

SB3456



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3456

Introduced 2/10/2010, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

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

Amends the State Officials and Employees Ethics Act. Requires that summary reports of investigations be delivered to the Executive Ethics Commission. With respect to all reports of the Office of an Executive Inspector General, removes the requirements that they are confidential, are exempt from disclosure under the Freedom of Information Act, and may not be divulged except to certain persons and agencies (now, these requirements apply to reports other than quarterly reports). Specifies that personal information must be redacted from investigatory reports, including summary reports of investigations, and quarterly reports before the reports are disclosed under the Freedom of Information Act. Effective immediately.

LRB096 17838 JAM 33206 b

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 Sections 20-50 and 20-95 as follows:

6 (5 ILCS 430/20-50)

7 Sec. 20-50. Investigation reports.

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. The report shall be delivered (i) to the
13 Executive Ethics Commission, (ii) to the appropriate ultimate
14 jurisdictional authority, and (iii) if appropriate, to the head
15 of each State agency affected by or involved in the
16 investigation, ~~if appropriate~~. The appropriate ultimate
17 jurisdictional authority or agency head shall respond to the
18 summary report within 20 days, in writing, to the Executive
19 Inspector General. The response shall include a description of
20 any corrective or disciplinary action to be imposed.

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

23 (1) A description of any allegations or other

1 information received by the Executive Inspector General
2 pertinent to the investigation.

3 (2) A description of any alleged misconduct discovered
4 in the course of the investigation.

5 (3) Recommendations for any corrective or disciplinary
6 action to be taken in response to any alleged misconduct
7 described in the report, including but not limited to
8 discharge.

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

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

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

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

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

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

1 General.

2 (d) A copy of the complaint filed with the Executive Ethics
3 Commission must be served on all respondents named in the
4 complaint and on each respondent's ultimate jurisdictional
5 authority in the same manner as process is served under the
6 Code of Civil Procedure.

7 (e) A respondent may file objections to the complaint
8 within 30 days after notice of the petition has been served on
9 the respondent.

10 (f) The Commission shall meet, either in person or by
11 telephone, at least 30 days after the complaint is served on
12 all respondents in a closed session to review the sufficiency
13 of the complaint. The Commission shall issue notice by
14 certified mail, return receipt requested, to the Executive
15 Inspector General, Attorney General, and all respondents of the
16 Commission's ruling on the sufficiency of the complaint. If the
17 complaint is deemed to sufficiently allege a violation of this
18 Act, then the Commission shall include a hearing date scheduled
19 within 4 weeks after the date of the notice, unless all of the
20 parties consent to a later date. If the complaint is deemed not
21 to sufficiently allege a violation, then the Commission shall
22 send by certified mail, return receipt requested, a notice to
23 the Executive Inspector General, Attorney General, and all
24 respondents of the decision to dismiss the complaint.

25 (g) On the scheduled date the Commission shall conduct a
26 closed meeting, either in person or, if the parties consent, by

1 telephone, on the complaint and allow all parties the
2 opportunity to present testimony and evidence. All such
3 proceedings shall be transcribed.

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

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

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

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

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

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

1 (5 ILCS 430/20-95)

2 Sec. 20-95. Exemptions.

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

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

24 (c) Meetings of the Commission are exempt from the
25 provisions of the Open Meetings Act.

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

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.