



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1633

Introduced 2/19/2009, 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 10788 JAM 20996 b

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; 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 (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.~~

17 (b) The summary report of the investigation shall include
18 the following:

19 (1) A description of any allegations or other
20 information received by the Executive Inspector General
21 pertinent to the investigation.

22 (2) A description of any alleged misconduct discovered
23 in the course of the investigation.

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

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

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

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

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

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

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

1 return receipt requested, a notice to the parties of the
2 decision to dismiss the complaint.

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

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

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

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

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

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

1 decision to close the investigation. Closure by the Inspector
2 General does not bar the Inspector General from resuming the
3 investigation if circumstances warrant.

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

5 (5 ILCS 430/20-95)

6 Sec. 20-95. Exemptions.

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

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

25 (c) Meetings of the Commission under Sections 20-5 and

1 20-15 of this Act are exempt from the provisions of the Open
2 Meetings Act.

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.