

SENATE BILL 704

P1

2lr2598
CF 2lr1815

By: **Senators Pipkin and Colburn**

Introduced and read first time: February 3, 2012

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Inspector General**

3 FOR the purpose of specifying that there is an Inspector General of the State;
4 specifying the Inspector General's annual salary; providing that the Inspector
5 General is entitled to certain reimbursement; establishing the Office of the
6 Inspector General; authorizing the Inspector General to have certain offices and
7 employ certain staff; requiring certain staff to perform certain duties and to
8 carry certain identification; specifying that certain staff serve at the pleasure of
9 the Inspector General and are entitled to certain compensation and
10 reimbursement; authorizing the Inspector General to designate a certain Chief
11 Deputy Inspector General and certain other deputy inspectors general;
12 requiring the Chief Deputy Inspector General to serve as acting Inspector
13 General for a certain period under certain circumstances; authorizing the
14 Inspector General to adopt certain regulations and assist in a certain
15 investigation or conduct a joint investigation with certain entities; requiring the
16 Inspector General to develop a certain operations manual, make the operations
17 manual available to the public, and provide certain training; requiring the
18 Inspector General to examine and investigate the management and affairs of
19 units and conduct audits of the units; authorizing the Inspector General to
20 investigate certain matters; requiring the Inspector General periodically to
21 review certain policies and procedures and make certain recommendations;
22 requiring the Inspector General to receive certain complaints and establish a
23 certain hotline number and Web site; requiring the Inspector General to take
24 certain action when the Inspector General receives a complaint or discovers
25 certain evidence; requiring that a unit cooperate fully with the Inspector
26 General under certain circumstances; requiring that the Inspector General have
27 access to certain documents of a unit under certain circumstances; authorizing
28 the Inspector General, or the Inspector General's designee, to take certain
29 action in the performance of certain duties; specifying the process under which
30 the Inspector General is authorized to issue a subpoena or subpoena duces
31 tecum; authorizing a subpoena to be served by certain methods; authorizing a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain judge to take certain action if a person refuses to obey a certain
 2 subpoena; providing that, under certain circumstances, certain records are
 3 confidential and not subject to disclosure under a certain provision of law until a
 4 certain report is issued; requiring the Inspector General, at the end of each
 5 fiscal year, to submit a certain annual report to the Governor and the General
 6 Assembly; requiring the Inspector General to issue a certain final report;
 7 requiring that the final report be submitted to the Governor and the General
 8 Assembly and be posted on a certain Web site; requiring that the Inspector
 9 General, except under certain circumstances, provide a certain unit an
 10 opportunity to respond to a certain report; authorizing certain special elections
 11 be held to fill a certain vacancy; requiring that certain special elections be held
 12 at a time specified in a certain provision of this Act; requiring the State Board of
 13 Elections to determine the dates that certain elections are to be held; requiring
 14 that a certain primary election be held at least a certain number of days after a
 15 certain vacancy occurs; requiring that a certain general election be held at least
 16 a certain number of days after a certain primary election is held; making this
 17 Act contingent on the passage and ratification of a certain constitutional
 18 amendment; defining certain terms; and generally relating to the Inspector
 19 General.

20 BY adding to
 21 Article – State Government
 22 Section 7.5–101 through 7.5–112 to be under the new title “Title 7.5. Inspector
 23 General”
 24 Annotated Code of Maryland
 25 (2009 Replacement Volume and 2011 Supplement)

26 BY repealing and reenacting, with amendments,
 27 Article – Election Law
 28 Section 8–401
 29 Annotated Code of Maryland
 30 (2010 Replacement Volume and 2011 Supplement)

31 BY adding to
 32 Article – Election Law
 33 Section 8–402
 34 Annotated Code of Maryland
 35 (2010 Replacement Volume and 2011 Supplement)

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 37 MARYLAND, That the Laws of Maryland read as follows:

38 **Article – State Government**

39 **TITLE 7.5. INSPECTOR GENERAL.**

40 **7.5–101.**

1 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) “OFFICE” MEANS THE OFFICE OF THE INSPECTOR GENERAL.

4 (C) “UNIT” MEANS AN AGENCY OR UNIT OF THE EXECUTIVE BRANCH OF
5 STATE GOVERNMENT.

6 **7.5–102.**

7 (A) THERE IS AN INSPECTOR GENERAL OF THE STATE, AS PROVIDED IN
8 ARTICLE XX, § 1 OF THE MARYLAND CONSTITUTION.

9 (B) THE INSPECTOR GENERAL’S ANNUAL SALARY SHALL BE:

10 (1) \$112,500 FOR THE FIRST YEAR OF THE TERM BEGINNING
11 JANUARY 2015;

12 (2) \$116,667 STARTING ON THE FIRST ANNIVERSARY OF THE
13 BEGINNING OF THE TERM;

14 (3) \$120,833 STARTING ON THE SECOND ANNIVERSARY OF THE
15 BEGINNING OF THE TERM; AND

16 (4) \$125,000 STARTING ON THE THIRD ANNIVERSARY OF THE
17 BEGINNING OF THE TERM AND THEREAFTER.

18 (C) THE INSPECTOR GENERAL IS ALSO ENTITLED TO REIMBURSEMENT
19 FOR TRAVEL AND OTHER EXPENSES THAT ARE CONNECTED WITH THE DUTIES
20 OF THE OFFICE.

21 **7.5–103.**

22 (A) THERE IS AN OFFICE OF THE INSPECTOR GENERAL.

23 (B) THE INSPECTOR GENERAL MAY HAVE OFFICES THAT THE STATE
24 SHALL MAINTAIN AND EQUIP.

25 **7.5–104.**

26 (A) (1) THE INSPECTOR GENERAL MAY EMPLOY A STAFF IN
27 ACCORDANCE WITH THE STATE BUDGET.

1 **(2) STAFF EMPLOYED UNDER THIS SECTION SHALL:**

2 **(I) PERFORM THE DUTIES THAT THE INSPECTOR GENERAL**
3 **ASSIGNS; AND**

4 **(II) CARRY IDENTIFICATION CARDS THAT IDENTIFY THE**
5 **STAFF AS EMPLOYEES OF THE OFFICE.**

6 **(3) STAFF EMPLOYED UNDER THIS SUBSECTION:**

7 **(I) SERVE AT THE PLEASURE OF THE INSPECTOR**
8 **GENERAL; AND**

9 **(II) ARE ENTITLED TO:**

10 **1. COMPENSATION AS PROVIDED IN THE STATE**
11 **BUDGET; AND**

12 **2. REIMBURSEMENT FOR EXPENSES UNDER THE**
13 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
14 **BUDGET.**

15 **(B) FROM AMONG THE EMPLOYEES ON THE STAFF, THE INSPECTOR**
16 **GENERAL MAY DESIGNATE ONE CHIEF DEPUTY INSPECTOR GENERAL AND ONE**
17 **OR MORE DEPUTY INSPECTORS GENERAL.**

18 **7.5-105.**

19 **(A) THE CHIEF DEPUTY INSPECTOR GENERAL SHALL SERVE AS**
20 **ACTING INSPECTOR GENERAL IF THE INSPECTOR GENERAL TEMPORARILY IS**
21 **UNABLE OR UNAVAILABLE TO CARRY OUT THE DUTIES OF THE OFFICE.**

22 **(B) IF THE INSPECTOR GENERAL GIVES THE CHIEF DEPUTY**
23 **INSPECTOR GENERAL WRITTEN NOTICE OF A TEMPORARY INABILITY OR**
24 **UNAVAILABILITY, THE ACTING INSPECTOR GENERAL SHALL SERVE:**

25 **(1) ON AND AFTER THE DATE THAT THE INSPECTOR GENERAL**
26 **SETS IN THE NOTICE; AND**

27 **(2) UNTIL THE INSPECTOR GENERAL GIVES THE ACTING**
28 **INSPECTOR GENERAL WRITTEN NOTICE THAT THE INSPECTOR GENERAL IS**
29 **ABLE TO CARRY OUT THE DUTIES OF THE OFFICE.**

1 **7.5-106.**

2 (A) **THE INSPECTOR GENERAL MAY:**

3 (1) **ADOPT REGULATIONS TO CARRY OUT THIS TITLE;**

4 (2) **ASSIST IN AN INVESTIGATION CONDUCTED BY, OR CONDUCT A**
5 **JOINT INVESTIGATION WITH, A LAW ENFORCEMENT AGENCY OR A**
6 **PROSECUTORIAL AGENCY.**

7 (B) **THE INSPECTOR GENERAL SHALL:**

8 (1) **DEVELOP AN OPERATIONS MANUAL THAT CONFORMS TO THE**
9 **STANDARDS ADOPTED BY THE ASSOCIATION OF INSPECTORS GENERAL;**

10 (2) **MAKE THE OPERATIONS MANUAL AVAILABLE TO THE PUBLIC;**
11 **AND**

12 (3) **PROVIDE TRAINING AND EDUCATION FOR THE UNITS.**

13 **7.5-107.**

14 (A) **THE INSPECTOR GENERAL SHALL:**

15 (1) **EXAMINE AND INVESTIGATE THE MANAGEMENT AND AFFAIRS**
16 **OF THE UNITS CONCERNING WASTE, MISMANAGEMENT, MISCONDUCT, ABUSE,**
17 **FRAUD, AND CORRUPTION; AND**

18 (2) **CONDUCT AUDITS OF THE UNITS.**

19 (B) **THE INSPECTOR GENERAL MAY INVESTIGATE:**

20 (1) **MISUSE OF STATE-OWNED VEHICLES OR OTHER PROPERTY;**

21 (2) **EVIDENCE OF A PATTERN OF EXCESSIVE CHARGES ON STATE**
22 **CONTRACTS;**

23 (3) **UNAUTHORIZED USE OF LEAVE BY STATE EMPLOYEES;**

24 (4) **MISMANAGEMENT OF GOVERNMENTAL OPERATIONS;**

25 (5) **WASTE OR ABUSE OF PROPERTY BELONGING TO A UNIT; AND**

1 **(6) CONSTRUCTION, OPERATION, AND MAINTENANCE OF STATE**
2 **FACILITIES.**

3 **(C) THE INSPECTOR GENERAL PERIODICALLY SHALL:**

4 **(1) REVIEW THE POLICIES AND PROCEDURES OF THE UNITS; AND**

5 **(2) MAKE RECOMMENDATIONS TO IMPROVE THE POLICIES AND**
6 **PROCEDURES OF THE UNITS.**

7 **7.5–108.**

8 **(A) THE INSPECTOR GENERAL SHALL:**

9 **(1) RECEIVE COMPLAINTS OF WASTE, MISMANAGEMENT,**
10 **MISCONDUCT, ABUSE, FRAUD, OR CORRUPTION IN THE UNITS; AND**

11 **(2) ESTABLISH A TOLL–FREE HOTLINE NUMBER AND WEB SITE**
12 **THROUGH WHICH ANONYMOUS COMPLAINTS MAY BE FILED.**

13 **(B) IF THE INSPECTOR GENERAL RECEIVES A COMPLAINT UNDER**
14 **SUBSECTION (A) OF THIS SECTION, THE INSPECTOR GENERAL SHALL**
15 **DETERMINE WHETHER THE COMPLAINT SHOULD BE INVESTIGATED.**

16 **(C) IF THE INSPECTOR GENERAL DISCOVERS EVIDENCE OF CRIMINAL**
17 **ACTIVITY WHEN INVESTIGATING A COMPLAINT, THE INSPECTOR GENERAL**
18 **SHALL NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY.**

19 **7.5–109.**

20 **(A) A UNIT SHALL COOPERATE FULLY WITH THE INSPECTOR GENERAL**
21 **IN AN INVESTIGATION OR AUDIT THAT IS CONDUCTED BY THE OFFICE.**

22 **(B) THE INSPECTOR GENERAL SHALL HAVE ACCESS TO ALL RECORDS,**
23 **DATA, REPORTS, CONTRACTS, CORRESPONDENCE, OR OTHER DOCUMENTS OF A**
24 **UNIT DURING AN INVESTIGATION OR AUDIT CONDUCTED BY THE OFFICE.**

25 **7.5–110.**

26 **(A) IN THE PERFORMANCE OF THE DUTIES OF INSPECTOR GENERAL,**
27 **THE INSPECTOR GENERAL OR THE INSPECTOR GENERAL’S DESIGNEE MAY:**

1 **(1) SEEK AND OBTAIN SWORN TESTIMONY;**

2 **(2) COMPEL THE ATTENDANCE OF WITNESSES TO BE DEPOSED BY**
3 **THE OFFICE; AND**

4 **(3) COMPEL THE PRODUCTION OF RECORDS BY ISSUING A**
5 **SUBPOENA IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.**

6 **(B) (1) THE INSPECTOR GENERAL MAY ISSUE A SUBPOENA OR**
7 **SUBPOENA DUCES TECUM ONLY WITH THE APPROVAL OF A JUDGE OF THE**
8 **CIRCUIT COURT FOR THE COUNTY IN WHICH THE OFFICE IS LOCATED.**

9 **(2) THE INSPECTOR GENERAL SHALL SUBMIT A WRITTEN**
10 **APPLICATION FOR THE APPROVAL SOUGHT UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION.**

12 **(3) A WRITTEN DECISION ON AN APPLICATION SUBMITTED**
13 **UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE ISSUED WITHIN 72**
14 **HOURS AFTER THE RECEIPT OF THE APPLICATION.**

15 **(4) A SUBPOENA FOR PRODUCTION OF RECORDS MAY BE SERVED**
16 **BY:**

17 **(I) CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT THE**
18 **ADDRESSEE'S RESIDENCE OR BUSINESS ADDRESS;**

19 **(II) A REPRESENTATIVE APPOINTED BY THE INSPECTOR**
20 **GENERAL; OR**

21 **(III) THE APPROPRIATE LAW ENFORCEMENT AGENCY.**

22 **(C) IF A PERSON REFUSES TO OBEY A SUBPOENA ISSUED BY THE**
23 **INSPECTOR GENERAL UNDER SUBSECTION (A) OF THIS SECTION, THE JUDGE**
24 **THAT APPROVED THE ISSUANCE OF THE SUBPOENA UNDER SUBSECTION (B) OF**
25 **THIS SECTION MAY:**

26 **(1) ISSUE AN ORDER TO THE PERSON REQUIRING THE PERSON TO**
27 **APPEAR BEFORE THE COURT TO SHOW CAUSE; AND**

28 **(2) FIND THE PERSON IN CONTEMPT OF COURT.**

29 **7.5-111.**

1 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
2 RECORDS PREPARED OR OBTAINED BY THE INSPECTOR GENERAL IN
3 CONNECTION WITH AN INVESTIGATION OR AUDIT CONDUCTED BY THE OFFICE
4 ARE CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC
5 INFORMATION ACT UNTIL THE FINAL REPORT ON THE INVESTIGATION OR
6 AUDIT IS ISSUED UNDER § 7.5-112 OF THIS TITLE.

7 (B) IF AN INDIVIDUAL REQUESTS A PUBLIC RECORD UNDER THE
8 PUBLIC INFORMATION ACT AND THE ONLY COPY OF THE PUBLIC RECORD HAS
9 BEEN OBTAINED BY THE INSPECTOR GENERAL, THE CUSTODIAN OF THE PUBLIC
10 RECORD SHALL CERTIFY THAT THE INSPECTOR GENERAL IS IN POSSESSION OF
11 THE ONLY COPY OF THE RECORD AND THE INSPECTOR GENERAL SHALL ALLOW
12 THE INDIVIDUAL TO EXAMINE AND COPY THE RECORD.

13 (C) AN INDIVIDUAL WHO DISCLOSES A RECORD PROTECTED FROM
14 DISCLOSURE UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS
15 SUBJECT TO A FINE NOT TO EXCEED \$2,000 OR IMPRISONMENT NOT TO EXCEED
16 1 YEAR OR BOTH.

17 **7.5-112.**

18 (A) (1) AT THE END OF EACH FISCAL YEAR, THE INSPECTOR
19 GENERAL SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, IN
20 ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY.

21 (2) THE ANNUAL REPORT SHALL:

22 (I) DESCRIBE THE BUSINESS AND PROCEEDINGS OF THE
23 OFFICE DURING THE PRECEDING FISCAL YEAR; AND

24 (II) INCLUDE ANY RECOMMENDATIONS REGARDING THE
25 ACTIVITIES OF THE UNITS THAT THE INSPECTOR GENERAL CONSIDERS
26 APPROPRIATE.

27 (B) (1) THE INSPECTOR GENERAL SHALL ISSUE A FINAL REPORT ON
28 AN INVESTIGATION OR AUDIT COMPLETED BY THE OFFICE.

29 (2) THE FINAL REPORT ISSUED UNDER PARAGRAPH (1) OF THIS
30 SUBSECTION SHALL:

31 (I) BE SUBMITTED TO THE GOVERNOR AND, IN
32 ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY; AND

1 **(II) BE POSTED ON THE OFFICE’S WEB SITE.**

2 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
3 **PARAGRAPH, BEFORE RELEASING A FINAL REPORT UNDER PARAGRAPH (1) OF**
4 **THIS SUBSECTION, THE INSPECTOR GENERAL SHALL PROVIDE AN**
5 **OPPORTUNITY FOR THE UNIT THAT WAS THE SUBJECT OF THE INVESTIGATION**
6 **OR AUDIT TO RESPOND TO THE REPORT.**

7 **(II) THE INSPECTOR GENERAL IS NOT REQUIRED TO**
8 **PROVIDE AN OPPORTUNITY FOR RESPONSE UNDER SUBPARAGRAPH (I) OF THIS**
9 **PARAGRAPH IF THE INSPECTOR GENERAL, IN CONJUNCTION WITH A UNITED**
10 **STATES ATTORNEY, AN ATTORNEY GENERAL, A STATE’S ATTORNEY, OR ANY**
11 **OTHER APPROPRIATE PROSECUTORIAL AGENCY, DETERMINES THAT ALLOWING**
12 **THE UNIT TO RESPOND WOULD JEOPARDIZE A PENDING OR POTENTIAL**
13 **CRIMINAL INVESTIGATION.**

14 **Article – Election Law**

15 8–401.

16 (a) A special primary election and a special general election may be held at a
17 time other than the date of a regular primary election and a regular general election:

18 (1) to fill a vacancy in the office of Representative in Congress; [or]

19 (2) to fill a vacancy in the county council if the charter of that county
20 provides for special elections; **OR**

21 **(3) TO FILL A VACANCY IN THE OFFICE OF INSPECTOR GENERAL**
22 **IF THE VACANCY OCCURS MORE THAN 2 YEARS BEFORE THE EXPIRATION OF**
23 **THE INSPECTOR GENERAL’S TERM.**

24 (b) (1) Special elections to fill a vacancy in the office of Representative in
25 Congress shall be held at the time specified in Subtitle 7 of this title.

26 (2) Special elections to fill vacancies in a county council shall be held
27 as provided in the county charter.

28 **(3) SPECIAL ELECTIONS TO FILL A VACANCY IN THE OFFICE OF**
29 **INSPECTOR GENERAL SHALL BE HELD AT THE TIME SPECIFIED IN § 8–402 OF**
30 **THIS SUBTITLE.**

31 (c) An election to fill a vacancy in the office of United States Senator shall be
32 held concurrently with a regular election as provided in Subtitle 6 of this title.

1 **8-402.**

2 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE STATE BOARD
3 SHALL DETERMINE THE DATES OF THE SPECIAL PRIMARY ELECTION AND THE
4 SPECIAL GENERAL ELECTION TO BE HELD TO FILL A VACANCY IN THE OFFICE
5 OF INSPECTOR GENERAL.

6 (B) (1) THE SPECIAL PRIMARY ELECTION SHALL BE HELD ON A
7 TUESDAY THAT IS AT LEAST 36 DAYS AFTER THE DATE THAT THE VACANCY
8 OCCURS.

9 (2) THE SPECIAL GENERAL ELECTION SHALL BE HELD ON A
10 TUESDAY THAT IS A LEAST 36 DAYS AFTER THE DATE OF THE SPECIAL PRIMARY
11 ELECTION.

12 (C) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT
13 THIS SECTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
15 the passage of Chapter ____(S.B.___/H.B.___)(2lr1719) of the Acts of the General
16 Assembly of 2012, a constitutional amendment, and its ratification by the voters of the
17 State.

18 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
19 of Section 2 of this Act, this Act shall take effect on the proclamation of the Governor
20 that the constitutional amendment, having received a majority of the votes cast at the
21 general election, has been adopted by the people of Maryland.