

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. If any only if House Bill 3412 as passed by  
5 the 93rd General Assembly becomes law, the State Officials  
6 and Employees Ethics Act is amended by changing Sections 1-5,  
7 5-5, 5-10, 15-25, 50-5, 70-5, and 70-15 and by adding  
8 Articles 10, 20, 25, and 30 as follows:

9 (93 HB3412enr. Art. 1, Sec. 1-5)

10 Sec. 1-5. Definitions. As used in this Act:

11 "Appointee" means a person appointed to a position in or  
12 with a State agency, regardless of whether the position is  
13 compensated.

14 "Campaign for elective office" means any activity in  
15 furtherance of an effort to influence the selection,  
16 nomination, election, or appointment of any individual to any  
17 federal, State, or local public office or office in a  
18 political organization, or the selection, nomination, or  
19 election of Presidential or Vice-Presidential electors, but  
20 does not include activities (i) relating to the support or  
21 opposition of any executive, legislative, or administrative  
22 action (as those terms are defined in Section 2 of the  
23 Lobbyist Registration Act), (ii) relating to collective  
24 bargaining, or (iii) that are otherwise in furtherance of the  
25 person's official State duties.

26 "Candidate" means a person who has filed nominating  
27 papers or petitions for nomination or election to an elected  
28 State office, or who has been appointed to fill a vacancy in  
29 nomination, and who remains eligible for placement on the  
30 ballot at either a general primary election or general  
31 election.

1 "Collective bargaining" has the same meaning as that term  
2 is defined in Section 3 of the Illinois Public Labor  
3 Relations Act.

4 "Commission" means an ethics commission created by this  
5 Act.

6 "Compensated time" means any time worked by or credited  
7 to a State employee that counts toward any minimum work time  
8 requirement imposed as a condition of employment with a State  
9 agency, but does not include any designated State holidays or  
10 any period when the employee is on a leave of absence.

11 "Compensatory time off" means authorized time off earned  
12 by or awarded to a State employee to compensate in whole or  
13 in part for time worked in excess of the minimum work time  
14 required of that employee as a condition of employment with a  
15 State agency.

16 "Contribution" has the same meaning as that term is  
17 defined in Section 9-1.4 of the Election Code.

18 "Employee" means (i) any person employed full-time,  
19 part-time, or pursuant to a contract and whose employment  
20 duties are subject to the direction and control of an  
21 employer with regard to the material details of how the work  
22 is to be performed; or (ii) any appointee.

23 "Executive branch constitutional officer" means the  
24 Governor, Lieutenant Governor, Attorney General, Secretary of  
25 State, Comptroller, and Treasurer.

26 "Gift" means any gratuity, discount, entertainment,  
27 hospitality, loan, forbearance, or other tangible or  
28 intangible item having monetary value including, but not  
29 limited to, cash, food and drink, and honoraria for speaking  
30 engagements related to or attributable to government  
31 employment or the official position of an employee, member,  
32 or officer.

33 "Governmental entity" means a unit of local government or  
34 a school district but not a State agency.

1 "Leave of absence" means any period during which a State  
2 employee does not receive (i) compensation for State  
3 employment, (ii) service credit towards State pension  
4 benefits, and (iii) health insurance benefits paid for by the  
5 State.

6 "Legislative branch constitutional officer" means a  
7 member of the General Assembly and the Auditor General.

8 "Legislative leader" means the President and Minority  
9 Leader of the Senate and the Speaker and Minority Leader of  
10 the House of Representatives.

11 "Member" means a member of the General Assembly.

12 "Officer" means a State constitutional officer of the  
13 executive or legislative branch.

14 "Political" means any activity in support of or in  
15 connection with any campaign for elective office or any  
16 political organization, but does not include activities (i)  
17 relating to the support or opposition of any executive,  
18 legislative, or administrative action (as those terms are  
19 defined in Section 2 of the Lobbyist Registration Act), (ii)  
20 relating to collective bargaining, or (iii) that are  
21 otherwise in furtherance of the person's official State  
22 duties.

23 "Political organization" means a party, committee,  
24 association, fund, or other organization (whether or not  
25 incorporated) that is required to file a statement of  
26 organization with the State Board of Elections or a county  
27 clerk under Section 9-3 of the Election Code, but only with  
28 regard to those activities that require filing with the State  
29 Board of Elections or a county clerk.

30 "Prohibited political activity" means:

31 (1) Preparing for, organizing, or participating in  
32 any political meeting, political rally, political  
33 demonstration, or other political event.

34 (2) Soliciting contributions, including but not

1 limited to the purchase of, selling, distributing, or  
2 receiving payment for tickets for any political  
3 fundraiser, political meeting, or other political event.

4 (3) Soliciting, planning the solicitation of, or  
5 preparing any document or report regarding any thing of  
6 value intended as a campaign contribution.

7 (4) Planning, conducting, or participating in a  
8 public opinion poll in connection with a campaign for  
9 elective office or on behalf of a political organization  
10 for political purposes or for or against any referendum  
11 question.

12 (5) Surveying or gathering information from  
13 potential or actual voters in an election to determine  
14 probable vote outcome in connection with a campaign for  
15 elective office or on behalf of a political organization  
16 for political purposes or for or against any referendum  
17 question.

18 (6) Assisting at the polls on election day on  
19 behalf of any political organization or candidate for  
20 elective office or for or against any referendum  
21 question.

22 (7) Soliciting votes on behalf of a candidate for  
23 elective office or a political organization or for or  
24 against any referendum question or helping in an effort  
25 to get voters to the polls.

26 (8) Initiating for circulation, preparing,  
27 circulating, reviewing, or filing any petition on behalf  
28 of a candidate for elective office or for or against any  
29 referendum question.

30 (9) Making contributions on behalf of any candidate  
31 for elective office in that capacity or in connection  
32 with a campaign for elective office.

33 (10) Preparing or reviewing responses to candidate  
34 questionnaires.

1 (11) Distributing, preparing for distribution, or  
2 mailing campaign literature, campaign signs, or other  
3 campaign material on behalf of any candidate for elective  
4 office or for or against any referendum question.

5 (12) Campaigning for any elective office or for or  
6 against any referendum question.

7 (13) Managing or working on a campaign for elective  
8 office or for or against any referendum question.

9 (14) Serving as a delegate, alternate, or proxy to  
10 a political party convention.

11 (15) Participating in any recount or challenge to  
12 the outcome of any election, except to the extent that  
13 under subsection (d) of Section 6 of Article IV of the  
14 Illinois Constitution each house of the General Assembly  
15 shall judge the elections, returns, and qualifications of  
16 its members.

17 "Prohibited source" means any person or entity who:

18 (1) is seeking official action (i) by the member or  
19 officer or (ii) in the case of an employee, by the  
20 employee or by the member, officer, State agency, or  
21 other employee directing the employee;

22 (2) does business or seeks to do business (i) with  
23 the member or officer or (ii) in the case of an employee,  
24 with the employee or with the member, officer, State  
25 agency, or other employee directing the employee;

26 (3) conducts activities regulated (i) by the member  
27 or officer or (ii) in the case of an employee, by the  
28 employee or by the member, officer, State agency, or  
29 other employee directing the employee;

30 (4) has interests that may be substantially  
31 affected by the performance or non-performance of the  
32 official duties of the member, officer, or employee; or

33 (5) is registered or required to be registered with  
34 the Secretary of State under the Lobbyist Registration

1 Act, except that an entity not otherwise a prohibited  
2 source does not become a prohibited source merely because  
3 a registered lobbyist is one of its members or serves on  
4 its board of directors.

5 "State agency" includes all officers, boards, commissions  
6 and agencies created by the Constitution, whether in the  
7 executive or legislative branch; all officers, departments,  
8 boards, commissions, agencies, institutions, authorities,  
9 public institutions of higher learning as defined in Section  
10 2 of the Higher Education Cooperation Act, and bodies politic  
11 and corporate of the State; and administrative units or  
12 corporate outgrowths of the State government which are  
13 created by or pursuant to statute, other than units of local  
14 government and their officers, school districts, and boards  
15 of election commissioners; and all administrative units and  
16 corporate outgrowths of the above and as may be created by  
17 executive order of the Governor. "State agency" includes the  
18 General Assembly, the Senate, the House of Representatives,  
19 the President and Minority Leader of the Senate, the Speaker  
20 and Minority Leader of the House of Representatives, the  
21 Senate Operations Commission, and the legislative support  
22 services agencies. "State agency" includes the Office of the  
23 Auditor General. "State agency" does not include the judicial  
24 branch.

25 "State employee" means any employee of a State agency.

26 "Ultimate jurisdictional authority" means the following:

27 (1) For members, legislative partisan staff, and  
28 legislative secretaries, the appropriate legislative  
29 leader: President of the Senate, Minority Leader of the  
30 Senate, Speaker of the House of Representatives, or  
31 Minority Leader of the House of Representatives.

32 (2) For State employees who are professional staff  
33 or employees of the Senate and not covered under item  
34 (1), the Senate Operations Commission.

1           (3) For State employees who are professional staff  
2 or employees of the House of Representatives and not  
3 covered under item (1), the Speaker of the House of  
4 Representatives.

5           (4) For State employees who are employees of the  
6 legislative support services agencies, the Joint  
7 Committee on Legislative Support Services.

8           (5) For State employees of the Auditor General, the  
9 Auditor General.

10          (6) For State employees of public institutions of  
11 higher learning as defined in Section 2 of the Higher  
12 Education Cooperation Act, the board of trustees of the  
13 appropriate public institution of higher learning.

14          (7) For State employees of an executive branch  
15 constitutional officer other than those described in  
16 paragraph (6), the appropriate executive branch  
17 constitutional officer.

18          (8) For State employees not under the jurisdiction  
19 of paragraph (1), (2), (3), (4), (5), (6), or (7), the  
20 Governor.

21 (Source: 93HB3412enr.)

22 (93 HB3412enr. Art. 5, Sec. 5-5)

23 Sec. 5-5. Personnel policies.

24 (a) Each of the following shall adopt and implement  
25 personnel policies for all State employees under his, her, or  
26 its jurisdiction and control: (i) each executive branch  
27 constitutional officer, (ii) each legislative leader, (iii)  
28 the Senate Operations Commission, with respect to legislative  
29 employees under Section 4 of the General Assembly Operations  
30 Act, (iv) the Speaker of the House of Representatives, with  
31 respect to legislative employees under Section 5 of the  
32 General Assembly Operations Act, (v) the Joint Committee on  
33 Legislative Support Services, with respect to State employees

1 of the legislative support services agencies, (vi) members of  
2 the General Assembly, with respect to legislative assistants,  
3 as provided in Section 4 of the General Assembly Compensation  
4 Act, (vii) the Auditor General, (viii) the Board of Higher  
5 Education, with respect to State employees of public  
6 institutions of higher learning except community colleges,  
7 and (ix) the Illinois Community College Board, with respect  
8 to State employees of community colleges. The Governor shall  
9 adopt and implement those policies for all State employees of  
10 the executive branch not under the jurisdiction and control  
11 of any other executive branch constitutional officer.

12 (b) The policies required under subsection (a) shall be  
13 filed with the appropriate ethics commission established  
14 under this Act or, for the Auditor General, with the Office  
15 of the Auditor General.

16 (c)(b) The policies required under subsection (a) shall  
17 include policies relating to work time requirements,  
18 documentation of time worked, documentation for reimbursement  
19 for travel on official State business, compensation, and the  
20 earning or accrual of State benefits for all State employees  
21 who may be eligible to receive those benefits. The policies  
22 shall comply with and be consistent with all other applicable  
23 laws. For State employees of the legislative branch, the  
24 policies shall require those employees to periodically submit  
25 time sheets documenting the time spent each day on official  
26 State business to the nearest quarter hour; contractual  
27 employees of the legislative branch may satisfy the time  
28 sheets requirement by complying with the terms of their  
29 contract, which shall provide for a means of compliance with  
30 this requirement. The policies for State employees of the  
31 legislative branch shall require those time sheets to be  
32 submitted on paper, electronically, or both and to be  
33 maintained in either paper or electronic format by the  
34 applicable fiscal office for a period of at least 2 years.



1 (Source: 93HB3412enr.)

2 (93 HB3412enr. Art. 5, Sec. 5-10)

3 Sec. 5-10. Ethics training. Each officer and employee  
4 must complete, at least annually, an ethics training program  
5 conducted by the appropriate State agency. Each ultimate  
6 jurisdictional authority must implement an ethics training  
7 program for its officers and employees. These ethics training  
8 programs shall be overseen by the appropriate Inspector  
9 General appointed pursuant to this Act working with the  
10 Office of the Attorney General.

11 Each Inspector General shall set standards and determine  
12 the hours and frequency of training necessary for each  
13 position or category of positions. A person who fills a  
14 vacancy in an elective or appointed position that requires  
15 training and a person employed in a position that requires  
16 training must complete his or her initial ethics training  
17 within 6 months after commencement of his or her office or  
18 employment.

19 ~~Ethics--training;---Each--officer---and---employee---must~~  
20 ~~complete;---at--least--annually;--an--ethics--training-program~~  
21 ~~conducted-by-the-appropriate-ethics-officer--appointed--under~~  
22 ~~the---State--Gift--Ban--Act.---Each--ultimate--jurisdictional~~  
23 ~~authority-must-implement-an-ethics-training-program--for--its~~  
24 ~~officers--and--employees;--A-person-who-fills-a-vacancy-in-an~~  
25 ~~elective-or-appointed-position-that-requires-training--and--a~~  
26 ~~person--employed--in--a--position-that-requires-training-must~~  
27 ~~complete-his-or-her-initial-ethics-training-within--6--months~~  
28 ~~after-commencement-of-his-or-her-office-or-employment.~~

29 (Source: 93HB3412enr.)

30 (93 HB3412enr. Art. 10 heading new)

31 ARTICLE 10

32 GIFT BAN

1 (93 HB3412enr. Sec. 10-10 new)

2 Sec. 10-10. Gift ban. Except as otherwise provided in  
3 this Article, no member, officer, or employee shall  
4 intentionally solicit or accept any gift from any prohibited  
5 source or in violation of any federal or State statute, rule,  
6 or regulation. This ban applies to and includes the spouse of  
7 and immediate family living with the member, officer, or  
8 employee. No prohibited source shall intentionally offer or  
9 make a gift that violates this Section.

10 (93 HB3412enr. Sec. 10-15 new)

11 Sec. 10-15. Gift ban; exceptions. The restriction in  
12 Section 10-10 does not apply to the following:

13 (1) Opportunities, benefits, and services that are  
14 available on the same conditions as for the general public.

15 (2) A contribution that is lawfully made under the  
16 Election Code or under this Act or attendance at a  
17 fundraising event sponsored by a political organization.

18 (3) Educational materials and missions, subject to rules  
19 adopted by the appropriate ethics commission or by the  
20 Auditor General for the Auditor General and employees of the  
21 Office of the Auditor General.

22 (4) Travel expenses for a meeting to discuss State  
23 business, subject to rules adopted by the appropriate ethics  
24 commission or by the Auditor General for the Auditor General  
25 and employees of the Office of the Auditor General.

26 (5) A gift from a relative, meaning those people related  
27 to the individual as father, mother, son, daughter, brother,  
28 sister, uncle, aunt, great aunt, great uncle, first cousin,  
29 nephew, niece, husband, wife, grandfather, grandmother,  
30 grandson, granddaughter, father-in-law, mother-in-law,  
31 son-in-law, daughter-in-law, brother-in-law, sister-in-law,  
32 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
33 stepsister, half brother, half sister, and including the

1 father, mother, grandfather, or grandmother of the  
2 individual's spouse and the individual's fiance or fiancée.

3 (6) Anything provided by an individual on the basis of a  
4 personal friendship unless the member, officer, or employee  
5 has reason to believe that, under the circumstances, the gift  
6 was provided because of the official position or employment  
7 of the member, officer, or employee and not because of the  
8 personal friendship.

9 In determining whether a gift is provided on the basis of  
10 personal friendship, the member, officer, or employee shall  
11 consider the circumstances under which the gift was offered,  
12 such as:

13 (i) the history of the relationship between the  
14 individual giving the gift and the recipient of the gift,  
15 including any previous exchange of gifts between those  
16 individuals;

17 (ii) whether to the actual knowledge of the member,  
18 officer, or employee the individual who gave the gift  
19 personally paid for the gift or sought a tax deduction or  
20 business reimbursement for the gift; and

21 (iii) whether to the actual knowledge of the  
22 member, officer, or employee the individual who gave the  
23 gift also at the same time gave the same or similar gifts  
24 to other members, officers, or employees.

25 (7) Food or refreshments not exceeding \$75 per person in  
26 value on a single calendar day; provided that the food or  
27 refreshments are (i) consumed on the premises from which they  
28 were purchased or prepared or (ii) catered. For the purposes  
29 of this Section, "catered" means food or refreshments that  
30 are purchased ready to eat and delivered by any means.

31 (8) Intra-governmental and inter-governmental gifts.  
32 For the purpose of this Act, "intra-governmental gift" means  
33 any gift given to a member, officer, or employee of a State  
34 agency from another member, officer, or employee of the same

1 State agency; and "inter-governmental gift" means any gift  
2 given to a member, officer, or employee of a State agency, by  
3 a member, officer, or employee of another State agency, of a  
4 federal agency, or of any governmental entity.

5 (9) Bequests, inheritances, and other transfers at  
6 death.

7 (10) Any item or items from any one prohibited source  
8 during any calendar year having a cumulative total value of  
9 less than \$100.

10 Each of the exceptions listed in this Section is mutually  
11 exclusive and independent of one another.

12 (93 HB3412enr. Sec. 10-30 new)

13 Sec. 10-30. Gift ban; disposition of gifts. A member,  
14 officer, or employee does not violate this Act if the member,  
15 officer, or employee promptly takes reasonable action to  
16 return the prohibited gift to its source or gives the gift or  
17 an amount equal to its value to an appropriate charity that  
18 is exempt from income taxation under Section 501 (c)(3) of  
19 the Internal Revenue Code of 1986, as now or hereafter  
20 amended, renumbered, or succeeded.

21 (93 HB3412enr. Sec. 10-40 new)

22 Sec. 10-40. Gift ban; further restrictions. A State  
23 agency may adopt or maintain policies that are more  
24 restrictive than those set forth in this Article and may  
25 continue to follow any existing policies, statutes, or  
26 regulations that are more restrictive or are in addition to  
27 those set forth in this Article.

28 (93 HB3412enr. Art. 15, Sec. 15-25)

29 Sec. 15-25. Remedies. An action to obtain civil remedies  
30 for a violation of this Article may be initiated by a State  
31 employee only after a finding by an ethics commission that a

1 violation of this Article has occurred or upon authorization  
 2 by the Attorney General. The action shall be commenced in a  
 3 circuit court of venue within one year after the required  
 4 finding by the ethics commission or authorization by the  
 5 Attorney General has been made. The proceeding before the  
 6 circuit court shall be de novo, and the Administrative Review  
 7 Law shall not apply to a proceeding under this Article. The  
 8 State employee may be awarded all remedies necessary to make  
 9 the State employee whole and to prevent future violations of  
 10 this Article. Remedies imposed by the court may include, but  
 11 are not limited to, all of the following:

12 (1) reinstatement of the employee to either the same  
 13 position held before the retaliatory action or to an  
 14 equivalent position;

15 (2) 2 times the amount of back pay;

16 (3) interest on the back pay;

17 (4) the reinstatement of full fringe benefits and  
 18 seniority rights; and

19 (5) the payment by the officer, member, or other State  
 20 employee of reasonable attorneys' fees.

21 Remedies--The-State-employee-may-be-awarded-all--remedies  
 22 necessary--to--make--the--State-employee-whole-and-to-prevent  
 23 future-violations-of-this-Article--Remedies--imposed--by--the  
 24 court--may--include,--but--are--not--limited--to,--all-of-the  
 25 following:

26 (1)--reinstatement-of-the-employee--to--either--the--same  
 27 position--held--before--the--retaliatory--action--or--to--an  
 28 equivalent-position;

29 (2)--2-times-the-amount-of-back-pay;

30 (3)--interest-on-the-back-pay;-and

31 (4)--the--reinstatement--of--full--fringe--benefits---and  
 32 seniority-rights-

33 (Source: 93HB3412enr.)

(93 HB3412enr. Art. 20 heading new)

ARTICLE 20

EXECUTIVE ETHICS COMMISSION AND

EXECUTIVE INSPECTOR GENERAL

(93 HB3412enr. Sec. 20-5 new)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners, each confirmed by a three-fifths vote of the Senate. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. If the Senate is in recess, the appointing authority may make a temporary appointment until the next meeting of the Senate, when the appointing authority shall make a nomination to fill the office. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence on July 1, 2003. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

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

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of

1 the term of the commissioner whose office is vacant.

2 Terms shall run regardless of whether the position is  
3 filled.

4 (c) The appointing authorities shall appoint  
5 commissioners who have experience holding governmental office  
6 or employment and shall appoint commissioners from the  
7 general public. A person is not eligible to serve as a  
8 commissioner if that person (i) has been convicted of a  
9 felony or a crime of dishonesty or moral turpitude, (ii) is,  
10 or was within the preceding 12 months, engaged in activities  
11 that require registration under the Lobbyist Registration  
12 Act, (iii) is related to the appointing authority, or (iv) is  
13 a State officer or employee.

14 (d) The Executive Ethics Commission shall have  
15 jurisdiction over all officers and employees of State  
16 agencies other than the General Assembly, the Senate, the  
17 House of Representatives, the President and Minority Leader  
18 of the Senate, the Speaker and Minority Leader of the House  
19 of Representatives, the Senate Operations Commission, the  
20 legislative support services agencies, and the Office of the  
21 Auditor General. The jurisdiction of the Commission is  
22 limited to matters arising under this Act.

23 (e) The Executive Ethics Commission must meet, either in  
24 person or by other technological means, at least monthly and  
25 as often as necessary. At the first meeting of the Executive  
26 Ethics Commission, the commissioners shall choose from their  
27 number a chairperson and other officers that they deem  
28 appropriate. The terms of officers shall be for 2 years  
29 commencing July 1 and running through June 30 of the second  
30 following year. Meetings shall be held at the call of the  
31 chairperson or any 3 commissioners. Official action by the  
32 Commission shall require the affirmative vote of 5  
33 commissioners, and a quorum shall consist of 5 commissioners.  
34 Commissioners shall receive no compensation, but may be

1 reimbursed for their reasonable expenses actually incurred in  
2 the performance of their duties.

3 (f) No commissioner or employee of the Executive Ethics  
4 Commission may during his or her term of appointment or  
5 employment:

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

7 (2) hold any other elected or appointed public  
8 office except for appointments on governmental advisory  
9 boards or study commissions or as otherwise expressly  
10 authorized by law;

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

13 (4) actively participate in any campaign for any  
14 elective office.

15 (g) An appointing authority may remove a commissioner  
16 only for cause.

17 (h) The Executive Ethics Commission shall appoint an  
18 Executive Director. The compensation of the Executive  
19 Director shall be as determined by the Commission or by the  
20 Compensation Review Board, whichever amount is higher. The  
21 Executive Director of the Executive Ethics Commission may  
22 employ and determine the compensation of staff, as  
23 appropriations permit.

24 (93 HB3412enr. Sec. 20-10 new)

25 Sec. 20-10. Offices of Executive Inspectors General.

26 (a) Five Offices of the Executive Inspector General are  
27 created. Each Office shall be under the direction and  
28 supervision of an Executive Inspector General.

29 (b) The Governor, Attorney General, Secretary of State,  
30 Comptroller, and Treasurer shall each appoint an Executive  
31 Inspector General, without regard to political affiliation  
32 and solely on the basis of integrity and demonstrated  
33 ability. Each Executive Inspector General shall be confirmed



1 by a three-fifths vote of the Senate. If the Senate is in  
2 recess, the appointing authority may make a temporary  
3 appointment until the next meeting of the Senate, when the  
4 appointing authority shall make a nomination to fill the  
5 office.

6 Nothing in this Article precludes the appointment by the  
7 Governor, Attorney General, Secretary of State, Comptroller,  
8 or Treasurer of any other inspector general required or  
9 permitted by law. The Governor, Attorney General, Secretary  
10 of State, Comptroller, and Treasurer each may appoint an  
11 existing inspector general as the Executive Inspector General  
12 required by this Article, provided that such an inspector  
13 general is not prohibited by law, rule, jurisdiction,  
14 qualification, or interest from serving as the Executive  
15 Inspector General required by this Article. An appointing  
16 authority may not appoint a relative as an Executive  
17 Inspector General.

18 Each Executive Inspector General shall have the following  
19 qualifications:

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

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

24 (3) has either (A) 5 or more years of service with  
25 a federal, State, or local law enforcement agency, at  
26 least 2 years of which have been in a progressive  
27 investigatory capacity; (B) 5 or more years of service as  
28 a federal, State, or local prosecutor; or (C) 5 or more  
29 years of service as a senior manager or executive of a  
30 federal, State, or local agency.

31 The term of each initial Executive Inspector General  
32 shall commence on July 1, 2003 and shall run through June 30,  
33 2008. The initial appointments shall be made within 60 days  
34 after the effective date of this Act.

1 After the initial term, each Executive Inspector General  
2 shall serve for 5-year terms commencing on July 1 of the year  
3 of appointment and running through June 30 of the fifth  
4 following year. An Executive Inspector General may be  
5 reappointed to one or more subsequent terms.

6 A vacancy occurring other than at the end of a term shall  
7 be filled by the appointing authority only for the balance of  
8 the term of the Executive Inspector General whose office is  
9 vacant.

10 Terms shall run regardless of whether the position is  
11 filled.

12 (c) The Executive Inspector General appointed by the  
13 Attorney General shall have jurisdiction over the Attorney  
14 General and all employees of State agencies within the  
15 jurisdiction of the Attorney General. The Executive Inspector  
16 General appointed by the Secretary of State shall have  
17 jurisdiction over the Secretary of State and all employees of  
18 State agencies within the jurisdiction of the Secretary of  
19 State. The Executive Inspector General appointed by the  
20 Comptroller shall have jurisdiction over the Comptroller and  
21 all employees of State agencies within the jurisdiction of  
22 the Comptroller. The Executive Inspector General appointed by  
23 the Treasurer shall have jurisdiction over the Treasurer and  
24 all employees of State agencies within the jurisdiction of  
25 the Treasurer. The Executive Inspector General appointed by  
26 the Governor shall have jurisdiction over the Governor, the  
27 Lieutenant Governor, and all employees of executive branch  
28 State agencies under the jurisdiction of the Executive Ethics  
29 Commission and not within the jurisdiction of the Attorney  
30 General, the Secretary of State, the Comptroller, or the  
31 Treasurer.

32 The jurisdiction of each Executive Inspector General is  
33 limited to investigating conduct alleged to violate this Act.

34 (d) The compensation of an Executive Inspector General

1 shall be determined by the appointed authority. Subject to  
2 Section 20-45 of this Act, each Executive Inspector General  
3 has full authority to organize his or her Office of the  
4 Executive Inspector General, including the employment and  
5 determination of the compensation of staff, such as deputies,  
6 assistants, and other employees, as appropriations permit.

7 (e) No Executive Inspector General or employee of the  
8 Office of the Executive Inspector General may, during his or  
9 her term of appointment or employment:

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

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

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

17 (4) actively participate in any campaign for any  
18 elective office.

19 (f) An appointing authority may remove an Executive  
20 Inspector General only for cause.

21 (93 HB3412enr. Sec. 20-15 new)

22 Sec. 20-15. Duties of the Executive Ethics Commission. In  
23 addition to duties otherwise assigned by law, the Executive  
24 Ethics Commission shall have the following duties:

25 (1) To promulgate rules governing the performance of its  
26 duties and the exercise of its powers and governing the  
27 investigations of the Executive Inspectors General.

28 (2) To conduct administrative hearings and rule on  
29 matters brought before the Commission only upon the receipt  
30 of pleadings filed by an Executive Inspector General and not  
31 upon its own prerogative. Any other allegations of misconduct  
32 received by the Commission from a person other than an  
33 Executive Inspector General shall be referred to the Office

1 of the appropriate Executive Inspector General.

2 (3) To prepare and publish manuals and guides and,  
3 working with the Office of the Attorney General, oversee  
4 training of employees under its jurisdiction that explains  
5 their duties.

6 (4) To prepare public information materials to facilitate  
7 compliance, implementation, and enforcement of this Act.

8 (5) To submit reports as required by this Act.

9 (6) To make rulings, issue recommendations, and impose  
10 administrative fines, if appropriate, in connection with the  
11 implementation and interpretation of this Act. The powers and  
12 duties of the Commission are limited to matters clearly  
13 within the purview of this Act.

14 (7) To issue subpoenas with respect to matters pending  
15 before the Commission, subject to the provisions of this  
16 Article and in the discretion of the Commission, to compel  
17 the attendance of witnesses for purposes of testimony and the  
18 production of documents and other items for inspection and  
19 copying.

20 (93 HB3412enr. Sec. 20-20 new)

21 Sec. 20-20. Duties of the Executive Inspectors General.  
22 In addition to duties otherwise assigned by law, each  
23 Executive Inspector General shall have the following duties:

24 (1) To receive and investigate allegations of violations  
25 of this Act. The Executive Inspector General may receive  
26 information through the Office of any Executive Inspector  
27 General, through an ethics commission, or through the  
28 Executive Ethics Hotline. An investigation may be conducted  
29 only in response to information reported to the Executive  
30 Inspector General as provided in this Section and not upon  
31 his or her own prerogative. The Executive Inspector General  
32 shall have the discretion to determine the appropriate means  
33 of investigation as permitted by law.

1       (2) To request information relating to an investigation  
2 from any person when the Executive Inspector General deems  
3 that information necessary in conducting an investigation.

4       (3) To issue subpoenas, subject to the advance approval  
5 of the Attorney General, to compel the attendance of  
6 witnesses for the purposes of testimony and production of  
7 documents and other items for inspection and copying.

8       (4) To submit reports as required by this Act.

9       (5) After finding probable cause, to file pleadings in  
10 the name of the Executive Inspector General with the  
11 Executive Ethics Commission, through the Attorney General, as  
12 provided in this Article.

13       (6) To assist and coordinate the ethics officers for  
14 State agencies under the jurisdiction of the Executive  
15 Inspector General and to work with those ethics officers.

16       (7) To participate in or conduct, when appropriate,  
17 multi-jurisdictional investigations.

18       (8) To request, as the Executive Inspector General deems  
19 appropriate, from ethics officers of State agencies under his  
20 or her jurisdiction, reports or information on (i) the  
21 content of a State agency's ethics training program and (ii)  
22 the percentage of new officers and employees who have  
23 completed ethics training.

24       (93 HB3412enr. Sec. 20-23 new)

25       Sec. 20-23. Ethics Officers. Each officer and the head  
26 of each State agency under the jurisdiction of the Executive  
27 Ethics Commission shall designate an Ethics Officer for the  
28 office or State agency. Ethics Officers shall:

29           (1) act as liaisons between the State agency and  
30 the appropriate Executive Inspector General and between  
31 the State agency and the Executive Ethics Commission;

32           (2) review statements of economic interest and  
33 disclosure forms of officers, senior employees, and

1 contract monitors before they are filed with the  
2 Secretary of State; and

3 (3) provide guidance to officers and employees in  
4 the interpretation and implementation of this Act. Such  
5 guidance shall be based, wherever possible, upon the  
6 findings and opinions of the Executive Ethics Commission.

7 (93 HB3412enr. Sec. 20-25 new)

8 Sec. 20-25. Executive Ethics Hotline. The Executive  
9 Ethics Commission shall create and maintain a toll-free  
10 Ethics Hotline for the purpose of receiving reports of  
11 allegations relating to conduct subject to the jurisdiction  
12 of the Commission. The Commission shall transmit each report  
13 to the appropriate Inspector General or other ethics  
14 commission in a timely manner.

15 (93 HB3412enr. Sec. 20-35 new)

16 Sec. 20-35. Administrative subpoena; compliance. A person  
17 duly subpoenaed for testimony, documents, or other items who  
18 neglects or refuses to testify or produce documents or other  
19 items under the requirements of the subpoena shall be subject  
20 to punishment as may be determined by a court of competent  
21 jurisdiction, unless (i) the testimony, documents, or other  
22 items are covered by the attorney-client privilege or any  
23 other privilege or right recognized by law or (ii) the  
24 testimony, documents, or other items concern the  
25 representation of employees and the negotiation of collective  
26 bargaining agreements by a labor organization authorized and  
27 recognized under the Illinois Public Labor Relations Act to  
28 be the exclusive bargaining representative of employees of  
29 the State agency. Nothing in this Section limits a person's  
30 right to protection against self-incrimination under the  
31 Fifth Amendment of the United States Constitution or Article  
32 I, Section 10, of the Constitution of the State of Illinois.

1 (93 HB3412enr. Sec. 20-40 new)

2 Sec. 20-40. Collective bargaining agreements. Any  
3 investigation or inquiry by an Executive Inspector General or  
4 any agent or representative of an Executive Inspector General  
5 must be conducted in compliance with the provisions of a  
6 collective bargaining agreement that applies to the employees  
7 of the relevant State agency and with an awareness of the  
8 rights of the employees as set forth by State and federal law  
9 and applicable judicial decisions. Any recommendation for  
10 discipline or any action taken against any State employee  
11 pursuant to this Act must comply with the provisions of the  
12 collective bargaining agreement that applies to the State  
13 employee.

14 (93 HB3412enr. Sec. 20-45 new)

15 Sec. 20-45. Standing; representation.

16 (a) Only an Executive Inspector General may bring  
17 actions before the Executive Ethics Commission.

18 (b) The Attorney General shall represent an Executive  
19 Inspector General in all proceedings before the Commission,  
20 except that the Attorney General may appoint special counsel  
21 to represent an Executive Inspector General before the  
22 Commission if the Attorney General deems it necessary to  
23 avoid any actual, potential, or perceived conflict of  
24 interest.

25 (c) Attorneys or special counsel serving in the Office  
26 of an Executive Inspector General shall be appointed or  
27 retained by the Attorney General, shall be under the  
28 supervision, direction, and control of the Attorney General,  
29 and shall serve at the pleasure of the Attorney General. The  
30 compensation of any assistant attorneys and special counsel  
31 appointed or retained in accordance with this subsection  
32 shall be paid by the appropriate Office of the Executive  
33 Inspector General.

1       (d) Any State employee or officer named as a respondent  
2 in a complaint is entitled to reimbursement for his or her  
3 reasonable attorney's fees and expenses in defending against  
4 the complaint if that respondent is not found by the  
5 Commission to have violated this Act.

6       (93 HB3412enr. Sec. 20-50 new)

7       Sec. 20-50. Investigation reports; complaint procedure.

8       (a) If an Executive Inspector General, upon the  
9 conclusion of an investigation, determines that probable  
10 cause exists to file pleadings with the Executive Ethics  
11 Commission, then the Executive Inspector General shall issue  
12 a summary report of the investigation. The report shall be  
13 delivered to the appropriate ultimate jurisdictional  
14 authority and to the head of each State agency affected by or  
15 involved in the investigation, if appropriate.

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

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

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

23           (3) Recommendations for any corrective or  
24 disciplinary action to be taken in response to any  
25 alleged misconduct described in the report, including but  
26 not limited to discharge.

27           (4) Other information the Executive Inspector  
28 General deems relevant to the investigation or resulting  
29 recommendations.

30       (c) Not less than 30 days after delivery of the summary  
31 report of an investigation under subsection (a), the  
32 Executive Inspector General, represented by the Attorney  
33 General, may file with the Executive Ethics Commission a



1 petition for leave to file a complaint. The petition shall  
2 set forth the alleged violation and the grounds that exist to  
3 support probable cause. The petition for leave to file a  
4 complaint must be filed with the Commission within 18 months  
5 after an alleged violation of this Act.

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

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

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

29 (g) On the scheduled date the Commission shall conduct a  
30 closed meeting, either in person or, if the parties consent,  
31 by telephone, on the complaint and allow all parties the  
32 opportunity to present testimony and evidence. All such  
33 proceedings shall be transcribed.

34 (h) Within an appropriate time limit set by rules of the

1 Executive Ethics Commission, the Commission shall (i) dismiss  
2 the complaint or (ii) issue a recommendation of discipline to  
3 the respondent and the respondent's ultimate jurisdictional  
4 authority or impose an administrative fine upon the  
5 respondent, or both.

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

9 (j) The Commission may designate hearing officers to  
10 conduct proceeding as determined by rule of the Commission.

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

13 (93 HB3412enr. Sec. 20-55 new)

14 Sec. 20-55. Decisions; recommendations.

15 (a) All decisions of the Executive Ethics Commission  
16 must include a description of the alleged misconduct, the  
17 decision of the Commission, including any fines levied and  
18 any recommendation of discipline, and the reasoning for that  
19 decision. All decisions of the Commission shall be delivered  
20 to the head of the appropriate State agency, the appropriate  
21 ultimate jurisdictional authority, and the appropriate  
22 Executive Inspector General. The Executive Ethics Commission  
23 shall promulgate rules for the decision and recommendation  
24 process.

25 (b) If the Executive Ethics Commission issues a  
26 recommendation of discipline to an agency head or ultimate  
27 jurisdictional authority, that agency head or ultimate  
28 jurisdictional authority must respond to that recommendation  
29 in 30 days with a written response to the Executive Ethics  
30 Commission. This response must include any disciplinary  
31 action the agency head or ultimate jurisdictional authority  
32 has taken with respect to the officer or employee in  
33 question. If the agency head or ultimate jurisdictional

1 authority did not take any disciplinary action, or took a  
2 different disciplinary action than that recommended by the  
3 Executive Ethics Commission, the agency head or ultimate  
4 jurisdictional authority must describe the different action  
5 and explain the reasons for the different action in the  
6 written response. This response must be served upon the  
7 Executive Ethics Commission and the appropriate Executive  
8 Inspector General within the 30-day period and is not exempt  
9 from the provisions of the Freedom of Information Act.

10 (93 HB3412enr. Sec. 20-60 new)

11 Sec. 20-60. Appeals. A decision of the Executive Ethics  
12 Commission to impose a fine is subject to judicial review  
13 under the Administrative Review Law. All other decisions by  
14 the Executive Ethics Commission are final and not subject to  
15 review either administratively or judicially.

16 (93 HB3412enr. Sec. 20-65 new)

17 Sec. 20-65. Investigations not concluded within 6 months.  
18 If any investigation is not concluded within 6 months after  
19 its initiation, the appropriate Executive Inspector General  
20 shall notify the Executive Ethics Commission and appropriate  
21 ultimate jurisdictional authority of the general nature of  
22 the allegation or information giving rise to the  
23 investigation and the reasons for failure to complete the  
24 investigation within 6 months.

25 (93 HB3412enr. Sec. 20-70 new)

26 Sec. 20-70. Cooperation in investigations. It is the duty  
27 of every officer and employee under the jurisdiction of an  
28 Executive Inspector General, including any inspector general  
29 servng in any State agency under the jurisdiction of that  
30 Executive Inspector General, to cooperate with the Executive  
31 Inspector General in any investigation undertaken pursuant to

1 this Act. Failure to cooperate with an investigation of the  
2 Executive Inspector General is grounds for disciplinary  
3 action, including dismissal, unless the failure is based on  
4 (i) the attorney-client privilege or any other privilege or  
5 right recognized by law or (ii) a collective bargaining  
6 agreement with a labor organization authorized and recognized  
7 under the Illinois Public Labor Relations Act to be the  
8 exclusive bargaining representative of affected employees.

9 Nothing in this Section limits a person's right to  
10 protection against self-incrimination under the Fifth  
11 Amendment of the United States Constitution or Article I,  
12 Section 10, of the Constitution of the State of Illinois.

13 (93 HB3412enr. Sec. 20-80 new)

14 Sec. 20-80. Referrals of investigations. If an Executive  
15 Inspector General determines that any alleged misconduct  
16 involves any person not subject to the jurisdiction of the  
17 Executive Ethics Commission, that Executive Inspector General  
18 shall refer the reported allegations to the appropriate  
19 Inspector General, appropriate ethics commission, or other  
20 appropriate body. If an Executive Inspector General  
21 determines that any alleged misconduct may give rise to  
22 criminal penalties, the Executive Inspector General shall  
23 refer the allegations regarding that misconduct to the  
24 appropriate law enforcement authority.

25 (93 HB3412enr. Sec. 20-85 new)

26 Sec. 20-85. Annual reports. Each Executive Inspector  
27 General shall submit an annual report to the executive branch  
28 constitutional officers and the Executive Ethics Commission,  
29 on a date determined by the Executive Ethics Commission,  
30 indicating:

31 (1) the number of allegations received since the  
32 date of the last report;

1           (2) the number of investigations initiated since  
2           the date of the last report;

3           (3) the number of investigations concluded since  
4           the date of the last report;

5           (4) the number of investigations pending as of the  
6           reporting date; and

7           (5) the number of actions filed since the last  
8           report and the number of actions pending before the  
9           Commission as of the reporting date.

10           (93 HB3412enr. Sec. 20-90 new)

11           Sec. 20-90. Confidentiality.

12           (a) The identity of any individual providing information  
13           or reporting any possible or alleged misconduct to an  
14           Executive Inspector General, the Executive Ethics Commission,  
15           or the Executive Ethics Hotline shall be kept confidential  
16           and may not be disclosed without the consent of that  
17           individual, unless the individual consents to disclosure of  
18           his or her name or disclosure of the individual's identity is  
19           otherwise required by law. The confidentiality granted by  
20           this subsection does not preclude the disclosure of the  
21           identity of a person in any capacity other than as the source  
22           of an allegation.

23           (b) Commissioners, employees, and agents of the  
24           Executive Ethics Commission, the Executive Inspectors  
25           General, and employees and agents of each Office of an  
26           Executive Inspector General shall keep confidential and shall  
27           not disclose information exempted from disclosure under the  
28           Freedom of Information Act or by this Act.

29           (93 HB3412enr. Sec. 20-95 new)

30           Sec. 20-95. Exemptions.

31           (a) Documents generated by an ethics officer under this  
32           Act are exempt from the provisions of the Freedom of

1 Information Act.

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

17 (c) Meetings of the Commission under Sections 20-5 and  
18 20-15 of this Act are exempt from the provisions of the Open  
19 Meetings Act.

20 (d) Unless otherwise provided in this Act, all  
21 investigatory files and reports of the Office of an Executive  
22 Inspector General, other than annual reports, are  
23 confidential, are exempt from disclosure under the Freedom of  
24 Information Act, and shall not be divulged to any person or  
25 agency, except as necessary (i) to the appropriate law  
26 enforcement authority if the matter is referred pursuant to  
27 this Act, (ii) to the ultimate jurisdiction authority, (iii)  
28 to the Executive Ethics Commission; or (iv) to another  
29 Inspector General appointed pursuant to this Act.

30 (93 HB3412enr. Art. 25 heading new)

31 ARTICLE 25

32 LEGISLATIVE ETHICS COMMISSION AND

33 LEGISLATIVE INSPECTOR GENERAL

1 (93 HB3412enr. Sec. 25-5 new)

2 Sec. 25-5. Legislative Ethics Commission.

3 (a) The Legislative Ethics Commission is created.

4 (b) The Legislative Ethics Commission shall consist of 8  
5 commissioners appointed 2 each by the President and Minority  
6 Leader of the Senate and the Speaker and Minority Leader of  
7 the House of Representatives.

8 The terms of the initial commissioners shall commence on  
9 July 1, 2003. Each appointing authority shall designate one  
10 appointee who shall serve for a 2-year term running through  
11 June 30, 2005. Each appointing authority shall designate one  
12 appointee who shall serve for a 4-year term running through  
13 June 30, 2007. The initial appointments shall be made within  
14 60 days after the effective date of this Act.

15 After the initial terms, commissioners shall serve for  
16 4-year terms commencing on July 1 of the year of appointment  
17 and running through June 30 of the fourth following year.  
18 Commissioners may be reappointed to one or more subsequent  
19 terms.

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

23 Terms shall run regardless of whether the position is  
24 filled.

25 (c) The appointing authorities shall appoint  
26 commissioners who have experience holding governmental office  
27 or employment and shall appoint commissioners from the  
28 general public. A person is not eligible to serve as a  
29 commissioner if that person (i) has been convicted of a  
30 felony or a crime of dishonesty or moral turpitude, (ii) is,  
31 or was within the preceding 12 months, engaged in activities  
32 that require registration under the Lobbyist Registration  
33 Act, (iii) is a relative of the appointing authority, or (iv)  
34 is a State officer or employee.

1       (d) The Legislative Ethics Commission shall have  
2 jurisdiction over members of the General Assembly and all  
3 State employees whose ultimate jurisdictional authority is  
4 (i) a legislative leader, (ii) the Senate Operations  
5 Commission, or (iii) the Joint Committee on Legislative  
6 Support Services. The jurisdiction of the Commission is  
7 limited to matters arising under this Act.

8       (e) The Legislative Ethics Commission must meet, either  
9 in person or by other technological means, at least monthly  
10 and as often as necessary. At the first meeting of the  
11 Legislative Ethics Commission, the commissioners shall choose  
12 from their number a chairperson and other officers that they  
13 deem appropriate. The terms of officers shall be for 2 years  
14 commencing July 1 and running through June 30 of the second  
15 following year. Meetings shall be held at the call of the  
16 chairperson or any 3 commissioners. Official action by the  
17 Commission shall require the affirmative vote of 5  
18 commissioners, and a quorum shall consist of 5 commissioners.  
19 Commissioners shall receive no compensation, but may be  
20 reimbursed for their reasonable expenses actually incurred in  
21 the performance of their duties.

22       (f) No commissioner or employee of the Legislative Ethics  
23 Commission may during his or her term of appointment or  
24 employment:

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

26           (2) hold any other elected or appointed public  
27 office except for appointments on governmental advisory  
28 boards or study commissions or as otherwise expressly  
29 authorized by law;

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

32           (4) actively participate in any campaign for any  
33 elective office.

34       (g) An appointing authority may remove a commissioner



1 only for cause.

2 (h) The Legislative Ethics Commission shall appoint an  
3 Executive Director. The compensation of the Executive  
4 Director shall be as determined by the Commission or by the  
5 Compensation Review Board, whichever amount is higher. The  
6 Executive Director of the Legislative Ethics Commission may  
7 employ and determine the compensation of staff, as  
8 appropriations permit.

9 (93 HB3412enr. Sec. 25-10 new)

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

11 (a) The Office of the Legislative Inspector General is  
12 created. The Office shall be under the direction and  
13 supervision of the Legislative Inspector General.

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

20 The Legislative Inspector General shall be appointed by a  
21 joint resolution of the Senate and the House of  
22 Representatives, which may specify the date on which the  
23 appointment takes effect. A joint resolution, or other  
24 document as may be specified by the Joint Rules of the  
25 General Assembly, appointing the Legislative Inspector  
26 General must be certified by the Speaker of the House of  
27 Representatives and the President of the Senate as having  
28 been adopted by the affirmative vote of three-fifths of the  
29 members elected to each house, respectively, and be filed  
30 with the Secretary of State. The appointment of the  
31 Legislative Inspector General takes effect on the day the  
32 appointment is completed by the General Assembly, unless the  
33 appointment specifies a later date on which it is to become

1 effective.

2 The Legislative Inspector General shall have the  
3 following qualifications:

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

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

8 (3) has either (A) 5 or more years of service with  
9 a federal, State, or local law enforcement agency, at  
10 least 2 years of which have been in a progressive  
11 investigatory capacity; (B) 5 or more years of service as  
12 a federal, State, or local prosecutor; or (C) 5 or more  
13 years of service as a senior manager or executive of a  
14 federal, State, or local agency.

15 The Legislative Inspector General may not be a relative  
16 of a commissioner.

17 The term of the initial Legislative Inspector General  
18 shall commence on July 1, 2003 and shall run through June 30,  
19 2008.

20 After the initial term, the Legislative Inspector General  
21 shall serve for 5-year terms commencing on July 1 of the year  
22 of appointment and running through June 30 of the fifth  
23 following year. The Legislative Inspector General may be  
24 reappointed to one or more subsequent terms.

25 A vacancy occurring other than at the end of a term shall  
26 be filled in the same manner as an appointment only for the  
27 balance of the term of the Legislative Inspector General  
28 whose office is vacant.

29 Terms shall run regardless of whether the position is  
30 filled.

31 (c) The Legislative Inspector General shall have  
32 jurisdiction over the members of the General Assembly and all  
33 State employees whose ultimate jurisdictional authority is  
34 (i) a legislative leader, (ii) the Senate Operations

1 Commission, or (iii) the Joint Committee on Legislative  
2 Support Services.

3 The jurisdiction of the Legislative Inspector General is  
4 limited to investigating conduct alleged to violate this Act.

5 (d) The compensation of the Legislative Inspector  
6 General shall be determined by the Commission. Subject to  
7 Section 25-45 of this Act, the Legislative Inspector General  
8 has full authority to organize the Office of the Legislative  
9 Inspector General, including the employment and determination  
10 of the compensation of staff, such as deputies, assistants,  
11 and other employees, as appropriations permit.

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

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

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

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

22 (4) actively participate in any campaign for any  
23 elective office.

24 (f) The Commission may remove the Legislative Inspector  
25 General only for cause.

26 (93 HB3412enr. Sec. 25-15 new)

27 Sec. 25-15. Duties of the Legislative Ethics Commission.  
28 In addition to duties otherwise assigned by law, the  
29 Legislative Ethics Commission shall have the following  
30 duties:

31 (1) To promulgate rules governing the performance of its  
32 duties and the exercise of its powers and governing the  
33 investigations of the Legislative Inspector General.

1       (2) To conduct administrative hearings and rule on  
2 matters brought before the Commission only upon the receipt  
3 of pleadings filed by the Legislative Inspector General and  
4 not upon its own prerogative. Any other allegations of  
5 misconduct received by the Commission from a person other  
6 than the Legislative Inspector General shall be referred to  
7 the Office of the Legislative Inspector General.

8       (3) To prepare and publish manuals and guides and,  
9 working with the Office of the Attorney General, oversee  
10 training of employees under its jurisdiction that explains  
11 their duties.

12       (4) To prepare public information materials to facilitate  
13 compliance, implementation, and enforcement of this Act.

14       (5) To submit reports as required by this Act.

15       (6) To make rulings, issue recommendations, and impose  
16 administrative fines, if appropriate, in connection with the  
17 implementation and interpretation of this Act. The powers and  
18 duties of the Commission are limited to matters clearly  
19 within the purview of this Act.

20       (7) To issue subpoenas with respect to matters pending  
21 before the Commission, subject to the provisions of this  
22 Article and in the discretion of the Commission, to compel  
23 the attendance of witnesses for purposes of testimony and the  
24 production of documents and other items for inspection and  
25 copying.

26       (93 HB3412enr. Sec. 25-20 new)

27       Sec. 25-20. Duties of the Legislative Inspector General.  
28 In addition to duties otherwise assigned by law, the  
29 Legislative Inspector General shall have the following  
30 duties:

31       (1) To receive and investigate allegations of violations  
32 of this Act. The Legislative Inspector General may receive  
33 information through the Office of the Legislative Inspector

1 General, through an ethics commission, or through the  
2 Legislative Ethics Hotline. An investigation may be conducted  
3 only in response to information reported to the Legislative  
4 Inspector General as provided in this Section and not upon  
5 his or her own prerogative. The Legislative Inspector General  
6 shall have the discretion to determine the appropriate means  
7 of investigation as permitted by law.

8 (2) To request information relating to an investigation  
9 from any person when the Legislative Inspector General deems  
10 that information necessary in conducting an investigation.

11 (3) To issue subpoenas to compel the attendance of  
12 witnesses for the purposes of testimony and production of  
13 documents and other items for inspection and copying.

14 (4) To submit reports as required by this Act.

15 (5) After finding probable cause, to file pleadings in  
16 the name of the Legislative Inspector General with the  
17 Legislative Ethics Commission, through the Attorney General,  
18 as provided in this Article.

19 (6) To assist and coordinate the ethics officers for  
20 State agencies under the jurisdiction of the Legislative  
21 Inspector General and to work with those ethics officers.

22 (7) To participate in or conduct, when appropriate,  
23 multi-jurisdictional investigations.

24 (8) To request, as the Legislative Inspector General  
25 deems appropriate, from ethics officers of State agencies  
26 under his or her jurisdiction, reports or information on (i)  
27 the content of a State agency's ethics training program and  
28 (ii) the percentage of new officers and employees who have  
29 completed ethics training.

30 (93 HB3412enr. Sec. 25-23 new)

31 Sec. 25-23. Ethics Officers. The President and Minority  
32 Leader of the Senate and the Speaker and Minority Leader of  
33 the House of Representatives shall each appoint an ethics

1 officer for the legislative members of his or her legislative  
2 caucus. The head of each State agency under the jurisdiction  
3 of the Legislative Ethics Commission, other than the General  
4 Assembly, shall designate an ethics officer for the State  
5 agency. Ethics Officers shall:

6 (1) act as liaisons between the State agency and  
7 the Legislative Inspector General and between the State  
8 agency and the Legislative Ethics Commission;

9 (2) review statements of economic interest and  
10 disclosure forms of officers, senior employees, and  
11 contract monitors before they are filed with the  
12 Secretary of State; and

13 (3) provide guidance to officers and employees in  
14 the interpretation and implementation of this Act. Such  
15 guidance shall be based, wherever possible, upon the  
16 findings and opinions of the Legislative Ethics  
17 Commission.

18 (93 HB3412enr. Sec. 25-25 new)

19 Sec. 25-25. Legislative Ethics Hotline. The Legislative  
20 Ethics Commission shall create and maintain a toll-free  
21 Legislative Ethics Hotline for the purpose of receiving  
22 reports of allegations relating to conduct subject to the  
23 jurisdiction of the Legislative Ethics Commission. The  
24 Commission shall transmit each report to the appropriate  
25 Inspector General or other ethics commission in a timely  
26 manner.

27 (93 HB3412enr. Sec. 25-35 new)

28 Sec. 25-35. Administrative subpoena; compliance. A person  
29 duly subpoenaed for testimony, documents, or other items who  
30 neglects or refuses to testify or produce documents or other  
31 items under the requirements of the subpoena shall be subject  
32 to punishment as may be determined by a court of competent

1 jurisdiction, unless the testimony, documents, or other items  
2 are covered by the attorney-client privilege or any other  
3 privilege or right recognized by law. Nothing in this Section  
4 limits a person's right to protection against  
5 self-incrimination under the Fifth Amendment of the United  
6 States Constitution or Article I, Section 10, of the  
7 Constitution of the State of Illinois.

8 (93 HB3412enr. Sec. 25-45 new)

9 Sec. 25-45. Standing; representation.

10 (a) Only the Legislative Inspector General may bring  
11 actions before the Legislative Ethics Commission.

12 (b) The Attorney General shall represent the Legislative  
13 Inspector General in all proceedings before the Commission,  
14 except that the Attorney General may appoint special counsel  
15 to represent the Legislative Inspector General before the  
16 Commission if the Attorney General deems it necessary to  
17 avoid any actual, potential, or perceived conflict of  
18 interest.

19 (c) Attorneys or special counsel serving in the Office  
20 of the Legislative Inspector General shall be appointed or  
21 retained by the Attorney General, shall be under the  
22 supervision, direction, and control of the Attorney General,  
23 and shall serve at the pleasure of the Attorney General. The  
24 compensation of any assistant attorneys and special counsel  
25 appointed or retained in accordance with this subsection  
26 shall be paid by the Office of the Legislative Inspector  
27 General.

28 (d) Any State employee or officer named as a respondent  
29 in a complaint is entitled to reimbursement for his or her  
30 reasonable attorney's fees and expenses in defending against  
31 the complaint if that respondent is not found by the  
32 Commission to have violated this Act.

1 (93 HB3412enr. Sec. 25-50 new)

2 Sec. 25-50. Investigation reports; complaint procedure.

3 (a) If the Legislative Inspector General, upon the  
4 conclusion of an investigation, determines that probable  
5 cause exists to file pleadings with the Legislative Ethics  
6 Commission, then the Legislative Inspector General shall  
7 issue a summary report of the investigation. The report shall  
8 be delivered to the appropriate ultimate jurisdictional  
9 authority and to the head of each State agency affected by or  
10 involved in the investigation, if appropriate.

11 (b) The summary report of the investigation shall  
12 include the following:

13 (1) A description of any allegations or other  
14 information received by the Legislative Inspector General  
15 pertinent to the investigation.

16 (2) A description of any alleged misconduct  
17 discovered in the course of the investigation.

18 (3) Recommendations for any corrective or  
19 disciplinary action to be taken in response to any  
20 alleged misconduct described in the report, including but  
21 not limited to discharge.

22 (4) Other information the Legislative Inspector  
23 General deems relevant to the investigation or resulting  
24 recommendations.

25 (c) Not less than 30 days after delivery of the summary  
26 report of an investigation under subsection (a), the  
27 Legislative Inspector General, represented by the Attorney  
28 General, may file with the Legislative Ethics Commission a  
29 petition for leave to file a complaint. The petition shall  
30 set forth the alleged violation and the grounds that exist to  
31 support probable cause. The petition for leave to file a  
32 complaint must be filed with the Commission within 18 months  
33 after an alleged violation of this Act.

34 (d) A copy of the petition must be served on all



1 respondents named in the complaint and on each respondent's  
2 ultimate jurisdictional authority in the same manner as  
3 process is served under the Code of Civil Procedure.

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

7 (f) The Commission shall meet, either in person or by  
8 telephone, in a closed session to review the sufficiency of  
9 the complaint. If the Commission finds that complaint is  
10 sufficient, the Commission shall grant the petition for leave  
11 to file the complaint. The Commission shall issue notice to  
12 the Legislative Inspector General and all respondents of the  
13 Commission's ruling on the sufficiency of the complaint. If  
14 the complaint is deemed to sufficiently allege a violation of  
15 this Act, then the Commission shall notify the parties and  
16 shall include a hearing date scheduled within 4 weeks after  
17 the date of the notice, unless all of the parties consent to  
18 a later date. If the complaint is deemed not to sufficiently  
19 allege a violation, then the Commission shall send by  
20 certified mail, return receipt requested, a notice to the  
21 parties of the decision to dismiss the complaint, and that  
22 notice shall be made public.

23 (g) On the scheduled date the Commission shall conduct a  
24 closed meeting, either in person or, if the parties consent,  
25 by telephone, on the complaint and allow all parties the  
26 opportunity to present testimony and evidence. All such  
27 proceedings shall be transcribed.

28 (h) Within an appropriate time limit set by rules of the  
29 Legislative Ethics Commission, the Commission shall (i)  
30 dismiss the complaint or (ii) issue a recommendation of  
31 discipline to the respondent and the respondent's ultimate  
32 jurisdictional authority or impose an administrative fine  
33 upon the respondent, or both.

34 (i) The proceedings on any complaint filed with the

1 Commission shall be conducted pursuant to rules promulgated  
2 by the Commission.

3 (j) The Commission may designate hearing officers to  
4 conduct proceeding as determined by rule of the Commission.

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

7 (93 HB3412enr. Sec. 25-55 new)

8 Sec. 25-55. Decisions; recommendations.

9 (a) All decisions of the Legislative Ethics Commission  
10 must include a description of the alleged misconduct, the  
11 decision of the Commission, including any fines levied and  
12 any recommendation of discipline, and the reasoning for that  
13 decision. All decisions of the Commission shall be delivered  
14 to the head of the appropriate State agency, the appropriate  
15 ultimate jurisdictional authority, and the Legislative  
16 Inspector General. The Legislative Ethics Commission shall  
17 promulgate rules for the decision and recommendation process.

18 (b) If the Legislative Ethics Commission issues a  
19 recommendation of discipline to an agency head or ultimate  
20 jurisdictional authority, that agency head or ultimate  
21 jurisdictional authority must respond to that recommendation  
22 in 30 days with a written response to the Legislative Ethics  
23 Commission. This response must include any disciplinary  
24 action the agency head or ultimate jurisdictional authority  
25 has taken with respect to the officer or employee in  
26 question. If the agency head or ultimate jurisdictional  
27 authority did not take any disciplinary action, or took a  
28 different disciplinary action than that recommended by the  
29 Legislative Ethics Commission, the agency head or ultimate  
30 jurisdictional authority must describe the different action  
31 and explain the reasons for the different action in the  
32 written response. This response must be served upon the  
33 Legislative Ethics Commission and the Legislative Inspector

1 General within the 30-day period and is not exempt from the  
2 provisions of the Freedom of Information Act.

3 (93 HB3412enr. Sec. 25-60 new)

4 Sec. 25-60. Appeals. A decision of the Legislative Ethics  
5 Commission to impose a fine is subject to judicial review  
6 under the Administrative Review Law. All other decisions by  
7 the Legislative Ethics Commission are final and not subject  
8 to review either administratively or judicially.

9 (93 HB3412enr. Sec. 25-65 new)

10 Sec. 25-65. Investigations not concluded within 6 months.  
11 If any investigation is not concluded within 6 months after  
12 its initiation, the Legislative Inspector General shall  
13 notify the Legislative Ethics Commission and appropriate  
14 ultimate jurisdictional authority of the general nature of  
15 the allegation or information giving rise to the  
16 investigation and the reasons for failure to complete the  
17 investigation within 6 months.

18 (93 HB3412enr. Sec. 25-70 new)

19 Sec. 25-70. Cooperation in investigations. It is the duty  
20 of every officer and employee under the jurisdiction of the  
21 Legislative Inspector General, including any inspector  
22 general serving in any State agency under the jurisdiction of  
23 the Legislative Inspector General, to cooperate with the  
24 Legislative Inspector General in any investigation undertaken  
25 pursuant to this Act. Failure to cooperate with an  
26 investigation of the Legislative Inspector General is grounds  
27 for disciplinary action, including dismissal, unless the  
28 failure is based on the attorney-client privilege or any  
29 other privilege or right recognized by law.

30 Nothing in this Section limits a person's right to  
31 protection against self-incrimination under the Fifth

1 Amendment of the United States Constitution or Article I,  
2 Section 10, of the Constitution of the State of Illinois.

3 (93 HB3412enr. Sec. 25-80 new)

4 Sec. 25-80. Referrals of investigations. If the  
5 Legislative Inspector General determines that any alleged  
6 misconduct involves any person not subject to the  
7 jurisdiction of the Legislative Ethics Commission, the  
8 Legislative Inspector General shall refer the reported  
9 allegations to the appropriate ethics commission or other  
10 appropriate body. If the Legislative Inspector General  
11 determines that any alleged misconduct may give rise to  
12 criminal penalties, the Legislative Inspector General shall  
13 refer the allegations regarding that misconduct to the  
14 appropriate law enforcement authority.

15 (93 HB3412enr. Sec. 25-85 new)

16 Sec. 25-85. Annual reports. The Legislative Inspector  
17 General shall submit an annual report to the General Assembly  
18 and the Legislative Ethics Commission, on a date determined  
19 by the Legislative Ethics Commission, indicating:

20 (1) the number of allegations received since the  
21 date of the last report;

22 (2) the number of investigations initiated since  
23 the date of the last report;

24 (3) the number of investigations concluded since  
25 the date of the last report;

26 (4) the number of investigations pending as of the  
27 reporting date; and

28 (5) the number of actions filed since the last  
29 report and the number of actions pending before the  
30 Commission as of the reporting date.

31 (93 HB3412enr. Sec. 25-90 new)

1       Sec. 25-90. Confidentiality.

2       (a) The identity of any individual providing information  
3 or reporting any possible or alleged misconduct to the  
4 Legislative Inspector General, the Legislative Ethics  
5 Commission, or the Legislative Ethics Hotline shall be kept  
6 confidential and may not be disclosed without the consent of  
7 that individual, unless the individual consents to disclosure  
8 of his or her name or disclosure of the individual's identity  
9 is otherwise required by law. The confidentiality granted by  
10 this subsection does not preclude the disclosure of the  
11 identity of a person in any capacity other than as the source  
12 of an allegation.

13       (b) Commissioners, employees, and agents of the  
14 Legislative Ethics Commission, the Legislative Inspector  
15 General, and employees and agents of the Office of the  
16 Legislative Inspector General shall keep confidential and  
17 shall not disclose information exempted from disclosure under  
18 the Freedom of Information Act or by this Act.

19       (93 HB3412enr. Sec. 25-95 new)

20       Sec. 25-95. Exemptions.

21       (a) Documents generated by an ethics officer under this  
22 Act are exempt from the provisions of the Freedom of  
23 Information Act.

24       (b) Any allegations and related documents submitted to  
25 the Legislative Inspector General and any pleadings and  
26 related documents brought before the Legislative Ethics  
27 Commission are exempt from the provisions of the Freedom of  
28 Information Act so long as the Legislative Ethics Commission  
29 does not make a finding of a violation of this Act. If the  
30 Legislative Ethics Commission finds that a violation has  
31 occurred, the entire record of proceedings before the  
32 Commission, the decision and recommendation, and the  
33 mandatory report from the agency head or ultimate

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

7 (c) Meetings of the Commission under Sections 25-5 and  
8 25-15 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 and reports of the Office of the  
12 Legislative Inspector General, other than annual reports, are  
13 confidential, are exempt from disclosure under the Freedom of  
14 Information Act, and shall not be divulged to any person or  
15 agency, except as necessary (i) to the appropriate law  
16 enforcement authority if the matter is referred pursuant to  
17 this Act, (ii) to the ultimate jurisdiction authority, or  
18 (iii) to the Legislative Ethics Commission.

19 (93 HB3412enr. Art. 30 heading new)

20 ARTICLE 30

21 AUDITOR GENERAL

22 (93 HB3412enr. Sec. 30-5 new)

23 Sec. 30-5. Appointment of Inspector General.

24 (a) The Auditor General shall appoint an Inspector  
25 General (i) to investigate allegations of violations of  
26 Articles 5 and 10 by State officers and employees under his  
27 or her jurisdiction and (ii) to perform other duties and  
28 exercise other powers assigned to the Inspectors General by  
29 this or any other Act. The Inspector General shall be  
30 appointed within 6 months after the effective date of this  
31 Act.

32 (b) The Auditor General shall provide by rule for the

1 operation of his or her Inspector General.

2 (c) The Auditor General may appoint an existing  
3 inspector general as the Inspector General required by this  
4 Article, provided that such an inspector general is not  
5 prohibited by law, rule, jurisdiction, qualification, or  
6 interest from serving as the Inspector General required by  
7 this Article.

8 The Auditor General may not appoint a relative as the  
9 Inspector General required by this Article.

10 (93 HB3412enr. Sec. 30-10 new)

11 Sec. 30-10. Ethics Officers. The Auditor General shall  
12 designate an Ethics Officer for the office of the Auditor  
13 General. The ethics officer shall:

14 (1) act as liaison between the Office of the  
15 Auditor General and the Inspector General appointed under  
16 this Article;

17 (2) review statements of economic interest and  
18 disclosure forms of officers, senior employees, and  
19 contract monitors before they are filed with the  
20 Secretary of State; and

21 (3) provide guidance to officers and employees in  
22 the interpretation and implementation of this Act.

23 (93 HB3412enr. Art. 50, Sec. 50-5)

24 Sec. 50-5. Penalties.

25 (a) A person is guilty of a Class A misdemeanor if that  
26 person intentionally violates any provision of Section 5-15,  
27 5-30, 5-40, or 5-45 or Article 15.

28 (b) A person who intentionally violates any provision of  
29 Section 5-20 or Section 5-35 is guilty of a business offense  
30 subject to a fine of at least \$1,001 and up to \$5,000.

31 (c) A person who intentionally violates any provision of  
32 Article 10 is guilty of a business offense and subject to a

1 fine of at least \$1,001 and up to \$5,000.

2 (d) Any person who intentionally makes a false report  
3 alleging a violation of any provision of this Act to an  
4 ethics commission, an inspector general, the State Police, a  
5 State's Attorney, the Attorney General, or any other law  
6 enforcement official is guilty of a Class A misdemeanor.

7 (e) An ethics commission may levy an administrative fine  
8 of up to \$5,000 against any person who violates this Act, who  
9 intentionally obstructs or interferes with an investigation  
10 conducted under this Act by an inspector general, or who  
11 intentionally makes a false or frivolous allegation of a  
12 violation of this Act.

13 (f) In addition to any other penalty that may apply,  
14 whether criminal or civil, a director, a supervisor, or a  
15 State employee who intentionally violates any provision of  
16 Section 5-15, 5-20, 5-30, 5-35, or 5-40 or Article 10 or  
17 Article 15 is subject to discipline or discharge by the  
18 appropriate ultimate jurisdictional authority.

19 Penalties-

20 ~~{a}--A--person-is-guilty-of-a-Class-A-misdemeanor-if-that~~  
21 ~~person-intentionally-violates-any-provision-of-Section--5-15,~~  
22 ~~5-30,5-40,or-5-45-or-Article-15-~~

23 ~~{b}--A-person-who-intentionally-violates-any-provision-of~~  
24 ~~Section--5-20-or-Section-5-35-is-guilty-of-a-business-offense~~  
25 ~~subject-to-a-fine-of-at-least-\$1,001-and-up-to-\$5,000-~~

26 ~~{c}--In-addition-to-any-other--penalty--that--may--apply,~~  
27 ~~whether--criminal--or--civil,--a-director,--a-supervisor,--or-a~~  
28 ~~State-employee-who-intentionally-violates--any--provision--of~~  
29 ~~Section--5-15,--5-20,--5-30,--5-35,--or-5-40-or-Article-15-is~~  
30 ~~subject--to--discipline--or--discharge--by--the---appropriate~~  
31 ~~ultimate-jurisdictional-authority-~~

32 (Source: 93HB3412enr.)

33 (93 HB3412enr. Art. 70, Sec. 70-5)



1           Sec. 70-5. Adoption by governmental entities.

2           (a) Within 6 months after the effective date of this  
3 Act, each governmental entity shall adopt an ordinance or  
4 resolution that regulates, in a manner no less restrictive  
5 than Section 5-15 and Article 10 of this Act, (i) the  
6 political activities of officers and employees of the  
7 governmental entity and (ii) the soliciting and accepting of  
8 gifts by and the offering and making of gifts to officers and  
9 employees of the governmental entity.

10          (b) The Attorney General shall develop model ordinances  
11 and resolutions for the purpose of this Article and shall  
12 advise governmental entities on their contents and adoption.

13          (c) As used in this Article, (i) an "officer" means an  
14 elected or appointed official; regardless of whether the  
15 official is compensated, and (ii) an "employee" means a  
16 full-time, part-time, or contractual employee.

17          (Source: 93HB3412enr.)

18          (93 HB3412enr. Art. 70, Sec. 70-15)

19          Sec. 70-15. Home rule preemption. This Article is a  
20 denial and limitation of home rule powers and functions in  
21 accordance with subsection (i) of Section 6 of Article VII of  
22 the Illinois Constitution. A home rule unit may not regulate  
23 the political activities of its officers and employees and  
24 the soliciting, offering, accepting, and making of gifts in a  
25 manner less restrictive than the provisions of this Act.

26          (Source: 93HB3412enr.)

27          Section 60. If and only if House Bill 3412 as passed by  
28 the 93rd General Assembly becomes law, the Open Meetings Act  
29 is amended by changing Section 1.02 as follows:

30          (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

31          Sec. 1.02. For the purposes of this Act:

1 "Meeting" means any gathering of a majority of a quorum  
2 of the members of a public body held for the purpose of  
3 discussing public business.

4 "Public body" includes all legislative, executive,  
5 administrative or advisory bodies of the State, counties,  
6 townships, cities, villages, incorporated towns, school  
7 districts and all other municipal corporations, boards,  
8 bureaus, committees or commissions of this State, and any  
9 subsidiary bodies of any of the foregoing including but not  
10 limited to committees and subcommittees which are supported  
11 in whole or in part by tax revenue, or which expend tax  
12 revenue, except the General Assembly and committees or  
13 commissions thereof. "Public body" includes tourism boards  
14 and convention or civic center boards located in counties  
15 that are contiguous to the Mississippi River with populations  
16 of more than 250,000 but less than 300,000. "Public body"  
17 includes the Health Facilities Planning Board. "Public body"  
18 does not include a child death review team or the Illinois  
19 Child Death Review Teams Executive Council established under  
20 the Child Death Review Team Act or an ethics commission,  
21 ~~ethics--officer,--or-ultimate-jurisdictional-authority~~ acting  
22 under the State Officials and Employees Ethics Act ~~State-Gift~~  
23 ~~Ban-Act-as-provided-by-Section-80-of-that-Act.~~

24 (Source: P.A. 91-782, eff. 6-9-00; 92-468, eff. 8-22-01.)

25 Section 70. If and only if House Bill 3412 as passed by  
26 the 93rd General Assembly becomes law, the Freedom of  
27 Information Act is amended by changing Section 7 as follows:

28 (5 ILCS 140/7) (from Ch. 116, par. 207)

29 Sec. 7. Exemptions.

30 (1) The following shall be exempt from inspection and  
31 copying:

32 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and  
2 regulations adopted under federal or State law.

3 (b) Information that, if disclosed, would  
4 constitute a clearly unwarranted invasion of personal  
5 privacy, unless the disclosure is consented to in writing  
6 by the individual subjects of the information. The  
7 disclosure of information that bears on the public duties  
8 of public employees and officials shall not be considered  
9 an invasion of personal privacy. Information exempted  
10 under this subsection (b) shall include but is not  
11 limited to:

12 (i) files and personal information maintained  
13 with respect to clients, patients, residents,  
14 students or other individuals receiving social,  
15 medical, educational, vocational, financial,  
16 supervisory or custodial care or services directly  
17 or indirectly from federal agencies or public  
18 bodies;

19 (ii) personnel files and personal information  
20 maintained with respect to employees, appointees or  
21 elected officials of any public body or applicants  
22 for those positions;

23 (iii) files and personal information  
24 maintained with respect to any applicant, registrant  
25 or licensee by any public body cooperating with or  
26 engaged in professional or occupational  
27 registration, licensure or discipline;

28 (iv) information required of any taxpayer in  
29 connection with the assessment or collection of any  
30 tax unless disclosure is otherwise required by State  
31 statute; and

32 (v) information revealing the identity of  
33 persons who file complaints with or provide  
34 information to administrative, investigative, law

1 enforcement or penal agencies; provided, however,  
2 that identification of witnesses to traffic  
3 accidents, traffic accident reports, and rescue  
4 reports may be provided by agencies of local  
5 government, except in a case for which a criminal  
6 investigation is ongoing, without constituting a  
7 clearly unwarranted per se invasion of personal  
8 privacy under this subsection.

9 (c) Records compiled by any public body for  
10 administrative enforcement proceedings and any law  
11 enforcement or correctional agency for law enforcement  
12 purposes or for internal matters of a public body, but  
13 only to the extent that disclosure would:

14 (i) interfere with pending or actually and  
15 reasonably contemplated law enforcement proceedings  
16 conducted by any law enforcement or correctional  
17 agency;

18 (ii) interfere with pending administrative  
19 enforcement proceedings conducted by any public  
20 body;

21 (iii) deprive a person of a fair trial or an  
22 impartial hearing;

23 (iv) unavoidably disclose the identity of a  
24 confidential source or confidential information  
25 furnished only by the confidential source;

26 (v) disclose unique or specialized  
27 investigative techniques other than those generally  
28 used and known or disclose internal documents of  
29 correctional agencies related to detection,  
30 observation or investigation of incidents of crime  
31 or misconduct;

32 (vi) constitute an invasion of personal  
33 privacy under subsection (b) of this Section;

34 (vii) endanger the life or physical safety of

1 law enforcement personnel or any other person; or  
2 (viii) obstruct an ongoing criminal  
3 investigation.

4 (d) Criminal history record information maintained  
5 by State or local criminal justice agencies, except the  
6 following which shall be open for public inspection and  
7 copying:

8 (i) chronologically maintained arrest  
9 information, such as traditional arrest logs or  
10 blotters;

11 (ii) the name of a person in the custody of a  
12 law enforcement agency and the charges for which  
13 that person is being held;

14 (iii) court records that are public;

15 (iv) records that are otherwise available  
16 under State or local law; or

17 (v) records in which the requesting party is  
18 the individual identified, except as provided under  
19 part (vii) of paragraph (c) of subsection (1) of  
20 this Section.

21 "Criminal history record information" means data  
22 identifiable to an individual and consisting of  
23 descriptions or notations of arrests, detentions,  
24 indictments, informations, pre-trial proceedings, trials,  
25 or other formal events in the criminal justice system or  
26 descriptions or notations of criminal charges (including  
27 criminal violations of local municipal ordinances) and  
28 the nature of any disposition arising therefrom,  
29 including sentencing, court or correctional supervision,  
30 rehabilitation and release. The term does not apply to  
31 statistical records and reports in which individuals are  
32 not identified and from which their identities are not  
33 ascertainable, or to information that is for criminal  
34 investigative or intelligence purposes.

1           (e) Records that relate to or affect the security  
2 of correctional institutions and detention facilities.

3           (f) Preliminary drafts, notes, recommendations,  
4 memoranda and other records in which opinions are  
5 expressed, or policies or actions are formulated, except  
6 that a specific record or relevant portion of a record  
7 shall not be exempt when the record is publicly cited and  
8 identified by the head of the public body. The exemption  
9 provided in this paragraph (f) extends to all those  
10 records of officers and agencies of the General Assembly  
11 that pertain to the preparation of legislative documents.

12           (g) Trade secrets and commercial or financial  
13 information obtained from a person or business where the  
14 trade secrets or information are proprietary, privileged  
15 or confidential, or where disclosure of the trade secrets  
16 or information may cause competitive harm, including all  
17 information determined to be confidential under Section  
18 4002 of the Technology Advancement and Development Act.  
19 Nothing contained in this paragraph (g) shall be  
20 construed to prevent a person or business from consenting  
21 to disclosure.

22           (h) Proposals and bids for any contract, grant, or  
23 agreement, including information which if it were  
24 disclosed would frustrate procurement or give an  
25 advantage to any person proposing to enter into a  
26 contractor agreement with the body, until an award or  
27 final selection is made. Information prepared by or for  
28 the body in preparation of a bid solicitation shall be  
29 exempt until an award or final selection is made.

30           (i) Valuable formulae, computer geographic systems,  
31 designs, drawings and research data obtained or produced  
32 by any public body when disclosure could reasonably be  
33 expected to produce private gain or public loss.

34           (j) Test questions, scoring keys and other

1 examination data used to administer an academic  
2 examination or determined the qualifications of an  
3 applicant for a license or employment.

4 (k) Architects' plans and engineers' technical  
5 submissions for projects not constructed or developed in  
6 whole or in part with public funds and for projects  
7 constructed or developed with public funds, to the extent  
8 that disclosure would compromise security.

9 (l) Library circulation and order records  
10 identifying library users with specific materials.

11 (m) Minutes of meetings of public bodies closed to  
12 the public as provided in the Open Meetings Act until the  
13 public body makes the minutes available to the public  
14 under Section 2.06 of the Open Meetings Act.

15 (n) Communications between a public body and an  
16 attorney or auditor representing the public body that  
17 would not be subject to discovery in litigation, and  
18 materials prepared or compiled by or for a public body in  
19 anticipation of a criminal, civil or administrative  
20 proceeding upon the request of an attorney advising the  
21 public body, and materials prepared or compiled with  
22 respect to internal audits of public bodies.

23 (o) Information received by a primary or secondary  
24 school, college or university under its procedures for  
25 the evaluation of faculty members by their academic  
26 peers.

27 (p) Administrative or technical information  
28 associated with automated data processing operations,  
29 including but not limited to software, operating  
30 protocols, computer program abstracts, file layouts,  
31 source listings, object modules, load modules, user  
32 guides, documentation pertaining to all logical and  
33 physical design of computerized systems, employee  
34 manuals, and any other information that, if disclosed,

1 would jeopardize the security of the system or its data  
2 or the security of materials exempt under this Section.

3 (q) Documents or materials relating to collective  
4 negotiating matters between public bodies and their  
5 employees or representatives, except that any final  
6 contract or agreement shall be subject to inspection and  
7 copying.

8 (r) Drafts, notes, recommendations and memoranda  
9 pertaining to the financing and marketing transactions of  
10 the public body. The records of ownership, registration,  
11 transfer, and exchange of municipal debt obligations, and  
12 of persons to whom payment with respect to these  
13 obligations is made.

14 (s) The records, documents and information relating  
15 to real estate purchase negotiations until those  
16 negotiations have been completed or otherwise terminated.  
17 With regard to a parcel involved in a pending or actually  
18 and reasonably contemplated eminent domain proceeding  
19 under Article VII of the Code of Civil Procedure,  
20 records, documents and information relating to that  
21 parcel shall be exempt except as may be allowed under  
22 discovery rules adopted by the Illinois Supreme Court.  
23 The records, documents and information relating to a real  
24 estate sale shall be exempt until a sale is consummated.

25 (t) Any and all proprietary information and records  
26 related to the operation of an intergovernmental risk  
27 management association or self-insurance pool or jointly  
28 self-administered health and accident cooperative or  
29 pool.

30 (u) Information concerning a university's  
31 adjudication of student or employee grievance or  
32 disciplinary cases, to the extent that disclosure would  
33 reveal the identity of the student or employee and  
34 information concerning any public body's adjudication of



1 student or employee grievances or disciplinary cases,  
2 except for the final outcome of the cases.

3 (v) Course materials or research materials used by  
4 faculty members.

5 (w) Information related solely to the internal  
6 personnel rules and practices of a public body.

7 (x) Information contained in or related to  
8 examination, operating, or condition reports prepared by,  
9 on behalf of, or for the use of a public body responsible  
10 for the regulation or supervision of financial  
11 institutions or insurance companies, unless disclosure is  
12 otherwise required by State law.

13 (y) Information the disclosure of which is  
14 restricted under Section 5-108 of the Public Utilities  
15 Act.

16 (z) Manuals or instruction to staff that relate to  
17 establishment or collection of liability for any State  
18 tax or that relate to investigations by a public body to  
19 determine violation of any criminal law.

20 (aa) Applications, related documents, and medical  
21 records received by the Experimental Organ  
22 Transplantation Procedures Board and any and all  
23 documents or other records prepared by the Experimental  
24 Organ Transplantation Procedures Board or its staff  
25 relating to applications it has received.

26 (bb) Insurance or self insurance (including any  
27 intergovernmental risk management association or self  
28 insurance pool) claims, loss or risk management  
29 information, records, data, advice or communications.

30 (cc) Information and records held by the Department  
31 of Public Health and its authorized representatives  
32 relating to known or suspected cases of sexually  
33 transmissible disease or any information the disclosure  
34 of which is restricted under the Illinois Sexually

1 Transmissible Disease Control Act.

2 (dd) Information the disclosure of which is  
3 exempted under Section 30 of the Radon Industry Licensing  
4 Act.

5 (ee) Firm performance evaluations under Section 55  
6 of the Architectural, Engineering, and Land Surveying  
7 Qualifications Based Selection Act.

8 (ff) Security portions of system safety program  
9 plans, investigation reports, surveys, schedules, lists,  
10 data, or information compiled, collected, or prepared by  
11 or for the Regional Transportation Authority under  
12 Section 2.11 of the Regional Transportation Authority Act  
13 or the St. Clair County Transit District under the  
14 Bi-State Transit Safety Act.

15 (gg) Information the disclosure of which is  
16 restricted and exempted under Section 50 of the Illinois  
17 Prepaid Tuition Act.

18 (hh) Information the disclosure of which is  
19 exempted under the State Officials and Employees Ethics  
20 Act ~~Section-80-of-the-State-Gift-Ban-Act.~~

21 (ii) Beginning July 1, 1999, information that would  
22 disclose or might lead to the disclosure of secret or  
23 confidential information, codes, algorithms, programs, or  
24 private keys intended to be used to create electronic or  
25 digital signatures under the Electronic Commerce Security  
26 Act.

27 (jj) Information contained in a local emergency  
28 energy plan submitted to a municipality in accordance  
29 with a local emergency energy plan ordinance that is  
30 adopted under Section 11-21.5-5 of the Illinois Municipal  
31 Code.

32 (kk) Information and data concerning the  
33 distribution of surcharge moneys collected and remitted  
34 by wireless carriers under the Wireless Emergency

1 Telephone Safety Act.

2 (2) This Section does not authorize withholding of  
3 information or limit the availability of records to the  
4 public, except as stated in this Section or otherwise  
5 provided in this Act.

6 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;  
7 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.  
8 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,  
9 eff. 7-11-02.)

10 Section 75. If and only if House Bill 3412 as passed by  
11 the 93rd General Assembly becomes law, the Illinois Public  
12 Labor Relations Act is amended by changing Section 3 as  
13 follows:

14 (5 ILCS 315/3) (from Ch. 48, par. 1603)

15 Sec. 3. Definitions. As used in this Act, unless the  
16 context otherwise requires:

17 (a) "Board" means the Illinois Labor Relations Board or,  
18 with respect to a matter over which the jurisdiction of the  
19 Board is assigned to the State Panel or the Local Panel under  
20 Section 5, the panel having jurisdiction over the matter.

21 (b) "Collective bargaining" means bargaining over terms  
22 and conditions of employment, including hours, wages, and  
23 other conditions of employment, as detailed in Section 7 and  
24 which are not excluded by Section 4.

25 (c) "Confidential employee" means an employee who, in  
26 the regular course of his or her duties, assists and acts in  
27 a confidential capacity to persons who formulate, determine,  
28 and effectuate management policies with regard to labor  
29 relations or who, in the regular course of his or her duties,  
30 has authorized access to information relating to the  
31 effectuation or review of the employer's collective  
32 bargaining policies.

1 (d) "Craft employees" means skilled journeymen, crafts  
2 persons, and their apprentices and helpers.

3 (e) "Essential services employees" means those public  
4 employees performing functions so essential that the  
5 interruption or termination of the function will constitute a  
6 clear and present danger to the health and safety of the  
7 persons in the affected community.

8 (f) "Exclusive representative", except with respect to  
9 non-State fire fighters and paramedics employed by fire  
10 departments and fire protection districts, non-State peace  
11 officers, and peace officers in the Department of State  
12 Police, means the labor organization that has been (i)  
13 designated by the Board as the representative of a majority  
14 of public employees in an appropriate bargaining unit in  
15 accordance with the procedures contained in this Act, (ii)  
16 historically recognized by the State of Illinois or any  
17 political subdivision of the State before July 1, 1984 (the  
18 effective date of this Act) as the exclusive representative  
19 of the employees in an appropriate bargaining unit, or (iii)  
20 after July 1, 1984 (the effective date of this Act)  
21 recognized by an employer upon evidence, acceptable to the  
22 Board, that the labor organization has been designated as the  
23 exclusive representative by a majority of the employees in an  
24 appropriate bargaining unit.

25 With respect to non-State fire fighters and paramedics  
26 employed by fire departments and fire protection districts,  
27 non-State peace officers, and peace officers in the  
28 Department of State Police, "exclusive representative" means  
29 the labor organization that has been (i) designated by the  
30 Board as the representative of a majority of peace officers  
31 or fire fighters in an appropriate bargaining unit in  
32 accordance with the procedures contained in this Act, (ii)  
33 historically recognized by the State of Illinois or any  
34 political subdivision of the State before January 1, 1986

1 (the effective date of this amendatory Act of 1985) as the  
2 exclusive representative by a majority of the peace officers  
3 or fire fighters in an appropriate bargaining unit, or (iii)  
4 after January 1, 1986 (the effective date of this amendatory  
5 Act of 1985) recognized by an employer upon evidence,  
6 acceptable to the Board, that the labor organization has been  
7 designated as the exclusive representative by a majority of  
8 the peace officers or fire fighters in an appropriate  
9 bargaining unit.

10 (g) "Fair share agreement" means an agreement between  
11 the employer and an employee organization under which all or  
12 any of the employees in a collective bargaining unit are  
13 required to pay their proportionate share of the costs of the  
14 collective bargaining process, contract administration, and  
15 pursuing matters affecting wages, hours, and other conditions  
16 of employment, but not to exceed the amount of dues uniformly  
17 required of members. The amount certified by the exclusive  
18 representative shall not include any fees for contributions  
19 related to the election or support of any candidate for  
20 political office. Nothing in this subsection (g) shall  
21 preclude an employee from making voluntary political  
22 contributions in conjunction with his or her fair share  
23 payment.

24 (g-1) "Fire fighter" means, for the purposes of this Act  
25 only, any person who has been or is hereafter appointed to a  
26 fire department or fire protection district or employed by a  
27 state university and sworn or commissioned to perform fire  
28 fighter duties or paramedic duties, except that the following  
29 persons are not included: part-time fire fighters, auxiliary,  
30 reserve or voluntary fire fighters, including paid on-call  
31 fire fighters, clerks and dispatchers or other civilian  
32 employees of a fire department or fire protection district  
33 who are not routinely expected to perform fire fighter  
34 duties, or elected officials.

1           (g-2) "General Assembly of the State of Illinois" means  
2 the legislative branch of the government of the State of  
3 Illinois, as provided for under Article IV of the  
4 Constitution of the State of Illinois, and includes but is  
5 not limited to the House of Representatives, the Senate, the  
6 Speaker of the House of Representatives, the Minority Leader  
7 of the House of Representatives, the President of the Senate,  
8 the Minority Leader of the Senate, the Joint Committee on  
9 Legislative Support Services and any legislative support  
10 services agency listed in the Legislative Commission  
11 Reorganization Act of 1984.

12           (h) "Governing body" means, in the case of the State,  
13 the State Panel of the Illinois Labor Relations Board, the  
14 Director of the Department of Central Management Services,  
15 and the Director of the Department of Labor; the county board  
16 in the case of a county; the corporate authorities in the  
17 case of a municipality; and the appropriate body authorized  
18 to provide for expenditures of its funds in the case of any  
19 other unit of government.

20           (i) "Labor organization" means any organization in which  
21 public employees participate and that exists for the purpose,  
22 in whole or in part, of dealing with a public employer  
23 concerning wages, hours, and other terms and conditions of  
24 employment, including the settlement of grievances.

25           (j) "Managerial employee" means an individual who is  
26 engaged predominantly in executive and management functions  
27 and is charged with the responsibility of directing the  
28 effectuation of management policies and practices.

29           (k) "Peace officer" means, for the purposes of this Act  
30 only, any persons who have been or are hereafter appointed to  
31 a police force, department, or agency and sworn or  
32 commissioned to perform police duties, except that the  
33 following persons are not included: part-time police  
34 officers, special police officers, auxiliary police as

1 defined by Section 3.1-30-20 of the Illinois Municipal Code,  
2 night watchmen, "merchant police", court security officers as  
3 defined by Section 3-6012.1 of the Counties Code, temporary  
4 employees, traffic guards or wardens, civilian parking meter  
5 and parking facilities personnel or other individuals  
6 specially appointed to aid or direct traffic at or near  
7 schools or public functions or to aid in civil defense or  
8 disaster, parking enforcement employees who are not  
9 commissioned as peace officers and who are not armed and who  
10 are not routinely expected to effect arrests, parking lot  
11 attendants, clerks and dispatchers or other civilian  
12 employees of a police department who are not routinely  
13 expected to effect arrests, or elected officials.

14 (l) "Person" includes one or more individuals, labor  
15 organizations, public employees, associations, corporations,  
16 legal representatives, trustees, trustees in bankruptcy,  
17 receivers, or the State of Illinois or any political  
18 subdivision of the State or governing body, but does not  
19 include the General Assembly of the State of Illinois or any  
20 individual employed by the General Assembly of the State of  
21 Illinois.

22 (m) "Professional employee" means any employee engaged  
23 in work predominantly intellectual and varied in character  
24 rather than routine mental, manual, mechanical or physical  
25 work; involving the consistent exercise of discretion and  
26 adjustment in its performance; of such a character that the  
27 output produced or the result accomplished cannot be  
28 standardized in relation to a given period of time; and  
29 requiring advanced knowledge in a field of science or  
30 learning customarily acquired by a prolonged course of  
31 specialized intellectual instruction and study in an  
32 institution of higher learning or a hospital, as  
33 distinguished from a general academic education or from  
34 apprenticeship or from training in the performance of routine

1 mental, manual, or physical processes; or any employee who  
2 has completed the courses of specialized intellectual  
3 instruction and study prescribed in this subsection (m) and  
4 is performing related work under the supervision of a  
5 professional person to qualify to become a professional  
6 employee as defined in this subsection (m).

7 (n) "Public employee" or "employee", for the purposes of  
8 this Act, means any individual employed by a public employer,  
9 including interns and residents at public hospitals, but  
10 excluding all of the following: employees of the General  
11 Assembly of the State of Illinois; elected officials;  
12 executive heads of a department; members of boards or  
13 commissions; the Executive Inspectors General; employees of  
14 each Office of an Executive Inspector General; commissioners  
15 and employees of the Executive Ethics Commission; the  
16 Legislative Inspector General; employees of the Office of the  
17 Legislative Inspector General; commissioners and employees of  
18 the Legislative Ethics Commission; employees of any agency,  
19 board or commission created by this Act; employees appointed  
20 to State positions of a temporary or emergency nature; all  
21 employees of school districts and higher education  
22 institutions except firefighters and peace officers employed  
23 by a state university; managerial employees; short-term  
24 employees; confidential employees; independent contractors;  
25 and supervisors except as provided in this Act.

26 Notwithstanding Section 9, subsection (c), or any other  
27 provisions of this Act, all peace officers above the rank of  
28 captain in municipalities with more than 1,000,000  
29 inhabitants shall be excluded from this Act.

30 (o) "Public employer" or "employer" means the State of  
31 Illinois; any political subdivision of the State, unit of  
32 local government or school district; authorities including  
33 departments, divisions, bureaus, boards, commissions, or  
34 other agencies of the foregoing entities; and any person



1 acting within the scope of his or her authority, express or  
2 implied, on behalf of those entities in dealing with its  
3 employees. "Public employer" or "employer" as used in this  
4 Act, however, does not mean and shall not include the General  
5 Assembly of the State of Illinois, the Executive Ethics  
6 Commission, the Offices of the Executive Inspectors General,  
7 the Legislative Ethics Commission, the Office of the  
8 Legislative Inspector General, and educational employers or  
9 employers as defined in the Illinois Educational Labor  
10 Relations Act, except with respect to a state university in  
11 its employment of firefighters and peace officers. County  
12 boards and county sheriffs shall be designated as joint or  
13 co-employers of county peace officers appointed under the  
14 authority of a county sheriff. Nothing in this subsection  
15 (o) shall be construed to prevent the State Panel or the  
16 Local Panel from determining that employers are joint or  
17 co-employers.

18 (p) "Security employee" means an employee who is  
19 responsible for the supervision and control of inmates at  
20 correctional facilities. The term also includes other  
21 non-security employees in bargaining units having the  
22 majority of employees being responsible for the supervision  
23 and control of inmates at correctional facilities.

24 (q) "Short-term employee" means an employee who is  
25 employed for less than 2 consecutive calendar quarters during  
26 a calendar year and who does not have a reasonable assurance  
27 that he or she will be rehired by the same employer for the  
28 same service in a subsequent calendar year.

29 (r) "Supervisor" is an employee whose principal work is  
30 substantially different from that of his or her subordinates  
31 and who has authority, in the interest of the employer, to  
32 hire, transfer, suspend, lay off, recall, promote, discharge,  
33 direct, reward, or discipline employees, to adjust their  
34 grievances, or to effectively recommend any of those actions,

1 if the exercise of that authority is not of a merely routine  
2 or clerical nature, but requires the consistent use of  
3 independent judgment. Except with respect to police  
4 employment, the term "supervisor" includes only those  
5 individuals who devote a preponderance of their employment  
6 time to exercising that authority, State supervisors  
7 notwithstanding. In addition, in determining supervisory  
8 status in police employment, rank shall not be determinative.  
9 The Board shall consider, as evidence of bargaining unit  
10 inclusion or exclusion, the common law enforcement policies  
11 and relationships between police officer ranks and  
12 certification under applicable civil service law, ordinances,  
13 personnel codes, or Division 2.1 of Article 10 of the  
14 Illinois Municipal Code, but these factors shall not be the  
15 sole or predominant factors considered by the Board in  
16 determining police supervisory status.

17 Notwithstanding the provisions of the preceding  
18 paragraph, in determining supervisory status in fire fighter  
19 employment, no fire fighter shall be excluded as a supervisor  
20 who has established representation rights under Section 9 of  
21 this Act. Further, in new fire fighter units, employees  
22 shall consist of fire fighters of the rank of company officer  
23 and below. If a company officer otherwise qualifies as a  
24 supervisor under the preceding paragraph, however, he or she  
25 shall not be included in the fire fighter unit. If there is  
26 no rank between that of chief and the highest company  
27 officer, the employer may designate a position on each shift  
28 as a Shift Commander, and the persons occupying those  
29 positions shall be supervisors. All other ranks above that  
30 of company officer shall be supervisors.

31 (s) (1) "Unit" means a class of jobs or positions that  
32 are held by employees whose collective interests may  
33 suitably be represented by a labor organization for  
34 collective bargaining. Except with respect to non-State

1 fire fighters and paramedics employed by fire departments  
2 and fire protection districts, non-State peace officers,  
3 and peace officers in the Department of State Police, a  
4 bargaining unit determined by the Board shall not include  
5 both employees and supervisors, or supervisors only,  
6 except as provided in paragraph (2) of this subsection  
7 (s) and except for bargaining units in existence on July  
8 1, 1984 (the effective date of this Act). With respect  
9 to non-State fire fighters and paramedics employed by  
10 fire departments and fire protection districts, non-State  
11 peace officers, and peace officers in the Department of  
12 State Police, a bargaining unit determined by the Board  
13 shall not include both supervisors and nonsupervisors, or  
14 supervisors only, except as provided in paragraph (2) of  
15 this subsection (s) and except for bargaining units in  
16 existence on January 1, 1986 (the effective date of this  
17 amendatory Act of 1985). A bargaining unit determined by  
18 the Board to contain peace officers shall contain no  
19 employees other than peace officers unless otherwise  
20 agreed to by the employer and the labor organization or  
21 labor organizations involved. Notwithstanding any other  
22 provision of this Act, a bargaining unit, including a  
23 historical bargaining unit, containing sworn peace  
24 officers of the Department of Natural Resources (formerly  
25 designated the Department of Conservation) shall contain  
26 no employees other than such sworn peace officers upon  
27 the effective date of this amendatory Act of 1990 or upon  
28 the expiration date of any collective bargaining  
29 agreement in effect upon the effective date of this  
30 amendatory Act of 1990 covering both such sworn peace  
31 officers and other employees.

32 (2) Notwithstanding the exclusion of supervisors  
33 from bargaining units as provided in paragraph (1) of  
34 this subsection (s), a public employer may agree to

1 permit its supervisory employees to form bargaining units  
2 and may bargain with those units. This Act shall apply  
3 if the public employer chooses to bargain under this  
4 subsection.

5 (Source: P.A. 90-14, eff. 7-1-97; 90-655, eff. 7-30-98;  
6 91-798, eff. 7-9-00.)

7 (5 ILCS 395/Act rep.)

8 Section 80. If and only if House Bill 3412 as passed by  
9 the 93rd General Assembly becomes law, the Whistle Blower  
10 Protection Act is repealed.

11 (5 ILCS 425/Act rep.)

12 Section 85. If and only if House Bill 3412 as passed by  
13 the 93rd General Assembly becomes law, the State Gift Ban Act  
14 is repealed.

15 Section 90. If and only if House Bill 3412 as passed by  
16 the 93rd General Assembly becomes law, the Personnel Code is  
17 amended by changing Section 4c as follows:

18 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

19 Sec. 4c. General exemptions. The following positions in  
20 State service shall be exempt from jurisdictions A, B, and C,  
21 unless the jurisdictions shall be extended as provided in  
22 this Act:

23 (1) All officers elected by the people.

24 (2) All positions under the Lieutenant Governor,  
25 Secretary of State, State Treasurer, State Comptroller,  
26 State Board of Education, Clerk of the Supreme Court, and  
27 Attorney General.

28 (3) Judges, and officers and employees of the  
29 courts, and notaries public.

30 (4) All officers and employees of the Illinois

1 General Assembly, all employees of legislative  
2 commissions, all officers and employees of the Illinois  
3 Legislative Reference Bureau, the Legislative Research  
4 Unit, and the Legislative Printing Unit.

5 (5) All positions in the Illinois National Guard  
6 and Illinois State Guard, paid from federal funds or  
7 positions in the State Military Service filled by  
8 enlistment and paid from State funds.

9 (6) All employees of the Governor at the executive  
10 mansion and on his immediate personal staff.

11 (7) Directors of Departments, the Adjutant General,  
12 the Assistant Adjutant General, the Director of the  
13 Illinois Emergency Management Agency, members of boards  
14 and commissions, and all other positions appointed by  
15 the Governor by and with the consent of the Senate.

16 (8) The presidents, other principal administrative  
17 officers, and teaching, research and extension faculties  
18 of Chicago State University, Eastern Illinois University,  
19 Governors State University, Illinois State University,  
20 Northeastern Illinois University, Northern Illinois  
21 University, Western Illinois University, the Illinois  
22 Community College Board, Southern Illinois University,  
23 Illinois Board of Higher Education, University of  
24 Illinois, State Universities Civil Service System,  
25 University Retirement System of Illinois, and the  
26 administrative officers and scientific and technical  
27 staff of the Illinois State Museum.

28 (9) All other employees except the presidents,  
29 other principal administrative officers, and teaching,  
30 research and extension faculties of the universities  
31 under the jurisdiction of the Board of Regents and the  
32 colleges and universities under the jurisdiction of the  
33 Board of Governors of State Colleges and Universities,  
34 Illinois Community College Board, Southern Illinois

1 University, Illinois Board of Higher Education, Board of  
2 Governors of State Colleges and Universities, the Board  
3 of Regents, University of Illinois, State Universities  
4 Civil Service System, University Retirement System of  
5 Illinois, so long as these are subject to the provisions  
6 of the State Universities Civil Service Act.

7 (10) The State Police so long as they are subject  
8 to the merit provisions of the State Police Act.

9 (11) The scientific staff of the State Scientific  
10 Surveys and the Waste Management and Research Center.

11 (12) The technical and engineering staffs of the  
12 Department of Transportation, the Department of Nuclear  
13 Safety, the Pollution Control Board, and the Illinois  
14 Commerce Commission, and the technical and engineering  
15 staff providing architectural and engineering services in  
16 the Department of Central Management Services.

17 (13) All employees of the Illinois State Toll  
18 Highway Authority.

19 (14) The Secretary of the Industrial Commission.

20 (15) All persons who are appointed or employed by  
21 the Director of Insurance under authority of Section 202  
22 of the Illinois Insurance Code to assist the Director of  
23 Insurance in discharging his responsibilities relating to  
24 the rehabilitation, liquidation, conservation, and  
25 dissolution of companies that are subject to the  
26 jurisdiction of the Illinois Insurance Code.

27 (16) All employees of the St. Louis Metropolitan  
28 Area Airport Authority.

29 (17) All investment officers employed by the  
30 Illinois State Board of Investment.

31 (18) Employees of the Illinois Young Adult  
32 Conservation Corps program, administered by the Illinois  
33 Department of Natural Resources, authorized grantee under  
34 Title VIII of the Comprehensive Employment and Training

1 Act of 1973, 29 USC 993.

2 (19) Seasonal employees of the Department of  
3 Agriculture for the operation of the Illinois State Fair  
4 and the DuQuoin State Fair, no one person receiving more  
5 than 29 days of such employment in any calendar year.

6 (20) All "temporary" employees hired under the  
7 Department of Natural Resources' Illinois Conservation  
8 Service, a youth employment program that hires young  
9 people to work in State parks for a period of one year or  
10 less.

11 (21) All hearing officers of the Human Rights  
12 Commission.

13 (22) All employees of the Illinois Mathematics and  
14 Science Academy.

15 (23) All employees of the Kankakee River Valley  
16 Area Airport Authority.

17 (24) The commissioners and employees of the  
18 Executive Ethics Commission.

19 (25) The Executive Inspectors General and employees  
20 of each Office of an Executive Inspector General.

21 (26) The commissioners and employees of the  
22 Legislative Ethics Commission.

23 (27) The Legislative Inspector General and  
24 employees of the Office of the Legislative Inspector  
25 General.

26 (Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00;  
27 91-357, eff. 7-29-99.)

28 Section 95. Closed sessions; vote requirement. This Act  
29 authorizes the ethics commissions of the executive branch and  
30 legislative branch to conduct closed sessions, hearings, and  
31 meetings in certain circumstances. In order to meet the  
32 requirements of subsection (c) of Section 5 of Article IV of  
33 the Illinois Constitution, the General Assembly determines

1 that closed sessions, hearings, and meetings of the ethics  
2 commissions, including the ethics commission for the  
3 legislative branch, are required by the public interest.  
4 Thus, this Act is enacted by the affirmative vote of  
5 two-thirds of the members elected to each house of the  
6 General Assembly.

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.



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2 Statutes amended in order of appearance

- 3 93 HB3412enr. Art. 1, Sec. 1-5
- 4 93 HB3412enr. Art. 5, Sec. 5-5
- 5 93 HB3412enr. Art. 5, Sec. 5-10
- 6 93 HB3412enr. Art. 10 heading new
- 7 93 HB3412enr. Sec. 10-10 new
- 8 93 HB3412enr. Sec. 10-15 new
- 9 93 HB3412enr. Sec. 10-30 new
- 10 93 HB3412enr. Sec. 10-40 new
- 11 93 HB3412enr. Art. 15, Sec. 15-25
- 12 93 HB3412enr. Art. 20 heading new
- 13 93 HB3412enr. Sec. 20-5 new
- 14 93 HB3412enr. Sec. 20-10 new
- 15 93 HB3412enr. Sec. 20-15 new
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- 17 93 HB3412enr. Sec. 20-23 new
- 18 93 HB3412enr. Sec. 20-25 new
- 19 93 HB3412enr. Sec. 20-35 new
- 20 93 HB3412enr. Sec. 20-40 new
- 21 93 HB3412enr. Sec. 20-45 new
- 22 93 HB3412enr. Sec. 20-50 new
- 23 93 HB3412enr. Sec. 20-55 new
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- 30 93 HB3412enr. Sec. 20-95 new
- 31 93 HB3412enr. Art. 25 heading new
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- 14 93 HB3412enr. Sec. 25-95 new
- 15 93 HB3412enr. Art. 30 heading new
- 16 93 HB3412enr. Sec. 30-5 new
- 17 93 HB3412enr. Sec. 30-10 new
- 18 93 HB3412enr. Art. 50, Sec. 50-5
- 19 93 HB3412enr. Art. 70, Sec. 70-5
- 20 93 HB3412enr. Art. 70, Sec. 70-15
- 21 5 ILCS 120/1.02 from Ch. 102, par. 41.02
- 22 5 ILCS 140/7 from Ch. 116, par. 207
- 23 5 ILCS 315/3 from Ch. 48, par. 1603
- 24 5 ILCS 395/Act rep.
- 25 5 ILCS 425/Act rep.
- 26 20 ILCS 415/4c from Ch. 127, par. 63b104c