in State and federal law and applicable
22 judicial decisions. Any recommendations for discipline or any
23 action taken against any employee by the Toll Highway Inspector
24 General or any representative or agent of the Toll Highway
25 Inspector General must comply with the provisions of the
26 collective bargaining agreement that applies to the employee.

1 (o) Nothing in this Section shall diminish the rights,
2 privileges, or remedies of a State employee under any other
3 federal or State law, rule, or regulation or under any
4 collective bargaining agreement.