
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1618 Session of
2015

INTRODUCED BY FEE, REGAN, BLOOM, R. BROWN, CAUSER, CORBIN,
 CUTLER, EVANKOVICH, GREINER, GROVE, A. HARRIS, HICKERNELL,
 PHILLIPS-HILL, JOZWIAK, KAMPF, KAUFER, KAUFFMAN, KLUNK,
 LAWRENCE, MACKENZIE, MAJOR, METCALFE, B. MILLER, MURT,
 OBERLANDER, PETRI, PICKETT, RAPP, SANKEY, TOEPEL, TOPPER,
 WARD, ZIMMERMAN, JAMES, STEPHENS, MILNE, WATSON AND DUSH,
 OCTOBER 15, 2015

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 18, 2016

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled,
 2 "An act providing for and reorganizing the conduct of the
 3 executive and administrative work of the Commonwealth by the
 4 Executive Department thereof and the administrative
 5 departments, boards, commissions, and officers thereof,
 6 including the boards of trustees of State Normal Schools, or
 7 Teachers Colleges; abolishing, creating, reorganizing or
 8 authorizing the reorganization of certain administrative
 9 departments, boards, and commissions; defining the powers and
 10 duties of the Governor and other executive and administrative
 11 officers, and of the several administrative departments,
 12 boards, commissions, and officers; fixing the salaries of the
 13 Governor, Lieutenant Governor, and certain other executive
 14 and administrative officers; providing for the appointment of
 15 certain administrative officers, and of all deputies and
 16 other assistants and employes in certain departments, boards,
 17 and commissions; and prescribing the manner in which the
 18 number and compensation of the deputies and all other
 19 assistants and employes of certain departments, boards and
 20 commissions shall be determined," establishing the Office of
 21 State Inspector General.

22 The General Assembly finds and declares that:

23 (1) The prevention of fraud, waste, abuse and corruption
 24 ~~of the agencies~~ IN THE ADMINISTRATION of State government <--

1 AGENCIES is an important responsibility of the Commonwealth. <--

2 (2) The prevention of waste, fraud, abuse and corruption
3 in ~~State agencies~~ THE ADMINISTRATION OF STATE GOVERNMENT <--

4 depends in part on the development, implementation and
5 enforcement of sound policies and procedures to that end.

6 (3) Each State agency should exercise constant vigilance
7 and firmly commit to the implementation and enforcement of
8 such policies and procedures.

9 (4) The establishment of a full-time program of
10 investigation and performance review to provide increased
11 accountability and oversight over State agencies best helps
12 deter and identify waste, fraud, abuse and illegal acts.

13 (5) The statutory creation of a wholly independent
14 office of Inspector General to conduct investigations,
15 inspections and other reviews in accordance with those
16 professional standards that relate to the fields of
17 investigation in governmental environments is necessary to
18 achieve these goals.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
22 as The Administrative Code of 1929, is amended by adding an
23 article to read:

24 ARTICLE V-A

25 OFFICE OF STATE INSPECTOR GENERAL

26 Section 501-A. Definitions.

27 The following words and phrases when used in this article
28 shall have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Office." The Office of State Inspector General.

1 "Executive agency." As defined in section 102 of the act of
2 act of October 15, 1980 (P.L.950, No.164), known as the
3 Commonwealth Attorneys Act.

4 Section 502-A. Office of State Inspector General.

5 (a) Establishment.--The Office of State Inspector General is
6 established.

7 (b) Appointment.--The Governor shall nominate a State
8 Inspector General who shall serve for a term of six years. The
9 nomination of the State Inspector General shall be confirmed by
10 the Senate by two-thirds of all the members of the Senate. No
11 later than 90 days prior to the end of the term of a State
12 Inspector General, the Governor shall nominate a State Inspector
13 General. Compensation shall be set by the Executive Board
14 established under section 204. The State Inspector General may
15 serve no more than two terms.

16 (c) Limitation.--The State Inspector General may not seek
17 election nor accept appointment to a political office during his
18 or her tenure as State Inspector General and for one year
19 thereafter.

20 (d) Removal.--The State Inspector General may be removed by
21 the Governor only for cause.

22 Section 503-A. Powers, purpose and duties.

23 (a) Powers.--The State Inspector General shall have the
24 power to do the following:

25 (1) Make an investigation and report relating to the
26 administration of a program and operation of an executive
27 agency that the State Inspector General determines is
28 necessary. If the State Inspector General determines that a
29 report should be issued, the State Inspector General may
30 consult with the Office of General Counsel or the Attorney

1 General before issuing the report to insure against an
2 adverse impact on a grand jury proceeding or prosecution
3 being conducted by a law enforcement agency.

4 (2) Request information or assistance necessary for
5 carrying out the duties and responsibilities under this
6 article from a ~~Federal, State or~~ THE FEDERAL GOVERNMENT, AN <--
7 EXECUTIVE AGENCY OR A local government agency or a unit of a
8 Federal, State or local government agency.

9 (3) Require and obtain, by written notice from an
10 officer and employee of an executive agency and the Executive <--
11 Department, information, documents, reports, answers,
12 records, accounts, papers and other necessary data and
13 documentary evidence.

14 (4) Have direct and prompt access to the heads of
15 executive agencies if necessary for a purpose pertaining to
16 the performance of functions and responsibilities under this
17 article.

18 (5) Select, appoint and employ officers and employees
19 necessary for carrying out the functions, powers and duties
20 of the office. The officers and ~~employees~~ EMPLOYEES must be <--
21 employed in accordance with current procedures of the Office
22 of Administration and may be assigned by the State Inspector
23 General to a designated executive agency.

24 (6) Issue subpoenas under section 505-A.

25 (b) Purpose.--The purpose of the Office of State Inspector
26 General is as follows:

27 (1) To deter, detect, prevent and eradicate fraud,
28 waste, misconduct and abuse in a program, operation and
29 contracting of an executive agency.

30 (2) To keep the head of an executive agency, ~~the~~ <--

1 ~~Governor and the President pro tempore of the Senate and the~~
2 ~~Speaker of the House of Representatives~~ fully informed about
3 ~~a problem and deficiency relating to the OPERATION OR~~ <--
4 ~~administration of a program, operation and contracting in OR~~ <--
5 ~~CONTRACTS ENTERED INTO BY an executive agency.~~

6 (3) ~~To provide leadership, coordination and control over~~
7 ~~satellite Inspector General Offices in a designated executive~~
8 ~~agency to insure ENSURE a coordinated and efficient~~ <--
9 ~~administration of duties and use of staff. The existing~~
10 ~~Office of Inspector General in the Department of~~
11 ~~Transportation shall continue as a satellite Inspector~~
12 ~~General Office. Each satellite Inspector General Office in an~~
13 ~~executive agency shall report to and follow the direction of~~
14 ~~the State Inspector General.~~

15 (c) ~~Duties.--It is the duty of the State Inspector General~~
16 ~~to:~~

17 (1) ~~Inspect, evaluate, investigate and review the~~
18 ~~activities, records and individuals with contracts,~~
19 ~~procurements, grants, agreements and other financial~~
20 ~~arrangements undertaken by an executive agency, for the~~
21 ~~purposes of identifying fraud, waste, misconduct or abuse.~~

22 (2) ~~Conduct eriminal, civil and administrative~~ <--
23 ~~investigations OF A PROGRAM OR OPERATION OF AN EXECUTIVE~~ <--
24 ~~AGENCY.~~

25 (3) ~~Make referrals to the Auditor General for the audit~~
26 ~~of the economy, efficiency and effectiveness of an executive~~
27 ~~agency's operations and functions and conduct reviews of the~~
28 ~~executive agency's performance measurement system.~~

29 (4) ~~Review the reliability and validity of the~~
30 ~~information provided by an executive agency's performance~~

1 measures and standards.

2 (5) Provide information and evidence that relates to
3 criminal acts DISCOVERED DURING THE COURSE OF AN <--
4 INVESTIGATION INTO AN EXECUTIVE AGENCY to appropriate law
5 enforcement officials.

6 (6) Receive and investigate complaints from any source
7 or upon the State Inspector General's own initiative
8 concerning alleged abuses, frauds and service deficiencies,
9 including deficiencies in the operation and maintenance of a <--
10 AN EXECUTIVE AGENCY facility. <--

11 (7) Engage in prevention activities, including, but not
12 limited to, review of legislation, review of rules,
13 regulations, policies, procedures and transactions, training
14 and education.

15 (8) Refer matters for further civil, criminal and
16 administrative action to appropriate administrative and
17 prosecutorial agencies.

18 (9) Conduct joint investigations and projects with other
19 oversight or law enforcement agencies THAT ARE CONSISTENT <--
20 WITH THE POWERS AND DUTIES CONTAINED UNDER THIS ARTICLE.

21 (10) Recommend remedial actions to be taken by an
22 executive agency to overcome or correct operating or
23 maintenance deficiencies and inefficiencies that were
24 identified by the State Inspector General.

25 (11) Issue public reports.

26 ~~(12) Monitor implementation of recommendations made by~~ <--
27 ~~the State Inspector General and other audit agencies.~~

28 ~~(13)~~ (12) Maintain information regarding the cost of <--
29 investigations and cooperate with appropriate administrative
30 and prosecutorial agencies in recovering the costs from

1 nongovernmental entities involved in willful misconduct.

2 ~~(14)~~ (13) Perform any other functions necessary to <--
3 effectuate this article.

4 Section 504-A. Request for information.

5 (a) Duty.--Upon request of the State Inspector General for
6 information or assistance, an executive agency must within 10
7 days RESPOND TO THE REQUEST AND furnish the information and <--
8 assistance to the State Inspector General or an authorized
9 designee.

10 (b) Report.--If information or assistance requested under
11 subsection (a) is, in the judgment of the State Inspector
12 General, unreasonably refused or not provided, the State
13 Inspector General may report the circumstances to the head of
14 the agency, AND the Office of General Counsel, the President pro <--
15 tempore of the Senate and the Speaker of the House of
16 Representatives for appropriate action.

17 Section 505-A. Subpoenas and witness fees.

18 (a) Authorization.--The IN ACCORDANCE WITH THE POWERS UNDER <--
19 SECTION 503-A(A) AND DUTIES UNDER SECTION 503-A(C), THE State
20 Inspector General may issue a subpoena relating to any matter
21 pertinent to an examination. TO A PERSON UNDER THE STATE <--
22 INSPECTOR GENERAL'S JURISDICTION OR TO AN INDIVIDUAL OR A PERSON
23 RECEIVING SERVICES FROM OR THROUGH AN EXECUTIVE AGENCY. If a
24 person fails or refuses to obey a subpoena, the State Inspector
25 General may petition a court of competent jurisdiction to enter
26 an order compelling the witness to appear and testify or produce
27 documentary evidence. Failure to obey the court order shall be
28 punishable as contempt of court.

29 (b) Form and effect.--A subpoena under subsection (a) shall
30 be in substantially the same form and have the same force and

1 effect as a subpoena issued by a court of common pleas. The
2 State Inspector General shall have the benefit of the process of
3 the appropriate court of common pleas if necessary to enforce a
4 subpoena.

5 (c) Confidentiality.--A subpoena issued under this section
6 must clearly indicate on the face of the subpoena that the
7 subpoena is issued in connection with a confidential proceeding
8 and a breach of confidentiality by the person subpoenaed may
9 result in a civil penalty or misdemeanor.

10 (d) Fees.--Witnesses subpoenaed under this section shall be
11 compensated under 42 Pa.C.S. § 5903 (relating to compensation
12 and expenses of witnesses).

13 Section 506-A. Complaint, disclosure and reprisal.

14 (a) Complaint.--The State Inspector General may receive and
15 investigate a complaint or information concerning the possible
16 existence of an activity in an executive agency constituting any
17 of the following:

18 (1) A violation of a law, rule or regulation.

19 (2) Mismanagement, fraud, waste of funds, abuse of
20 authority, malfeasance, misfeasance and nonfeasance.

21 (3) A substantial and specific danger to the public
22 health and safety.

23 (b) Disclosure.--A person may not take or threaten to take
24 action against an employee as a reprisal for making a complaint
25 or disclosing information to the State Inspector General, except
26 if the complaint was made or the information was disclosed with
27 the knowledge that the complaint or information was false or
28 with willful disregard for the truth or falsity of the complaint
29 or information.

30 (c) Protection.--The protections in this article for

1 employees who report, in good faith, fraud, waste, misconduct,
2 malfeasance, misfeasance, nonfeasance or abuse shall be in
3 addition and supplementary to each protection provided by the
4 act of December 12, 1986 (P.L.1559, No.169), known as the
5 Whistleblower Law.

6 Section 507-A. Appropriation.

7 The appropriation for the office shall be in a separate line
8 item and shall be under the jurisdiction of the State Inspector
9 General.

10 SECTION 508-A. COMPLEMENT OF OFFICE.

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11 (A) GENERAL RULE.--SUBJECT TO SUFFICIENT FUNDS BEING
12 APPROPRIATED FOR SUCH PURPOSE, THE OFFICE SHALL HIRE ADDITIONAL
13 EMPLOYEES AND SUCH EMPLOYEES SHALL, FOR A PERIOD OF NOT LESS
14 THAN TWO YEARS, INVESTIGATE FRAUD, WASTE, MISCONDUCT AND ABUSE
15 CLAIMS FROM THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT
16 OF HEALTH.

17 (B) NUMBER OF ADDITIONAL EMPLOYEES.--THE NUMBER OF NEW
18 EMPLOYEES HIRED UNDER SUBSECTION (A) SHALL BE SUFFICIENT TO
19 INCREASE BY AT LEAST 50% THE TOTAL COMPLEMENT OF EMPLOYEES IN
20 THE OFFICE OF INSPECTOR GENERAL ON MARCH 31, 2016.

21 (C) REPORT TO GENERAL ASSEMBLY.--NOT LATER THAN ONE YEAR
22 AFTER THE ADDITIONAL EMPLOYEES ARE HIRED UNDER SUBSECTION (A),
23 THE OFFICE SHALL SUBMIT A WRITTEN REPORT TO THE APPROPRIATIONS
24 COMMITTEE OF THE SENATE, THE PUBLIC HEALTH AND WELFARE COMMITTEE
25 OF THE SENATE, THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
26 REPRESENTATIVES AND THE HUMAN SERVICES COMMITTEE OF THE HOUSE OF
27 REPRESENTATIVES. THE REPORT SHALL INCLUDE:

28 (1) THE NUMBER OF TOTAL INVESTIGATIONS ADDRESSED BY THE
29 OFFICE, INCLUDING A BREAKDOWN BY NEW AND PRIOR EMPLOYEES.

30 (2) THE DOLLAR AMOUNT OF RECOVERY/COST AVOIDANCE PER

1 EMPLOYEE, INCLUDING A BREAKDOWN BY NEW AND PRIOR EMPLOYEES.

2 (3) THE NUMBER OF INVESTIGATIONS FILED WITH THE OFFICE
3 THAT WERE NOT ADDRESSED.

4 (4) ANY ADDITIONAL COST-SAVING EFFORTS INITIATED BY THE
5 OFFICE AS A RESULT OF ADDITIONAL EMPLOYEES.

6 THE REPORT SHALL BE A PUBLIC RECORD UNDER THE ACT OF FEBRUARY
7 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

8 SECTION 509-A. REPORT TO GENERAL ASSEMBLY.

9 BY DECEMBER 31 OF EACH YEAR, THE STATE INSPECTOR GENERAL
10 SHALL ISSUE AN ANNUAL REPORT TO THE SENATE AND THE HOUSE OF
11 REPRESENTATIVES. THE ANNUAL REPORT SHALL INCLUDE, AT A MINIMUM,
12 THE FOLLOWING:

13 (1) INFORMATION RELATING TO INVESTIGATIONS UNDERTAKEN BY
14 THE OFFICE, INCLUDING THE NUMBER OF CASES INVESTIGATED,
15 CATEGORIZED BY TYPE, WITH A SPECIFIC SECTION DETAILING
16 INVESTIGATIONS CONDUCTED WITHIN THE DEPARTMENT OF HUMAN
17 SERVICES.

18 (2) AN ACCOUNTING OF TAXPAYER MONEY THAT WAS RECOVERED
19 AS A RESULT OF THE WORK OF THE OFFICE.

20 (3) THE MONETARY VALUE THAT RESULTED FROM FRAUD
21 PREVENTION ACTIVITIES AS A RESULT OF THE WORK OF THE OFFICE.

22 (4) SUMMARIES OF PERFORMANCE OF EACH BUREAU WITHIN THE
23 OFFICE.

24 (5) SPECIFIC RECOMMENDATIONS CONCERNING THE IMPROVEMENT
25 OF ANY STATE PROGRAM TO FURTHER REDUCE WASTE, FRAUD AND
26 ABUSE.

27 Section 2. Except as otherwise provided in Article V-A of
28 the act, all activities initiated by the Office of Inspector
29 General in existence on the effective date of this section shall
30 continue and remain in full force and effect and may be

1 completed under Article V-A of the act. Orders, regulations,
2 rules and decisions which were made by the Office of Inspector
3 General in existence on the effective date of this section and
4 which are in effect on the effective date of this section shall
5 remain in full force and effect until revoked, vacated or
6 modified under Article V-A of the act. Contracts, obligations
7 and collective bargaining agreements entered into by the Office
8 of Inspector General in existence on the effective date of this
9 section are not affected nor impaired by the addition of Article
10 V-A of the act.

11 Section 3. This act shall take effect as follows:

12 (1) The addition of section 502-A(b) of the act shall
13 take effect January 16, 2019.

14 (2) The remainder of this act shall take effect in 60
15 days.