



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3656

Introduced 2/10/2012, by Sen. Kirk W. Dillard - Kyle McCarter

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Governmental Ethics Act. Repeals various provisions of the Code of Conduct Article of the Act. In the Part of that Article concerning rules of conduct for legislators, adds criminal penalties for intentional violations. In the Part of that Article concerning ethical principles for legislators, replaces provisions concerning conflicts of interest with provisions prohibiting legislators from taking specified actions with regard to matters in which they are financially interested. Moves provisions prohibiting a legislator from engaging in conduct which is unbecoming to a legislator or which constitutes a breach of public trust from the Part concerning rules of conduct to the Part concerning ethical principles for legislators. Deletes language stating that the provisions of the Part concerning ethical principles for legislators are intended only as guides to legislator conduct, and adds language to that Part providing that it shall be enforced by disciplinary action and that administrative fines may be levied by the Legislative Ethics Commission under specified circumstances. Amends the State Officials and Employees Ethics Act to provide that a Legislative Inspector General shall investigate specified matters under the Illinois Governmental Ethics Act. Makes other changes.

LRB097 18019 JDS 65009 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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. The Illinois Governmental Ethics Act is amended
5 by renumbering and changing Section 3-107, by changing Sections
6 3-202 and 3-206, and by adding Section 3-108 as follows:

7 (5 ILCS 420/3-108 new)

8 Sec. 3-108. Penalty. A person is guilty of a Class A
9 misdemeanor if that person intentionally violates any
10 provision of Section 3-102, 3-103, 3-104, 3-105, or 3-106.

11 (5 ILCS 420/3-202) (from Ch. 127, par. 603-202)

12 Sec. 3-202. No legislator may be in any manner financially
13 interested directly in his or her own name or indirectly in the
14 name of any other person, association, trust, or corporation in
15 any matter with regard to which such legislator may be called
16 upon to act or vote. No legislator may represent, either as
17 agent or otherwise, any person, association, trust, or
18 corporation in any matter with regard to which such legislator
19 may be called upon to vote. No legislator may take or receive,
20 or offer to take or receive, either directly or indirectly, any
21 money or other thing of value as a gift or bribe or means of
22 influencing his or her vote or action in his or her official

1 ~~capacity. When a legislator must take official action on a~~
2 ~~legislative matter as to which he has a conflict situation~~
3 ~~created by a personal, family, or client legislative interest,~~
4 ~~he should consider the possibility of eliminating the interest~~
5 ~~creating the conflict situation. If that is not feasible, he~~
6 ~~should consider the possibility of abstaining from such~~
7 ~~official action. In making his decision as to abstention, the~~
8 ~~following factors should be considered;~~

9 ~~a. whether a substantial threat to his independence of~~
10 ~~judgment has been created by the conflict situation;~~

11 ~~b. the effect of his participation on public confidence in~~
12 ~~the integrity of the legislature;~~

13 ~~c. whether his participation is likely to have any~~
14 ~~significant effect on the disposition of the matter;~~

15 ~~d. the need for his particular contribution, such as~~
16 ~~special knowledge of the subject matter, to the effective~~
17 ~~functioning of the legislature.~~

18 ~~He need not abstain if he decides to participate in a~~
19 ~~manner contrary to the economic interest which creates the~~
20 ~~conflict situation.~~

21 ~~If he does abstain, he should disclose that fact to his~~
22 ~~respective legislative body.~~

23 (Source: Laws 1967, p. 3401.)

24 (5 ILCS 420/3-205.1) (was 5 ILCS 420/3-107)

25 Sec. 3-205.1. ~~3-107~~. No legislator may engage in other

1 conduct which is unbecoming to a legislator or which
2 constitutes a breach of public trust.

3 (Source: Laws 1967, p. 3401.)

4 (5 ILCS 420/3-206) (from Ch. 127, par. 603-206)

5 Sec. 3-206. (a) Sections 3-202 and 3-205.1 shall ~~3-201~~
6 ~~through 3-205 are intended only as guides to legislator~~
7 ~~conduct, and not as rules meant to be enforced by disciplinary~~
8 action.

9 (b) The Legislative Ethics Commission may levy an
10 administrative fine of up to \$5,000 against any person who
11 violates Section 3-202 or 3-205.1, who intentionally obstructs
12 or interferes with an investigation conducted under Section
13 3-202 or 3-205.1 by the Legislative Inspector General, or who
14 intentionally makes a false, frivolous, or bad faith
15 allegation.

16 (Source: P.A. 77-1806.)

17 (5 ILCS 420/3-201 rep.)

18 (5 ILCS 420/3-203 rep.)

19 (5 ILCS 420/3-204 rep.)

20 (5 ILCS 420/3-205 rep.)

21 (5 ILCS 420/3-304 rep.)

22 Section 10. The Illinois Governmental Ethics Act is amended
23 by repealing Sections 3-201, 3-203, 3-204, 3-205, and 3-304.

1 Section 15. The State Officials and Employees Ethics Act is
2 amended by changing Sections 25-10 and 25-20 as follows:

3 (5 ILCS 430/25-10)

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

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

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

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

1 effect on the day the appointment is completed by the General
2 Assembly, unless the appointment specifies a later date on
3 which it is to become effective.

4 The Legislative Inspector General shall have the following
5 qualifications:

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

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

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

18 The Legislative Inspector General may not be a relative of
19 a commissioner.

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

23 After the initial term, the Legislative Inspector General
24 shall serve for 5-year terms commencing on July 1 of the year
25 of appointment and running through June 30 of the fifth
26 following year. The Legislative Inspector General may be

1 reappointed to one or more subsequent terms.

2 A vacancy occurring other than at the end of a term shall
3 be filled in the same manner as an appointment only for the
4 balance of the term of the Legislative Inspector General whose
5 office is vacant.

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

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

13 The jurisdiction of each Legislative Inspector General is
14 to investigate allegations of fraud, waste, abuse,
15 mismanagement, misconduct, nonfeasance, misfeasance,
16 malfeasance, or violations of this Act or the Illinois
17 Governmental Ethics Act or violations of other related laws and
18 rules.

19 (d) The compensation of the Legislative Inspector General
20 shall be the greater of an amount (i) determined by the
21 Commission or (ii) by joint resolution of the General Assembly
22 passed by a majority of members elected in each chamber.
23 Subject to Section 25-45 of this Act, the Legislative Inspector
24 General has full authority to organize the Office of the
25 Legislative Inspector General, including the employment and
26 determination of the compensation of staff, such as deputies,

1 assistants, and other employees, as appropriations permit.
2 Employment of staff is subject to the approval of at least 3 of
3 the 4 legislative leaders.

4 (e) No Legislative Inspector General or employee of the
5 Office of the Legislative Inspector General may, during his or
6 her term of appointment or employment:

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

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

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

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

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

20 (e-1) No Legislative Inspector General or employee of the
21 Office of the Legislative Inspector General may, for one year
22 after the termination of his or her appointment or employment:

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

24 (2) hold any elected public office; or

25 (3) hold any appointed State, county, or local judicial
26 office.

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

3 (f) The Commission may remove the Legislative Inspector
4 General only for cause. At the time of the removal, the
5 Commission must report to the General Assembly the
6 justification for the removal.

7 (Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

8 (5 ILCS 430/25-20)

9 Sec. 25-20. Duties of the Legislative Inspector General. In
10 addition to duties otherwise assigned by law, the Legislative
11 Inspector General shall have the following duties:

12 (1) To receive and investigate allegations of
13 violations of this Act and the Illinois Governmental Ethics
14 Act. An investigation may not be initiated more than one
15 year after the most recent act of the alleged violation or
16 of a series of alleged violations except where there is
17 reasonable cause to believe that fraudulent concealment
18 has occurred. To constitute fraudulent concealment
19 sufficient to toll this limitations period, there must be
20 an affirmative act or representation calculated to prevent
21 discovery of the fact that a violation has occurred. The
22 Legislative Inspector General shall have the discretion to
23 determine the appropriate means of investigation as
24 permitted by law.

25 (2) To request information relating to an

1 investigation from any person when the Legislative
2 Inspector General deems that information necessary in
3 conducting an investigation.

4 (3) To issue subpoenas, with the advance approval of
5 the Commission, to compel the attendance of witnesses for
6 the purposes of testimony and production of documents and
7 other items for inspection and copying and to make service
8 of those subpoenas and subpoenas issued under item (7) of
9 Section 25-15.

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

11 (5) To file pleadings in the name of the Legislative
12 Inspector General with the Legislative Ethics Commission,
13 through the Attorney General, as provided in this Article
14 if the Attorney General finds that reasonable cause exists
15 to believe that a violation has occurred.

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

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

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

1 (9) To establish a policy that ensures the appropriate
2 handling and correct recording of all investigations of
3 allegations and to ensure that the policy is accessible via
4 the Internet in order that those seeking to report those
5 allegations are familiar with the process and that the
6 subjects of those allegations are treated fairly.

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

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 420/3-108 new

4 5 ILCS 420/3-202 from Ch. 127, par. 603-202

5 5 ILCS 420/3-205.1 was 5 ILCS 420/3-107

6 5 ILCS 420/3-206 from Ch. 127, par. 603-206

7 5 ILCS 420/3-201 rep.

8 5 ILCS 420/3-203 rep.

9 5 ILCS 420/3-204 rep.

10 5 ILCS 420/3-205 rep.

11 5 ILCS 420/3-304 rep.

12 5 ILCS 430/25-10

13 5 ILCS 430/25-20