



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3296

Introduced 2/15/2018, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

5 ILCS 430/50-5
15 ILCS 305/14
25 ILCS 170/11

from Ch. 63, par. 181

Amends the State Officials and Employees Ethics Act. Provides that the Secretary of State or the Executive Ethics Commission, after the adjudication of a violation regarding sexual harassment under the Lobbyist Registration Act for which an investigation was initiated by the Inspector General appointed by the Secretary of State, are authorized to temporarily suspend or terminate any person, or lobbying entity for which that person is employed, registered under the Lobbyist Registration Act. Amends the Secretary of State Act. Authorizes the Secretary of State Inspector General to file pleadings with the Executive Ethics Commission, through the Attorney General, if the Attorney General finds that reasonable cause exists to believe that a violation regarding acts of sexual harassment by a lobbyist occurred. Amends the Lobbyist Registration Act. Provides that failure to cooperate in an investigation initiated by the Secretary of State Inspector General, or a finding by the Inspector General of a violation regarding sexual harassment, shall give the Secretary of State discretion to temporarily suspend or terminate any person, or lobbying entity for which that person is employed, registered under the Act. Effective immediately.

LRB100 20682 RJF 36135 b

1 AN ACT concerning State government.

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 50-5 as follows:

6 (5 ILCS 430/50-5)

7 Sec. 50-5. Penalties.

8 (a) A person is guilty of a Class A misdemeanor if that
9 person intentionally violates any provision of Section 5-15,
10 5-30, 5-40, or 5-45 or Article 15.

11 (a-1) An ethics commission may levy an administrative fine
12 for a violation of Section 5-45 of this Act of up to 3 times the
13 total annual compensation that would have been obtained in
14 violation of Section 5-45.

15 (b) A person who intentionally violates any provision of
16 Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business
17 offense subject to a fine of at least \$1,001 and up to \$5,000.

18 (c) A person who intentionally violates any provision of
19 Article 10 is guilty of a business offense and subject to a
20 fine of at least \$1,001 and up to \$5,000.

21 (d) Any person who intentionally makes a false report
22 alleging a violation of any provision of this Act to an ethics
23 commission, an inspector general, the State Police, a State's

1 Attorney, the Attorney General, or any other law enforcement
2 official is guilty of a Class A misdemeanor.

3 (e) An ethics commission may levy an administrative fine of
4 up to \$5,000 against any person who violates this Act, who
5 intentionally obstructs or interferes with an investigation
6 conducted under this Act by an inspector general, or who
7 intentionally makes a false, frivolous, or bad faith
8 allegation.

9 (f) In addition to any other penalty that may apply,
10 whether criminal or civil, a State employee who intentionally
11 violates any provision of Section 5-5, 5-15, 5-20, 5-30, 5-35,
12 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or
13 25-90 is subject to discipline or discharge by the appropriate
14 ultimate jurisdictional authority.

15 (g) Any person who violates Section 5-65 is subject to a
16 fine of up to \$5,000 per offense, and is subject to discipline
17 or discharge by the appropriate ultimate jurisdictional
18 authority. Each violation of Section 5-65 is a separate
19 offense. Any penalty imposed by an ethics commission shall be
20 separate and distinct from any fines or penalties imposed by a
21 court of law or a State or federal agency.

22 (h) Any person who violates Section 4.7 or paragraph (d) of
23 Section 5 of the Lobbyist Registration Act is guilty of a
24 business offense and shall be subject to a fine of up to
25 \$5,000. The Secretary of State or the Executive Ethics
26 Commission, after the adjudication of a violation of Section

1 4.7 of the Lobbyist Registration Act for which an investigation
2 was initiated by the Inspector General appointed by the
3 Secretary of State under Section 14 of the Secretary of State
4 Act, are authorized to temporarily suspend or terminate any
5 person, or lobbying entity for which that person is employed,
6 registered under the Lobbyist Registration Act. Any penalty
7 imposed by an ethics commission shall be separate and distinct
8 from any fines or penalties imposed by a court of law or by the
9 Secretary of State under the Lobbyist Registration Act.

10 (Source: P.A. 100-554, eff. 11-16-17.)

11 Section 10. The Secretary of State Act is amended by
12 changing Section 14 as follows:

13 (15 ILCS 305/14)

14 Sec. 14. Inspector General.

15 (a) The Secretary of State must, with the advice and
16 consent of the Senate, appoint an Inspector General for the
17 purpose of detection, deterrence, and prevention of fraud,
18 corruption, mismanagement, gross or aggravated misconduct, or
19 misconduct that may be criminal in nature in the Office of the
20 Secretary of State. The Inspector General shall serve a 5-year
21 term. If no successor is appointed and qualified upon the
22 expiration of the Inspector General's term, the Office of
23 Inspector General is deemed vacant and the powers and duties
24 under this Section may be exercised only by an appointed and

1 qualified interim Inspector General until a successor
2 Inspector General is appointed and qualified. If the General
3 Assembly is not in session when a vacancy in the Office of
4 Inspector General occurs, the Secretary of State may appoint an
5 interim Inspector General whose term shall expire 2 weeks after
6 the next regularly scheduled session day of the Senate.

7 (b) The Inspector General shall have the following
8 qualifications:

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

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

13 (3) has either (A) 5 or more years of service with a
14 federal, State, or local law enforcement agency, at least 2
15 years of which have been in a progressive investigatory
16 capacity; (B) 5 or more years of service as a federal,
17 State, or local prosecutor; or (C) 5 or more years of
18 service as a senior manager or executive of a federal,
19 State, or local agency.

20 (c) The Inspector General may review, coordinate, and
21 recommend methods and procedures to increase the integrity of
22 the Office of the Secretary of State. The duties of the
23 Inspector General shall supplement and not supplant the duties
24 of the Chief Auditor for the Secretary of State's Office or any
25 other Inspector General that may be authorized by law. The
26 Inspector General must report directly to the Secretary of

1 State.

2 (d) In addition to the authority otherwise provided by this
3 Section, but only when investigating the Office of the
4 Secretary of State, its employees, or their actions for fraud,
5 corruption, mismanagement, gross or aggravated misconduct, or
6 misconduct that may be criminal in nature, the Inspector
7 General is authorized:

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

13 (2) To make any investigations and reports relating to
14 the administration of the programs and operations of the
15 Office of the Secretary of State that are, in the judgment
16 of the Inspector General, necessary or desirable.

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

21 (4) To require by subpoena the appearance of witnesses
22 and the production of all information, documents, reports,
23 answers, records, accounts, papers, and other data and
24 documentary evidence necessary in the performance of the
25 functions assigned by this Section, with the exception of
26 subsection (c) and with the exception of records of a labor

1 organization authorized and recognized under the Illinois
2 Public Labor Relations Act to be the exclusive bargaining
3 representative of employees of the Secretary of State,
4 including, but not limited to, records of representation of
5 employees and the negotiation of collective bargaining
6 agreements. A subpoena may be issued under this paragraph
7 (4) only by the Inspector General and not by members of the
8 Inspector General's staff. A person duly subpoenaed for
9 testimony, documents, or other items who neglects or
10 refuses to testify or produce documents or other items
11 under the requirements of the subpoena shall be subject to
12 punishment as may be determined by a court of competent
13 jurisdiction, unless (i) the testimony, documents, or
14 other items are covered by the attorney-client privilege or
15 any other privilege or right recognized by law or (ii) the
16 testimony, documents, or other items concern the
17 representation of employees and the negotiation of
18 collective bargaining agreements by a labor organization
19 authorized and recognized under the Illinois Public Labor
20 Relations Act to be the exclusive bargaining
21 representative of employees of the Secretary of State.
22 Nothing in this Section limits a person's right to
23 protection against self-incrimination under the Fifth
24 Amendment of the United States Constitution or Article I,
25 Section 10, of the Constitution of the State of Illinois.

26 (5) To have direct and prompt access to the Secretary

1 of State for any purpose pertaining to the performance of
2 functions and responsibilities under this Section.

3 (d-5) In addition to the authority otherwise provided by
4 this Section, the Secretary of State Inspector General shall
5 have jurisdiction to investigate complaints and allegations of
6 wrongdoing by any person or entity related to the Lobbyist
7 Registration Act. When investigating those complaints and
8 allegations, the Inspector General is authorized:

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

14 (2) To request any information or assistance that may
15 be necessary for carrying out the duties and
16 responsibilities provided by this Section from any local,
17 State, or federal governmental agency or unit thereof.

18 (3) To require by subpoena the appearance of witnesses
19 and the production of all information, documents, reports,
20 answers, records, accounts, papers, and other data and
21 documentary evidence necessary in the performance of the
22 functions assigned by this Section. A subpoena may be
23 issued under this paragraph (3) only by the Inspector
24 General and not by members of the Inspector General's
25 staff. A person duly subpoenaed for testimony, documents,
26 or other items who neglects or refuses to testify or

1 produce documents or other items under the requirements of
2 the subpoena shall be subject to punishment as may be
3 determined by a court of competent jurisdiction, unless the
4 testimony, documents, or other items are covered by the
5 attorney-client privilege or any other privilege or right
6 recognized by law. Nothing in this Section limits a
7 person's right to protection against self-incrimination
8 under the Fifth Amendment of the United States Constitution
9 or Section 10 of Article I of the Constitution of the State
10 of Illinois.

11 (4) To have direct and prompt access to the Secretary
12 of State for any purpose pertaining to the performance of
13 functions and responsibilities under this Section.

14 (5) As provided in subsection (d) of Section 5 of the
15 Lobbyist Registration Act, to review allegations that an
16 individual required to be registered under the Lobbyist
17 Registration Act has engaged in one or more acts of sexual
18 harassment. Upon completion of that review, the Inspector
19 General shall submit a summary of the review to the
20 Executive Ethics Commission. The Inspector General is
21 authorized to file pleadings with the Executive Ethics
22 Commission, through the Attorney General, if the Attorney
23 General finds that reasonable cause exists to believe that
24 a violation regarding acts of sexual harassment has
25 occurred. The Secretary shall adopt rules setting forth the
26 procedures for the review of such allegations.

1 (e) The Inspector General may receive and investigate
2 complaints or information concerning the possible existence of
3 an activity constituting a violation of law, rules, or
4 regulations; mismanagement; abuse of authority; or substantial
5 and specific danger to the public health and safety. Any person
6 who knowingly files a false complaint or files a complaint with
7 reckless disregard for the truth or the falsity of the facts
8 underlying the complaint may be subject to discipline as set
9 forth in the rules of the Department of Personnel of the
10 Secretary of State or the Inspector General may refer the
11 matter to a State's Attorney or the Attorney General.

12 The Inspector General may not, after receipt of a complaint
13 or information, disclose the identity of the source without the
14 consent of the source, unless the Inspector General determines
15 that disclosure of the identity is reasonable and necessary for
16 the furtherance of the investigation.

17 Any employee who has the authority to recommend or approve
18 any personnel action or to direct others to recommend or
19 approve any personnel action may not, with respect to that
20 authority, take or threaten to take any action against any
21 employee as a reprisal for making a complaint or disclosing
22 information to the Inspector General, unless the complaint was
23 made or the information disclosed with the knowledge that it
24 was false or with willful disregard for its truth or falsity.

25 (f) The Inspector General must adopt rules, in accordance
26 with the provisions of the Illinois Administrative Procedure

1 Act, establishing minimum requirements for initiating,
2 conducting, and completing investigations. The rules must
3 establish criteria for determining, based upon the nature of
4 the allegation, the appropriate method of investigation, which
5 may include, but is not limited to, site visits, telephone
6 contacts, personal interviews, or requests for written
7 responses. The rules must also clarify how the Office of the
8 Inspector General shall interact with other local, State, and
9 federal law enforcement investigations.

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

1 any representative or agent of the Inspector General must
2 comply with the provisions of the collective bargaining
3 agreement that applies to the employee.

4 (g) On or before January 1 of each year, the Inspector
5 General shall report to the President of the Senate, the
6 Minority Leader of the Senate, the Speaker of the House of
7 Representatives, and the Minority Leader of the House of
8 Representatives on the types of investigations and the
9 activities undertaken by the Office of the Inspector General
10 during the previous calendar year.

11 (Source: P.A. 100-554, eff. 11-16-17.)

12 Section 15. The Lobbyist Registration Act is amended by
13 changing Section 11 as follows:

14 (25 ILCS 170/11) (from Ch. 63, par. 181)

15 Sec. 11. Enforcement.

16 (a) The Secretary of State Inspector General appointed
17 under Section 14 of the Secretary of State Act shall initiate
18 investigations of violations of this Act upon receipt of
19 credible evidence of a violation. If, upon conclusion of an
20 investigation, the Inspector General reasonably believes a
21 violation of this Act has occurred, the Inspector General shall
22 provide the alleged violator with written notification of the
23 alleged violation. Within 30 calendar days after receipt of the
24 notification, the alleged violator shall submit a written

1 response to the Inspector General. The response shall indicate
2 whether the alleged violator (i) disputes the alleged
3 violation, including any facts that reasonably prove the
4 alleged violation did not violate the Act, or (ii) agrees to
5 take action to correct the alleged violation within 30 calendar
6 days, including a description of the action the alleged
7 violator has taken or will take to correct the alleged
8 violation. If the alleged violator disputes the alleged
9 violation or fails to respond to the notification of the
10 alleged violation, the Inspector General shall transmit the
11 evidence to the appropriate State's Attorney or Attorney
12 General. If the alleged violator agrees to take action to
13 correct the alleged violation, the Inspector General shall make
14 available to the public the notification from the Inspector
15 General and the response from the alleged violator and shall
16 not transmit the evidence to the appropriate State's Attorney
17 or Attorney General. Nothing in this Act requires the Inspector
18 General to notify an alleged violator of an ongoing
19 investigation or to notify the alleged violator of a referral
20 of any evidence to a law enforcement agency, a State's
21 Attorney, or the Attorney General pursuant to subsection (c).

22 (a-5) Failure to cooperate in an investigation initiated by
23 the Secretary of State Inspector General appointed under
24 Section 14 of the Secretary of State Act, or a finding by the
25 Inspector General of a violation of Section 4.7, shall give the
26 Secretary of State discretion to temporarily suspend or

1 terminate any person, or lobbying entity for which that person
2 is employed, registered under this Act.

3 (b) Any violation of this Act may be prosecuted in the
4 county where the offense is committed or in Sangamon County. In
5 addition to the State's Attorney of the appropriate county, the
6 Attorney General of Illinois also is authorized to prosecute
7 any violation of this Act.

8 (c) Notwithstanding any other provision of this Act, the
9 Inspector General may at any time refer evidence of a violation
10 of State or federal law, in addition to a violation of this
11 Act, to the appropriate law enforcement agency, State's
12 Attorney, or Attorney General.

13 (Source: P.A. 96-555, eff. 1-1-10; 96-1358, eff. 7-28-10.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.