

SB3380



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3380

Introduced 2/10/2010, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

605 ILCS 10/8.2 new

Amends the Toll Highway Act. Requires the Governor to appoint an Inspector General to detect, deter, and prevent fraud, mismanagement, and corruption within the Toll Highway Authority. Provides for the Inspector General's qualifications and term. Establishes the Inspector General's powers and duties.

LRB096 20406 RCE 36052 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 Toll Highway Act is amended by adding
5 Section 8.2 as follows:

6 (605 ILCS 10/8.2 new)

7 Sec. 8.2. Inspector General.

8 (a) The Governor must, with the advice and consent of the
9 Senate, appoint an Inspector General for the purpose of
10 detection, deterrence, and prevention of fraud, corruption,
11 and mismanagement in the Authority. The Inspector General shall
12 serve a 2-year term. If no successor is appointed and qualified
13 upon the expiration of the Inspector General's term, the Office
14 of Inspector General is deemed vacant and the powers and duties
15 under this Section may be exercised only by an appointed and
16 qualified interim Inspector General until a successor
17 Inspector General is appointed and qualified. If the General
18 Assembly is not in session when a vacancy in the Office of
19 Inspector General occurs, the Governor may appoint an interim
20 Inspector General whose term shall expire 2 weeks after the
21 next regularly scheduled session day of the Senate.

22 (b) The Inspector General shall have the following
23 qualifications:

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

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

5 (3) has either (A) 5 or more years of service with a
6 federal, State, or local law enforcement agency, at least 2
7 years of which have been in a progressive investigatory
8 capacity; (B) 5 or more years of service as a federal,
9 State, or local prosecutor; or (C) 5 or more years of
10 service as a senior manager or executive of a federal,
11 State, or local law enforcement agency.

12 (c) The Inspector General may review, coordinate, and
13 recommend methods and procedures to increase the integrity of
14 the Authority. The Inspector General must report directly to
15 the Governor.

16 (d) The Governor may designate the Inspector General and
17 inspectors who are members of the Inspector General's office as
18 peace officers. These inspectors shall have all the powers
19 possessed by police officers in municipalities and by sheriffs
20 of counties, and the inspectors may exercise those powers
21 anywhere in the State but only in the investigation of
22 allegations of misconduct or criminal behavior by the Board of
23 Directors of the Authority or employees of the Authority.

24 No inspector may have peace officer status or exercise
25 police powers unless he or she successfully completes the basic
26 police training mandated and approved by the Illinois Law

1 Enforcement Training Standards Board or the Board waives the
2 training requirement by reason of the inspector's prior law
3 enforcement experience or training, or both.

4 The Board may not waive the training requirement unless the
5 inspector has had a minimum of 5 years of experience as a sworn
6 officer of a local, State, or federal law enforcement agency, 2
7 of which must have been in an investigatory capacity.

8 (e) In addition to the authority otherwise provided by this
9 Section, but only when investigating the Authority, its
10 employees, or their actions for fraud, corruption, or
11 mismanagement, the Inspector General is authorized:

12 (1) To have access to all records, reports, audits,
13 reviews, documents, papers, recommendations, or other
14 materials available that relate to programs and operations
15 with respect to which the Inspector General has
16 responsibilities under this Section.

17 (2) To make any investigations and reports relating to
18 the administration of the programs and operations of the
19 Authority that are, in the judgment of the Inspector
20 General, necessary or desirable.

21 (3) To request any information or assistance that may
22 be necessary for carrying out the duties and
23 responsibilities provided by this Section from any local,
24 State, or federal governmental agency or unit thereof.

25 (4) To require by subpoena the appearance of witnesses
26 and the production of all information, documents, reports,

1 answers, records, accounts, papers, and other data and
2 documentary evidence necessary in the performance of the
3 functions assigned by this Section, with the exception of
4 records maintained in the ordinary course of business,
5 including but not limited to the representation of
6 employees and the negotiation of collective bargaining
7 agreements by a labor organization authorized and
8 recognized under the Illinois Public Labor Relations Act to
9 be the exclusive bargaining representative of employees of
10 the Authority and with the exception of subsection (c). A
11 subpoena may be issued under this paragraph (4) only by the
12 Inspector General and not by members of the Inspector
13 General's staff. Any person subpoenaed by the Inspector
14 General has the same rights as a person subpoenaed by a
15 grand jury. Any person who knowingly and intentionally (A)
16 fails to appear in response to a subpoena or (B) fails to
17 produce any books or papers in his or her possession or
18 control pertinent to an investigation under this Section is
19 guilty of a Class A misdemeanor.

20 (5) To have direct and prompt access to the Board of
21 Directors of the Authority for any purpose pertaining to
22 the performance of functions and responsibilities under
23 this Section.

24 (f) The Inspector General may receive and investigate
25 complaints or information from an employee of the Authority
26 concerning the possible existence of an activity constituting a

1 violation of law, rules, or regulations; mismanagement; abuse
2 of authority; or substantial and specific danger to the public
3 health and safety. Any employee who knowingly files a false
4 complaint or files a complaint with reckless disregard for the
5 truth or the falsity of the facts underlying the complaint may
6 be subject to discipline.

7 The Inspector General may not, after receipt of a complaint
8 or information from an employee, disclose the identity of the
9 employee without the consent of the employee.

10 Any employee who has the authority to recommend or approve
11 any personnel action or to direct others to recommend or
12 approve any personnel action may not, with respect to that
13 authority, take or threaten to take any action against any
14 employee as a reprisal for making a complaint or disclosing
15 information to the Inspector General, unless the complaint was
16 made or the information disclosed with the knowledge that it
17 was false or with willful disregard for its truth or falsity.

18 (g) The Inspector General must adopt rules, in accordance
19 with the provisions of the Illinois Administrative Procedure
20 Act, establishing minimum requirements for initiating,
21 conducting, and completing investigations. The rules must
22 establish criteria for determining, based upon the nature of
23 the allegation, the appropriate method of investigation, which
24 may include, but is not limited to, site visits, telephone
25 contacts, personal interviews, or requests for written
26 responses. The rules must also clarify how the Office of the

1 Inspector General shall interact with other local, State, and
2 federal law enforcement investigations.

3 Any employee of the Authority subject to investigation or
4 inquiry by the Inspector General or any agent or representative
5 of the Inspector General shall have the right to be notified of
6 the right to remain silent during the investigation or inquiry
7 and the right to be represented in the investigation or inquiry
8 by a representative of a labor organization that is the
9 exclusive collective bargaining representative of employees of
10 the Authority. Any such investigation or inquiry must be
11 conducted in compliance with the provisions of a collective
12 bargaining agreement that applies to the employees of the
13 Authority. Any recommendation for discipline or any action
14 taken against any employee by the Inspector General or any
15 representative or agent of the Inspector General must comply
16 with the provisions of the collective bargaining agreement that
17 applies to the employee.

18 (h) The Inspector General shall provide to the Authority
19 and the General Assembly a summary of reports and
20 investigations made under this Section for the previous fiscal
21 year no later than January 1 of each year. The summaries shall
22 detail the final disposition of the Inspector General's
23 recommendations. The summaries shall not contain any
24 confidential or identifying information concerning the
25 subjects of the reports and investigations. The summaries shall
26 also include detailed, recommended administrative actions and

1 matters for consideration by the General Assembly.