



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1325

Introduced 2/20/2007, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Officials and Employees Ethics Act. Requires that each Executive Inspector General submit to the Executive Ethics Commission a plan that sets standards and determines the hours and frequency necessary for ethics training (now, the Executive Inspectors General, the Legislative Inspector General, and the Auditor General's Inspector General each sets standards and determines the hours and frequency of necessary ethics training). Prohibits the spouse of an executive branch constitutional officer, member of the General Assembly, or State employee, or the immediate family member living with that officer, member, or employee, from receiving compensation or fees for services from a person or entity if during the previous year the officer, member, or employee was involved in a specified manner in the awarding of certain contracts to or the making of regulatory decisions directly applying to the person or entity or the person's or entity's parent or subsidiary. Permits waiver of the prohibition under certain circumstances. After issuing a summary report of an investigation of an alleged violation of the Act, requires the Executive Inspector General to deliver the report to the Executive Ethics Commission or notify the Commission and the Attorney General of intent to seek leave to petition to file a complaint. Requires the Executive Inspector General to issue a redacted version of the report; specifies the contents of the redacted report and to whom it may be released. Makes other changes. Amends the Governor's Office of Management and Budget Act. Excludes the Executive Ethics Commission and the Governor's Executive Inspector General from the definition of a State agency for purposes of the Act.

LRB095 11173 JAM 31543 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning 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 Sections 5-10, 5-45, and 20-50 as follows:

6 (5 ILCS 430/5-10)

7 Sec. 5-10. Ethics training. Each officer, member, and
8 employee must complete, at least annually beginning in 2004, an
9 ethics training program conducted by the appropriate State
10 agency. Each ultimate jurisdictional authority must implement
11 an ethics training program for its officers, members, and
12 employees. These ethics training programs shall be overseen by
13 the appropriate Ethics Commission and Inspector General
14 appointed pursuant to this Act in consultation with the Office
15 of the Attorney General.

16 Each Executive Inspector General shall submit an annual
17 plan for approval to the Executive Ethics Commission that sets
18 ~~set~~ standards and determines ~~determine~~ the hours and frequency
19 of training necessary for each position or category of
20 positions. A person who fills a vacancy in an elective or
21 appointed position that requires training and a person employed
22 in a position that requires training must complete his or her
23 initial ethics training within 6 months after commencement of

1 his or her office or employment.

2 (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

3 (5 ILCS 430/5-45)

4 Sec. 5-45. Procurement; regulation; revolving door
5 prohibition. (a) No former officer, member, or State
6 employee, or spouse or immediate family member living with such
7 person, shall, within a period of one year immediately after
8 termination of State employment, knowingly accept employment
9 or receive compensation or fees for services from a person or
10 entity if the officer, member, or State employee, during the
11 year immediately preceding termination of State employment,
12 participated personally and substantially in the decision to
13 award State contracts with a cumulative value of over \$25,000
14 to the person or entity, or its parent or subsidiary.

15 (b) No former officer of the executive branch or State
16 employee of the executive branch with regulatory or licensing
17 authority, or spouse or immediate family member living with
18 such person, shall, within a period of one year immediately
19 after termination of State employment, knowingly accept
20 employment or receive compensation of fees for services from a
21 person or entity if the officer or State employee, during the
22 year immediately preceding termination of State employment,
23 made a regulatory or licensing decision that directly applied
24 to the person or entity, or its parent or subsidiary.

25 (b-5) Neither the spouse of a current State officer,

1 member, or employee, nor an immediate family member living with
2 the State member, officer, or employee, shall knowingly accept
3 employment or receive compensation or fees for services from a
4 person or entity if the State officer, member, or employee,
5 during the year immediately preceding, (i) participated
6 personally and substantially in the decision to award State
7 contracts with a cumulative value of over \$25,000 to the person
8 or entity, or its parent or subsidiary; or (ii) made a
9 regulatory or licensing decision that directly applied to the
10 person or entity, or its parent or subsidiary.

11 (c) The requirements of this Section may be waived (i) for
12 the executive branch, in writing by the Executive Ethics
13 Commission, (ii) for the legislative branch, in writing by the
14 Legislative Ethics Commission, and (iii) for the Auditor
15 General, in writing by the Auditor General. During the time
16 period from the effective date of this amendatory Act of the
17 93rd General Assembly until the Executive Ethics Commission
18 first meets, the requirements of this Section may be waived in
19 writing by the appropriate ultimate jurisdictional authority.
20 During the time period from the effective date of this
21 amendatory Act of the 93rd General Assembly until the
22 Legislative Ethics Commission first meets, the requirements of
23 this Section may be waived in writing by the appropriate
24 ultimate jurisdictional authority. The waiver shall be granted
25 upon a showing that the prospective employment or relationship
26 did not affect the decisions referred to in sections (a), ~~and~~

1 (b), or (b-5).

2 (d) This Section applies only to persons who terminate an
3 affected position on or after the effective date of this
4 amendatory Act of the 93rd General Assembly.

5 (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

6 (5 ILCS 430/20-50)

7 Sec. 20-50. Investigation reports; complaint procedure.

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 to the appropriate
13 ultimate jurisdictional authority and to the head of each State
14 agency affected by or involved in the investigation, if
15 appropriate.

16 Within 30 days after delivering a summary report, the
17 Executive Inspector General shall either: (1) notify the
18 Commission and Attorney General that the Inspector General
19 seeks to file a petition for leave to file a complaint with the
20 Executive Ethics Commission pursuant to subsection (c); or (2)
21 deliver the summary report and a second, redacted version of
22 the report to the Executive Ethics Commission. In addition, the
23 second, redacted version of the report shall also be delivered
24 to the ultimate jurisdictional authority, the head of each
25 State agency affected by or involved in the investigation, if

1 appropriate, and the person or persons accused of the
2 violation. The redacted version of the report shall contain a
3 description of the facts and circumstances related to the
4 violation and the discipline recommended by the Executive
5 Inspector General. The redacted version of the report shall
6 contain no information that might reasonably tend to reveal the
7 identity of the subject of the investigation or any informant
8 or witness, or information that might risk the effectiveness of
9 other investigations. All recipients of the second, redacted
10 report, and the Executive Inspector General who issued the
11 report, may, within 30 days, provide in writing to the
12 Executive Ethics Commission comments suggesting any reason why
13 the redacted report should or should not be released to the
14 public.

15 Within the same 30-day period, the ultimate jurisdictional
16 authority shall forward to the Executive Inspector General and
17 to the Executive Ethics Commission a response to the summary
18 report. The response shall indicate what discipline related to
19 the summary report, if any, the ultimate jurisdictional
20 authority has imposed or intends to impose.

21 Within 60 days after receiving any summary report, redacted
22 report, or ultimate jurisdictional authority response that
23 recommends, imposes or intends to impose discharge or
24 suspension of 3 days or greater, the Executive Ethics
25 Commission shall: (1) make a written finding that release of
26 the redacted report is fair and in the public interest and

1 release the redacted report by publishing it on its website;
2 (2) make a written finding that release of the redacted report
3 is not fair, or not in the public interest, and return the
4 redacted report to the Executive Inspector General; or (3) seek
5 additional information about the investigation or discipline
6 from the Executive Inspector General or ultimate
7 jurisdictional authority. The Commission may also delay its
8 decision pending the conclusion of related judicial or
9 administrative proceedings. If the Commission makes a written
10 finding that release of the redacted report is fair and in the
11 public interest, it shall indicate in the written finding that,
12 in its opinion, the discipline recommended by the Executive
13 Inspector General and imposed by the ultimate jurisdictional
14 authority is: (i) within the reasonable range previously
15 imposed for like conduct; or (ii) above the reasonable range
16 previously imposed for like conduct; or (iii) below the
17 reasonable range previously imposed for like conduct. The
18 Commission may also make further redactions prior to the
19 release of the report or may delay its finding pending the
20 conclusion of related judicial or administrative proceedings.

21 If the Attorney General decides not to file a petition for
22 leave to file a complaint with the Executive Ethics Commission
23 related to a summary report, the summary report shall be
24 immediately forwarded to the Executive Ethics Commission for
25 redaction and consideration for release as described in this
26 Section. The Executive Ethics Commission may promulgate rules

1 to implement all provisions of this Section.

2 (b) The summary report of the investigation shall include
3 the following:

4 (1) A description of any allegations or other
5 information received by the Executive Inspector General
6 pertinent to the investigation.

7 (2) A description of any alleged misconduct discovered
8 in the course of the investigation.

9 (3) A specific recommendation ~~Recommendations~~ for any
10 corrective or disciplinary action to be taken in response
11 to any alleged misconduct described in the report,
12 including suspension for a specified number of days or ~~but~~
13 ~~not limited to~~ discharge.

14 (4) Other information the Executive Inspector General
15 deems relevant to the investigation or resulting
16 recommendations.

17 (c) ~~If Not less than 30 days after delivery of the summary~~
18 ~~report of an investigation under subsection (a), if the~~
19 Executive Inspector General desires to file a petition for
20 leave to file a complaint under subsection (a), the Executive
21 Inspector General shall notify the Commission and the Attorney
22 General. If the Attorney General determines that reasonable
23 cause exists to believe that a violation has occurred, then the
24 Executive Inspector General, represented by the Attorney
25 General, may file with the Executive Ethics Commission a
26 petition for leave to file a complaint. The petition shall set

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

16 (d) A copy of the petition must be served on all
17 respondents named in the complaint and on each respondent's
18 ultimate jurisdictional authority in the same manner as process
19 is served under the Code of Civil Procedure.

20 (e) A respondent may file objections to the petition for
21 leave to file a complaint within 30 days after notice of the
22 petition has been served on the respondent.

23 (f) The Commission shall meet, either in person or by
24 telephone, in a closed session to review the sufficiency of the
25 complaint. If the Commission finds that complaint is
26 sufficient, the Commission shall grant the petition for leave

1 to file the complaint. The Commission shall issue notice to the
2 Executive Inspector General and all respondents of the
3 Commission's ruling on the sufficiency of the complaint. If the
4 complaint is deemed to sufficiently allege a violation of this
5 Act, then the Commission shall notify the parties and shall
6 include a hearing date scheduled within 4 weeks after the date
7 of the notice, unless all of the parties consent to a later
8 date. If the complaint is deemed not to sufficiently allege a
9 violation, then the Commission shall send by certified mail,
10 return receipt requested, a notice to the parties of the
11 decision to dismiss the complaint.

12 (g) On the scheduled date the Commission shall conduct a
13 closed meeting, either in person or, if the parties consent, by
14 telephone, on the complaint and allow all parties the
15 opportunity to present testimony and evidence. All such
16 proceedings shall be transcribed.

17 (h) Within an appropriate time limit set by rules of the
18 Executive Ethics Commission, the Commission shall (i) dismiss
19 the complaint or (ii) issue a recommendation of discipline to
20 the respondent and the respondent's ultimate jurisdictional
21 authority or impose an administrative fine upon the respondent,
22 or both.

23 (i) The proceedings on any complaint filed with the
24 Commission shall be conducted pursuant to rules promulgated by
25 the Commission.

26 (j) The Commission may designate hearing officers to

1 conduct proceedings as determined by rule of the Commission.

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

4 (l) When the Inspector General concludes that there is
5 insufficient evidence that a violation has occurred, the
6 Inspector General shall close the investigation. At the request
7 of the subject of the investigation, the Inspector General
8 shall provide a written statement to the subject of the
9 investigation and to the Commission of the Inspector General's
10 decision to close the investigation. Closure by the Inspector
11 General does not bar the Inspector General from resuming the
12 investigation if circumstances warrant.

13 (Source: P.A. 93-617, eff. 12-9-03.)

14 Section 10. The Governor's Office of Management and Budget
15 Act is amended by changing Section 1 as follows:

16 (20 ILCS 3005/1) (from Ch. 127, par. 411)

17 Sec. 1. Definitions.

18 "Capital expenditure" means money spent for replacing,
19 remodeling, expanding, or acquiring facilities, buildings or
20 land owned directly by the State through any State department,
21 authority, public corporation of the State, State college or
22 university, or any other public agency created by the State,
23 but not units of local government or school districts.

24 "Director" means the Director of the Governor's Office of

1 Management and Budget.

2 "Office" means the Governor's Office of Management and
3 Budget.

4 "State Agency," whether used in the singular or plural,
5 means all Departments, Officers, Commissions, Boards,
6 Institutions and bodies, politic and corporate of the State,
7 including the Offices of Clerk of the Supreme Court and Clerks
8 of the Appellate Courts; except it shall not mean (i) the
9 several Courts of the State, (ii) ~~nor~~ the Legislature, its
10 Committees or Commissions, (iii) ~~nor~~ the Constitutionally
11 elected State Officers, (iv) the Executive Ethics Commission,
12 or (v) the Office of Executive Inspector General appointed by
13 the Governor.

14 (Source: P.A. 93-25, eff. 6-20-03.)

1		INDEX
2		Statutes amended in order of appearance
3	5	ILCS 430/5-10
4	5	ILCS 430/5-45
5	5	ILCS 430/20-50
6	20	ILCS 3005/1 from Ch. 127, par. 411