



Sen. Bill Brady

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1 AMENDMENT TO SENATE BILL 1633

2 AMENDMENT NO. _____. Amend Senate Bill 1633 by replacing
3 everything after the enacting clause with the following:

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.~~

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

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

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

8 (3) Recommendations for any corrective or disciplinary
9 action to be taken in response to any alleged misconduct
10 described in the report, including but not limited to
11 discharge.

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

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

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

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

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

21 (f) The Commission shall meet, either in person or by
22 telephone, in a closed session to review the sufficiency of the
23 complaint. If the Commission finds that complaint is
24 sufficient, the Commission shall grant the petition for leave
25 to file the complaint. The Commission shall issue notice to the
26 Executive Inspector General and all respondents of the

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

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

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

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

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

26 (k) In all proceedings before the Commission, the standard

1 of proof is by a preponderance of the evidence.

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

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

12 (5 ILCS 430/20-95)

13 Sec. 20-95. Exemptions.

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

17 (b) Any allegations and related documents submitted to an
18 Executive Inspector General and any pleadings and related
19 documents brought before the Executive Ethics Commission are
20 exempt from the provisions of the Freedom of Information Act so
21 long as the Executive Ethics Commission does not make a finding
22 of a violation of this Act. If the Executive Ethics Commission
23 finds that a violation has occurred, the entire record of
24 proceedings before the Commission, the decision and
25 recommendation, and the mandatory report from the agency head

1 or ultimate jurisdictional authority to the Executive Ethics
2 Commission are not exempt from the provisions of the Freedom of
3 Information Act but information contained therein that is
4 otherwise exempt from the Freedom of Information Act must be
5 redacted before disclosure as provided in Section 8 of the
6 Freedom of Information Act.

7 (c) Meetings of the Commission under Sections 20-5 and
8 20-15 of this Act are exempt from the provisions of the Open
9 Meetings Act.

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

26 Each founded report and the corresponding agency response

1 shall be released publicly within 30 days after receipt of the
2 agency response, with the following exceptions:

3 (1) Reports that result in referrals to law enforcement
4 agencies.

5 (2) Reports that result in a compliant filed with the
6 Executive Ethics Commission.

7 (3) Reports that impact other continuing or related
8 investigations by the Executive Inspector General.

9 In cases referred to law enforcement or when a compliant is
10 to be filed with the Executive Ethics Commission, the Executive
11 Inspector General shall release those reports at the conclusion
12 of those matters. Founded reports that are related to other
13 continuing or related investigations shall be released
14 publicly as soon as practical to not interfere with existing
15 investigations.

16 The discretion to redact any portion of a founded report or
17 to issue a summary digest report shall be vested exclusively
18 with the Executive Inspector General.

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

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