



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4156

Introduced 2/27/2009, by Rep. Elizabeth Coulson

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Officials and Employees Ethics Act. Makes changes with respect to (i) executive branch ethics training and (ii) investigations and reports by Executive Inspectors General.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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, 20-50, 20-90, 20-95, and
6 50-5 as follows:

7 (5 ILCS 430/5-10)

8 Sec. 5-10. Ethics training.

9 (a) Each officer, member, and employee must complete, at
10 least annually beginning in 2004, an ethics training program
11 conducted by the appropriate State agency. Each ultimate
12 jurisdictional authority must implement an ethics training
13 program for its officers, members, and employees.

14 (b) Each ultimate jurisdictional authority subject to the
15 Executive Ethics Commission shall submit to the Executive
16 Ethics Commission, at least annually, or more frequently as
17 required by that Commission, an annual report that (1)
18 summarizes ethics training that was completed during the
19 previous year, and (2) lays out the plan for the ethics
20 training programs in the coming year.

21 (c) These ethics training programs shall be overseen by the
22 appropriate Ethics Commission and Inspector General appointed
23 pursuant to this Act in consultation with the Office of the

1 Attorney General.

2 (d) Each Inspector General, or the Executive Ethics
3 Commission with respect to the ethics training of persons
4 subject to the Executive Ethics Commission, shall set standards
5 and determine the hours and frequency of training necessary for
6 each position or category of positions. A person who fills a
7 vacancy in an elective or appointed position that requires
8 training and a person employed in a position that requires
9 training must complete his or her initial ethics training
10 within 6 months after commencement of his or her office or
11 employment.

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

13 (5 ILCS 430/20-50)

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

15 (a) With respect to complaints received by an Executive
16 Inspector General prior to July 1, 2012, within 10 days after
17 an Executive Inspector General begins an investigation, the
18 Executive Inspector General shall provide the Executive Ethics
19 Commission with (1) a summary of allegations and alleged
20 violations, the reason for opening the investigation, and the
21 unique tracking number assigned to the investigation and (2)
22 any additional information requested by the Executive Ethics
23 Commission. At any time, if ~~if~~ an Executive Inspector General,
24 upon the conclusion of an investigation, determines that
25 reasonable cause exists to believe that a violation has

1 occurred, then the Executive Inspector General shall issue a
2 summary report of the investigation. The report shall be
3 delivered to the appropriate ultimate jurisdictional authority
4 and to the head of each State agency affected by or involved in
5 the investigation, if appropriate.

6 (a-5) With respect to complaints received by an Executive
7 Inspector General prior to July 1, 2012, not more than 60 days
8 after delivering a summary report to the appropriate ultimate
9 jurisdictional authority and to the head of each State agency,
10 the Executive Inspector General shall deliver the summary
11 report to the Executive Ethics Commission. The Executive
12 Inspector General shall also provide the Executive Ethics
13 Commission with a report detailing the discipline related to
14 the summary report, if any, that the ultimate jurisdictional
15 authority or head of the State agency has imposed or intends to
16 impose. The Executive Inspector General shall provide any
17 additional information requested by the Executive Ethics
18 Commission. In the event the Executive Inspector General seeks
19 to file a petition for leave to file a complaint with the
20 Executive Ethics Commission pursuant to subsection (c), the
21 Executive Inspector General shall not deliver the summary
22 report to the Executive Ethics Commission and instead shall
23 notify the Commission and the Attorney General. If the Attorney
24 General does not file a petition for leave to file a complaint
25 with the Executive Ethics Commission within the time permitted
26 by statute, the Executive Inspector General must deliver a

1 summary report to the Executive Ethics Commission within 30
2 days.

3 Any report delivered to the Executive Ethics Commission
4 under this subsection shall not contain the name, office, or
5 position title of any individual person.

6 (b) The summary report of the investigation shall include
7 the following:

8 (1) A description of any allegations or other
9 information received by the Executive Inspector General
10 pertinent to the investigation.

11 (2) A description of any alleged misconduct discovered
12 in the course of the investigation.

13 (2.5) With respect to complaints received by an
14 Executive Inspector General prior to July 1, 2012, a
15 specific recommendation for any corrective or disciplinary
16 action to be taken in response to any alleged misconduct
17 described in the report, including but not limited to
18 suspension or discharge.

19 (3) With respect to complaints received by an Executive
20 Inspector General on or after July 1, 2012, recommendations
21 ~~Recommendations~~ for any corrective or disciplinary action
22 to be taken in response to any alleged misconduct described
23 in the report, including but not limited to discharge.

24 (4) Other information the Executive Inspector General
25 deems relevant to the investigation or resulting
26 recommendations.

1 (c) Not less than 30 days after delivery, under subsection
2 (a), of the summary report of an investigation to the
3 appropriate ultimate jurisdictional authority and to the head
4 of each State agency affected by or involved in the
5 investigation ~~under subsection (a),~~ if the Executive Inspector
6 General desires to file a petition for leave to file a
7 complaint, the Executive Inspector General shall notify the
8 Commission and the Attorney General. If the Attorney General
9 determines that reasonable cause exists to believe that a
10 violation has occurred, then the Executive Inspector General,
11 represented by the Attorney General, may file with the
12 Executive Ethics Commission a petition for leave to file a
13 complaint. The petition shall set forth the alleged violation
14 and the grounds that exist to support the petition. The
15 petition for leave to file a complaint must be filed with the
16 Commission within 18 months after the most recent act of the
17 alleged violation or of a series of alleged violations except
18 where there is reasonable cause to believe that fraudulent
19 concealment has occurred. To constitute fraudulent concealment
20 sufficient to toll this limitations period, there must be an
21 affirmative act or representation calculated to prevent
22 discovery of the fact that a violation has occurred. If a
23 petition for leave to file a complaint is not filed with the
24 Commission within 6 months after notice by the Inspector
25 General to the Commission and the Attorney General, then the
26 Commission may set a meeting of the Commission at which the

1 Attorney General shall appear and provide a status report to
2 the Commission.

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

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

10 (f) The Commission shall meet, either in person or by
11 telephone, in a closed session to review the sufficiency of the
12 complaint. If the Commission finds that complaint is
13 sufficient, the Commission shall grant the petition for leave
14 to file the complaint. The Commission shall issue notice to the
15 Executive Inspector 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 notify the parties and shall
19 include a hearing date scheduled within 4 weeks after the date
20 of the notice, unless all of the parties consent to a later
21 date. If the complaint is deemed not to sufficiently allege a
22 violation, then the Commission shall send by certified mail,
23 return receipt requested, a notice to the parties of the
24 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 or (ii) issue a recommendation of discipline to
7 the respondent and the respondent's ultimate jurisdictional
8 authority or impose an administrative fine upon the respondent,
9 or both.

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

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

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

17 (l) When the Inspector General concludes that there is
18 insufficient evidence that a violation has occurred, the
19 Inspector General shall close the investigation. At the request
20 of the subject of the investigation, the Inspector General
21 shall provide a written statement to the subject of the
22 investigation and to the Commission of the Inspector General's
23 decision to close the investigation. Closure by the Inspector
24 General does not bar the Inspector General from resuming the
25 investigation if circumstances warrant.

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

1 (5 ILCS 430/20-90)

2 Sec. 20-90. Confidentiality.

3 (a) The identity of any individual providing information or
4 reporting any possible or alleged misconduct to an Executive
5 Inspector General or the Executive Ethics Commission shall be
6 kept confidential and may not be disclosed without the consent
7 of that individual, unless the individual consents to
8 disclosure of his or her name or disclosure of the individual's
9 identity is otherwise required by law. The confidentiality
10 granted by this subsection does not preclude the disclosure of
11 the identity of a person in any capacity other than as the
12 source of an allegation.

13 (a-5) Each summary provided to the Executive Ethics
14 Commission by an Executive Inspector General within 10 days
15 after beginning an investigation, as required by subsection (a)
16 of Section 20-50, and each report provided to the Executive
17 Ethics Commission by an Executive Inspector General under
18 subsection (a-5) of Section 20-50 shall be kept confidential
19 and may not be disclosed.

20 (b) Subject to the provisions of Section 20-50(c),
21 commissioners, employees, and agents of the Executive Ethics
22 Commission, the Executive Inspectors General, and employees
23 and agents of each Office of an Executive Inspector General
24 shall keep confidential and shall not disclose information
25 exempted from disclosure under the Freedom of Information Act

1 or by this Act.

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

3 (5 ILCS 430/20-95)

4 Sec. 20-95. Exemptions.

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

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

23 (c) Meetings of the Commission under Sections 20-5 and
24 20-15 of this Act are exempt from the provisions of the Open
25 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 quarterly reports,~~ are
4 confidential, are exempt from disclosure under the Freedom of
5 Information Act, and shall not be divulged to any person or
6 agency, except as necessary (i) to the appropriate law
7 enforcement authority if the matter is referred pursuant to
8 this Act, (ii) to the ultimate jurisdictional authority, (iii)
9 to the Executive Ethics Commission; or (iv) to another
10 Inspector General appointed pursuant to this Act.
11 Investigatory reports, including summary reports of
12 investigations, and quarterly reports of the Office of an
13 Executive Inspector General are not exempt from the provisions
14 of the Freedom of Information Act, but information contained
15 therein that is otherwise exempt from the Freedom of
16 Information Act must be redacted before disclosure as provided
17 in Section 8 of the Freedom of Information Act.

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

19 (5 ILCS 430/50-5)

20 Sec. 50-5. Penalties.

21 (a) A person is guilty of a Class A misdemeanor if that
22 person intentionally violates (i) subsection (a-5) of Section
23 20-90 or (ii) any provision of Section 5-15, 5-30, 5-40, or
24 5-45 or Article 15.

25 (b) A person who intentionally violates any provision of

1 Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business
2 offense subject to a fine of at least \$1,001 and up to \$5,000.

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

6 (d) Any person who intentionally makes a false report
7 alleging a violation of any provision of this Act to an ethics
8 commission, an inspector general, the State Police, a State's
9 Attorney, the Attorney General, or any other law enforcement
10 official is guilty of a Class A misdemeanor.

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

17 (f) In addition to any other penalty that may apply,
18 whether criminal or civil, a State employee who intentionally
19 violates any provision of Section 5-15, 5-20, 5-30, 5-35, 5-40,
20 or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is
21 subject to discipline or discharge by the appropriate ultimate
22 jurisdictional authority.

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

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 430/5-10

4 5 ILCS 430/20-50

5 5 ILCS 430/20-90

6 5 ILCS 430/20-95

7 5 ILCS 430/50-5