

**SB0157**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB0157**

Introduced 1/31/2007, by Sen. Susan Garrett

**SYNOPSIS AS INTRODUCED:**

5 ILCS 430/20-50

Amends the State Officials and Employees Ethics Act. With respect to an executive branch State employee who is the subject of an Executive Inspector General's investigation and whose agency head or ultimate jurisdictional authority agrees with the Inspector General as to disciplinary action against the employee, establishes procedures for providing a redacted version of the Inspector General's summary investigation report to the Executive Ethics Commission, to the employee, and to the public, under certain circumstances.

LRB095 07535 JAM 27685 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 State Officials and Employees Ethics Act is  
5 amended by changing Section 20-50 as follows:

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. In the event that the head of the State agency or  
16 the ultimate jurisdictional authority agrees with the  
17 Executive Inspector General, on the basis of the investigation,  
18 to impose discipline of any kind on a State employee, including  
19 but not limited to reprimand, discharge, suspension, demotion,  
20 change in duties or job description, or denial of promotion or  
21 transfer, then within 30 days after that agreement the  
22 Executive Inspector General shall deliver to the Executive  
23 Ethics Commission the summary report of the investigation,

1 provided that all confidential information has been redacted.  
2 Within 5 days, the Commission shall provide the State employee  
3 subject to the agreed discipline with the redacted report and  
4 allow the State employee 30 days in which to provide in writing  
5 any reason why the redacted report should not be released to  
6 the public. Within the same period, the Executive Inspector  
7 General who issued the report may also provide in writing a  
8 recommendation to the Commission about whether or not the  
9 redacted report should be released to the public. Within 21  
10 days after the expiration of the 30-day period for response by  
11 the State employee and Executive Inspector General, the  
12 Commission shall either: (1) make a written finding that  
13 release of the redacted report is fair and in the public  
14 interest and release the report; or (2) make a written finding  
15 that release of the report is not fair, or not in the public  
16 interest, and return the redacted report to the Executive  
17 Inspector General. The Commission may also require further  
18 redactions prior to the release of the report or may delay its  
19 finding pending the conclusion of related judicial or  
20 administrative proceedings.

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

23 (1) A description of any allegations or other  
24 information received by the Executive Inspector General  
25 pertinent to the investigation.

26 (2) A description of any alleged misconduct discovered

1 in the course of the investigation.

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

6 (4) Other information the Executive Inspector General  
7 deems relevant to the investigation or resulting  
8 recommendations.

9 (c) Not less than 30 days after delivery of the summary  
10 report of an investigation under subsection (a), if the  
11 Executive Inspector General desires to file a petition for  
12 leave to file a complaint, the Executive Inspector General  
13 shall notify the Commission and the Attorney General. If the  
14 Attorney General determines that reasonable cause exists to  
15 believe that a violation has occurred, then the Executive  
16 Inspector General, represented by the Attorney General, may  
17 file with the Executive Ethics Commission a petition for leave  
18 to file a complaint. The petition shall set forth the alleged  
19 violation and the grounds that exist to support the petition.  
20 The petition for leave to file a complaint must be filed with  
21 the Commission within 18 months after the most recent act of  
22 the alleged violation or of a series of alleged violations  
23 except where there is reasonable cause to believe that  
24 fraudulent concealment has occurred. To constitute fraudulent  
25 concealment sufficient to toll this limitations period, there  
26 must be an affirmative act or representation calculated to

1 prevent discovery of the fact that a violation has occurred. If  
2 a petition for leave to file a complaint is not filed with the  
3 Commission within 6 months after notice by the Inspector  
4 General to the Commission and the Attorney General, then the  
5 Commission may set a meeting of the Commission at which the  
6 Attorney General shall appear and provide a status report to  
7 the Commission.

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

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

15 (f) The Commission shall meet, either in person or by  
16 telephone, in a closed session to review the sufficiency of the  
17 complaint. If the Commission finds that complaint is  
18 sufficient, the Commission shall grant the petition for leave  
19 to file the complaint. The Commission shall issue notice to the  
20 Executive Inspector General and all respondents of the  
21 Commission's ruling on the sufficiency of the complaint. If the  
22 complaint is deemed to sufficiently allege a violation of this  
23 Act, then the Commission shall notify the parties and shall  
24 include a hearing date scheduled within 4 weeks after the date  
25 of the notice, unless all of the parties consent to a later  
26 date. If the complaint is deemed not to sufficiently allege a

1 violation, then the Commission shall send by certified mail,  
2 return receipt requested, a notice to the parties of the  
3 decision to dismiss the complaint.

4 (g) On the scheduled date the Commission shall conduct a  
5 closed meeting, either in person or, if the parties consent, by  
6 telephone, on the complaint and allow all parties the  
7 opportunity to present testimony and evidence. All such  
8 proceedings shall be transcribed.

9 (h) Within an appropriate time limit set by rules of the  
10 Executive Ethics Commission, the Commission shall (i) dismiss  
11 the complaint or (ii) issue a recommendation of discipline to  
12 the respondent and the respondent's ultimate jurisdictional  
13 authority or impose an administrative fine upon the respondent,  
14 or both.

15 (i) The proceedings on any complaint filed with the  
16 Commission shall be conducted pursuant to rules promulgated by  
17 the Commission.

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

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

22 (l) When the Inspector General concludes that there is  
23 insufficient evidence that a violation has occurred, the  
24 Inspector General shall close the investigation. At the request  
25 of the subject of the investigation, the Inspector General  
26 shall provide a written statement to the subject of the

1 investigation and to the Commission of the Inspector General's  
2 decision to close the investigation. Closure by the Inspector  
3 General does not bar the Inspector General from resuming the  
4 investigation if circumstances warrant.

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