



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3159

Introduced 2/15/2018, by Sen. Karen McConnaughay - Michael Connelly

SYNOPSIS AS INTRODUCED:

- 5 ILCS 430/25-5
- 5 ILCS 430/25-10
- 5 ILCS 430/25-50

Amends the State Officials and Employees Ethics Act. Provides that a commissioner of the Legislative Ethics Commission who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject, is a witness, or is a complainant (currently, is only the subject of). Requires a temporary vacancy and appointment if a commissioner who is a member of the General Assembly is required to recuse himself or herself from participating in a matter. Provides that the jurisdiction of the Commission is limited to matters arising under the Act and the Illinois Governmental Ethics Act (currently, only arising under the Act). Requires the Commission to designate an Acting Legislative Inspector General for a vacant Legislative Inspector General Office no later than the 30th day after the occurrence of the vacancy. Provides that if an ultimate jurisdictional authority fails to respond to an investigation summary report within 20 days, on the 21st day, the Legislative Inspector General may proceed under the Act as if a response had been received. Provides that if an ultimate jurisdictional authority is the subject of an investigation summary report, the Legislative Inspector General shall submit the summary report and supporting documents to the Attorney General. Provides that any complaint based on an investigation of information provided to the Office of the Legislative Inspector General or the Legislative Ethics Commission during the period from December 1, 2014 through November 3, 2017 must be filed with the Commission no later than May 17, 2019.

LRB100 16944 RJF 32089 b

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 25-5, 25-10, and 25-50 as follows:

6 (5 ILCS 430/25-5)

7 Sec. 25-5. Legislative Ethics Commission.

8 (a) The Legislative Ethics Commission is created.

9 (b) The Legislative Ethics Commission shall consist of 8
10 commissioners appointed 2 each by the President and Minority
11 Leader of the Senate and the Speaker and Minority Leader of the
12 House of Representatives.

13 The terms of the initial commissioners shall commence upon
14 qualification. Each appointing authority shall designate one
15 appointee who shall serve for a 2-year term running through
16 June 30, 2005. Each appointing authority shall designate one
17 appointee who shall serve for a 4-year term running through
18 June 30, 2007. The initial appointments shall be made within 60
19 days after the effective date of this Act.

20 After the initial terms, commissioners shall serve for
21 4-year terms commencing on July 1 of the year of appointment
22 and running through June 30 of the fourth following year.
23 Commissioners may be reappointed to one or more subsequent

1 terms.

2 Vacancies occurring other than at the end of a term shall
3 be filled by the appointing authority only for the balance of
4 the term of the commissioner whose office is vacant.

5 Terms shall run regardless of whether the position is
6 filled.

7 (c) The appointing authorities shall appoint commissioners
8 who have experience holding governmental office or employment
9 and may appoint commissioners who are members of the General
10 Assembly as well as commissioners from the general public. A
11 commissioner who is a member of the General Assembly must
12 recuse himself or herself from participating in any matter
13 relating to any investigation or proceeding in which he or she
14 is the subject, is a witness, or is a complainant. A person is
15 not eligible to serve as a commissioner if that person (i) has
16 been convicted of a felony or a crime of dishonesty or moral
17 turpitude, (ii) is, or was within the preceding 12 months,
18 engaged in activities that require registration under the
19 Lobbyist Registration Act, (iii) is a relative of the
20 appointing authority, or (iv) is a State officer or employee
21 other than a member of the General Assembly.

22 (c-5) If a commissioner who is a member of the General
23 Assembly is required to recuse himself or herself from
24 participating in a matter as provided under subsection (c),
25 that recusal shall create a temporary vacancy for the limited
26 purpose of consideration of the matter for which the

1 commissioner recused himself or herself, and the appointing
2 authority for the recusing commissioner shall make a temporary
3 appointment to fill the vacancy for consideration of the matter
4 for which the commissioner recused himself or herself. The
5 person who is temporarily appointed must not have a conflict
6 with regard to the matter.

7 (d) The Legislative Ethics Commission shall have
8 jurisdiction over members of the General Assembly and all State
9 employees whose ultimate jurisdictional authority is (i) a
10 legislative leader, (ii) the Senate Operations Commission, or
11 (iii) the Joint Committee on Legislative Support Services. The
12 jurisdiction of the Commission is limited to matters arising
13 under this Act and the Illinois Governmental Ethics Act.

14 An officer or executive branch State employee serving on a
15 legislative branch board or commission remains subject to the
16 jurisdiction of the Executive Ethics Commission and is not
17 subject to the jurisdiction of the Legislative Ethics
18 Commission.

19 (e) The Legislative Ethics Commission must meet, either in
20 person or by other technological means, monthly or as often as
21 necessary. At the first meeting of the Legislative Ethics
22 Commission, the commissioners shall choose from their number a
23 chairperson and other officers that they deem appropriate. The
24 terms of officers shall be for 2 years commencing July 1 and
25 running through June 30 of the second following year. Meetings
26 shall be held at the call of the chairperson or any 3

1 commissioners. Official action by the Commission shall require
2 the affirmative vote of 5 commissioners, and a quorum shall
3 consist of 5 commissioners. Commissioners shall receive no
4 compensation but may be reimbursed for their reasonable
5 expenses actually incurred in the performance of their duties.

6 (f) No commissioner, other than a commissioner who is a
7 member of the General Assembly, or employee of the Legislative
8 Ethics Commission may during his or her term of appointment or
9 employment:

10 (1) become a candidate for any elective office;

11 (2) hold any other elected or appointed public office
12 except for appointments on governmental advisory boards or
13 study commissions or as otherwise expressly authorized by
14 law;

15 (3) be actively involved in the affairs of any
16 political party or political organization; or

17 (4) advocate for the appointment of another person to
18 an appointed or elected office or position or actively
19 participate in any campaign for any elective office.

20 (g) An appointing authority may remove a commissioner only
21 for cause.

22 (h) The Legislative Ethics Commission shall appoint an
23 Executive Director subject to the approval of at least 3 of the
24 4 legislative leaders. The compensation of the Executive
25 Director shall be as determined by the Commission. The
26 Executive Director of the Legislative Ethics Commission may

1 employ, subject to the approval of at least 3 of the 4
2 legislative leaders, and determine the compensation of staff,
3 as appropriations permit.

4 (Source: P.A. 96-555, eff. 8-18-09.)

5 (5 ILCS 430/25-10)

6 Sec. 25-10. Office of Legislative Inspector General.

7 (a) The independent Office of the Legislative Inspector
8 General is created. The Office shall be under the direction and
9 supervision of the Legislative Inspector General and shall be a
10 fully independent office with its own appropriation.

11 (b) The Legislative Inspector General shall be appointed
12 without regard to political affiliation and solely on the basis
13 of integrity and demonstrated ability. The Legislative Ethics
14 Commission shall diligently search out qualified candidates
15 for Legislative Inspector General and shall make
16 recommendations to the General Assembly.

17 The Legislative Inspector General shall be appointed by a
18 joint resolution of the Senate and the House of
19 Representatives, which may specify the date on which the
20 appointment takes effect. A joint resolution, or other document
21 as may be specified by the Joint Rules of the General Assembly,
22 appointing the Legislative Inspector General must be certified
23 by the Speaker of the House of Representatives and the
24 President of the Senate as having been adopted by the
25 affirmative vote of three-fifths of the members elected to each

1 house, respectively, and be filed with the Secretary of State.
2 The appointment of the Legislative Inspector General takes
3 effect on the day the appointment is completed by the General
4 Assembly, unless the appointment specifies a later date on
5 which it is to become effective.

6 The Legislative Inspector General shall have the following
7 qualifications:

8 (1) has not been convicted of any felony under the laws
9 of this State, another state, or the United States;

10 (2) has earned a baccalaureate degree from an
11 institution of higher education; and

12 (3) has 5 or more years of cumulative service (A) with
13 a federal, State, or local law enforcement agency, at least
14 2 years of which have been in a progressive investigatory
15 capacity; (B) as a federal, State, or local prosecutor; (C)
16 as a senior manager or executive of a federal, State, or
17 local agency; (D) as a member, an officer, or a State or
18 federal judge; or (E) representing any combination of (A)
19 through (D).

20 The Legislative Inspector General may not be a relative of
21 a commissioner.

22 The term of the initial Legislative Inspector General shall
23 commence upon qualification and shall run through June 30,
24 2008.

25 After the initial term, the Legislative Inspector General
26 shall serve for 5-year terms commencing on July 1 of the year

1 of appointment and running through June 30 of the fifth
2 following year. The Legislative Inspector General may be
3 reappointed to one or more subsequent terms.

4 A vacancy occurring other than at the end of a term shall
5 be filled in the same manner as an appointment only for the
6 balance of the term of the Legislative Inspector General whose
7 office is vacant. If the Office is vacant, or if a Legislative
8 Inspector General resigns, the Commission shall, no later than
9 the 30th day after the occurrence of the vacancy, designate an
10 Acting Legislative Inspector General who shall serve until the
11 vacancy is filled. The Commission shall file the designation in
12 writing with the Secretary of State.

13 Terms shall run regardless of whether the position is
14 filled.

15 (c) The Legislative Inspector General shall have
16 jurisdiction over the members of the General Assembly and all
17 State employees whose ultimate jurisdictional authority is (i)
18 a legislative leader, (ii) the Senate Operations Commission, or
19 (iii) the Joint Committee on Legislative Support Services.

20 The jurisdiction of each Legislative Inspector General is
21 to investigate allegations of fraud, waste, abuse,
22 mismanagement, misconduct, nonfeasance, misfeasance,
23 malfeasance, or violations of this Act or violations of other
24 related laws and rules.

25 (d) The compensation of the Legislative Inspector General
26 shall be the greater of an amount (i) determined by the

1 Commission or (ii) by joint resolution of the General Assembly
2 passed by a majority of members elected in each chamber.
3 Subject to Section 25-45 of this Act, the Legislative Inspector
4 General has full authority to organize the Office of the
5 Legislative Inspector General, including the employment and
6 determination of the compensation of staff, such as deputies,
7 assistants, and other employees, as appropriations permit.
8 Employment of staff is subject to the approval of at least 3 of
9 the 4 legislative leaders.

10 (e) No Legislative Inspector General or employee of the
11 Office of the Legislative Inspector General may, during his or
12 her term of appointment or employment:

13 (1) become a candidate for any elective office;

14 (2) hold any other elected or appointed public office
15 except for appointments on governmental advisory boards or
16 study commissions or as otherwise expressly authorized by
17 law;

18 (3) be actively involved in the affairs of any
19 political party or political organization; or

20 (4) actively participate in any campaign for any
21 elective office.

22 In this subsection an appointed public office means a
23 position authorized by law that is filled by an appointing
24 authority as provided by law and does not include employment by
25 hiring in the ordinary course of business.

26 (e-1) No Legislative Inspector General or employee of the

1 Office of the Legislative Inspector General may, for one year
2 after the termination of his or her appointment or employment:

3 (1) become a candidate for any elective office;

4 (2) hold any elected public office; or

5 (3) hold any appointed State, county, or local judicial
6 office.

7 (e-2) The requirements of item (3) of subsection (e-1) may
8 be waived by the Legislative Ethics Commission.

9 (f) The Commission may remove the Legislative Inspector
10 General only for cause. At the time of the removal, the
11 Commission must report to the General Assembly the
12 justification for the removal.

13 (Source: P.A. 98-631, eff. 5-29-14.)

14 (5 ILCS 430/25-50)

15 Sec. 25-50. Investigation reports.

16 (a) If the Legislative Inspector General, upon the
17 conclusion of an investigation, determines that reasonable
18 cause exists to believe that a violation has occurred, then the
19 Legislative Inspector General shall issue a summary report of
20 the investigation. The report shall be delivered to the
21 appropriate ultimate jurisdictional authority and to the head
22 of each State agency affected by or involved in the
23 investigation, if appropriate. The appropriate ultimate
24 jurisdictional authority or agency head shall respond to the
25 summary report within 20 days, in writing, to the Legislative

1 Inspector General. The response shall include a description of
2 any corrective or disciplinary action to be imposed. If the
3 appropriate ultimate jurisdictional authority does not respond
4 within 20 days, on the 21st day, the Legislative Inspector
5 General may proceed under subsection (c) as if a response had
6 been received.

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

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

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

14 (3) Recommendations for any corrective or disciplinary
15 action to be taken in response to any alleged misconduct
16 described in the report, including but not limited to
17 discharge.

18 (4) Other information the Legislative Inspector
19 General deems relevant to the investigation or resulting
20 recommendations.

21 (c) Within 30 days after receiving a response from the
22 appropriate ultimate jurisdictional authority or agency head
23 under subsection (a), the Legislative Inspector General shall
24 notify the Commission and the Attorney General if the
25 Legislative Inspector General believes that a complaint should
26 be filed with the Commission. If the Legislative Inspector

1 General desires to file a complaint with the Commission, the
2 Legislative Inspector General shall submit the summary report
3 and supporting documents to the Attorney General. If the
4 ultimate jurisdictional authority is the subject of the summary
5 report, the Legislative Inspector General shall submit the
6 summary report and supporting documents to the Attorney
7 General. If the Attorney General concludes that there is
8 insufficient evidence that a violation has occurred, the
9 Attorney General shall notify the Legislative Inspector
10 General and the Legislative Inspector General shall deliver to
11 the Legislative Ethics Commission a copy of the summary report
12 and response from the ultimate jurisdictional authority or
13 agency head. If the Attorney General determines that reasonable
14 cause exists to believe that a violation has occurred, then the
15 Legislative Inspector General, represented by the Attorney
16 General, may file with the Legislative Ethics Commission a
17 complaint. The complaint shall set forth the alleged violation
18 and the grounds that exist to support the complaint. Except as
19 provided under subsection (c-3), the ~~The~~ complaint must be
20 filed with the Commission within 18 months after the most
21 recent act of the alleged violation or of a series of alleged
22 violations except where there is reasonable cause to believe
23 that fraudulent concealment has occurred. To constitute
24 fraudulent concealment sufficient to toll this limitations
25 period, there must be an affirmative act or representation
26 calculated to prevent discovery of the fact that a violation

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

6 (c-3) Notwithstanding any provision of law to the contrary,
7 any complaint based on an investigation of information provided
8 to the Office of the Legislative Inspector General or the
9 Legislative Ethics Commission during the period from December
10 1, 2014 through November 3, 2017 must be filed with the
11 Commission no later than May 17, 2019.

12 (c-5) Within 30 days after receiving a response from the
13 appropriate ultimate jurisdictional authority or agency head
14 under subsection (a), if the Legislative Inspector General does
15 not believe that a complaint should be filed, the Legislative
16 Inspector General shall deliver to the Legislative Ethics
17 Commission a statement setting forth the basis for the decision
18 not to file a complaint and a copy of the summary report and
19 response from the ultimate jurisdictional authority or agency
20 head. The Inspector General may also submit a redacted version
21 of the summary report and response from the ultimate
22 jurisdictional authority if the Inspector General believes
23 either contains information that, in the opinion of the
24 Inspector General, should be redacted prior to releasing the
25 report, may interfere with an ongoing investigation, or
26 identifies an informant or complainant.

1 (c-10) If, after reviewing the documents, the Commission
2 believes that further investigation is warranted, the
3 Commission may request that the Legislative Inspector General
4 provide additional information or conduct further
5 investigation. The Commission may also refer the summary report
6 and response from the ultimate jurisdictional authority to the
7 Attorney General for further investigation or review. If the
8 Commission requests the Attorney General to investigate or
9 review, the Commission must notify the Attorney General and the
10 Legislative Inspector General. The Attorney General may not
11 begin an investigation or review until receipt of notice from
12 the Commission. If, after review, the Attorney General
13 determines that reasonable cause exists to believe that a
14 violation has occurred, then the Attorney General may file a
15 complaint with the Legislative Ethics Commission. If the
16 Attorney General concludes that there is insufficient evidence
17 that a violation has occurred, the Attorney General shall
18 notify the Legislative Ethics Commission and the appropriate
19 Legislative Inspector General.

20 (d) A copy of the complaint filed with the Legislative
21 Ethics Commission must be served on all respondents named in
22 the complaint and on each respondent's ultimate jurisdictional
23 authority in the same manner as process is served under the
24 Code of Civil Procedure.

25 (e) A respondent may file objections to the complaint
26 within 30 days after notice of the petition has been served on

1 the respondent.

2 (f) The Commission shall meet, at least 30 days after the
3 complaint is served on all respondents either in person or by
4 telephone, in a closed session to review the sufficiency of the
5 complaint. The Commission shall issue notice by certified mail,
6 return receipt requested, to the Legislative Inspector
7 General, the Attorney General, and all respondents of the
8 Commission's ruling on the sufficiency of the complaint. If the
9 complaint is deemed to sufficiently allege a violation of this
10 Act, then the Commission shall include a hearing date scheduled
11 within 4 weeks after the date of the notice, unless all of the
12 parties consent to a later date. If the complaint is deemed not
13 to sufficiently allege a violation, then the Commission shall
14 send by certified mail, return receipt requested, a notice to
15 the Legislative Inspector General, the Attorney General, and
16 all respondents the decision to dismiss the complaint.

17 (g) On the scheduled date the Commission shall conduct a
18 closed meeting, either in person or, if the parties consent, by
19 telephone, on the complaint and allow all parties the
20 opportunity to present testimony and evidence. All such
21 proceedings shall be transcribed.

22 (h) Within an appropriate time limit set by rules of the
23 Legislative Ethics Commission, the Commission shall (i)
24 dismiss the complaint, (ii) issue a recommendation of
25 discipline to the respondent and the respondent's ultimate
26 jurisdictional authority, (iii) impose an administrative fine

1 upon the respondent, (iv) issue injunctive relief as described
2 in Section 50-10, or (v) impose a combination of (ii) through
3 (iv).

4 (i) The proceedings on any complaint filed with the
5 Commission shall be conducted pursuant to rules promulgated by
6 the Commission.

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

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

11 (l) Within 30 days after the issuance of a final
12 administrative decision that concludes that a violation
13 occurred, the Legislative Ethics Commission shall make public
14 the entire record of proceedings before the Commission, the
15 decision, any recommendation, any discipline imposed, and the
16 response from the agency head or ultimate jurisdictional
17 authority to the Legislative Ethics Commission.

18 (Source: P.A. 96-555, eff. 8-18-09.)