



Sen. Melinda Bush

Filed: 3/15/2019

10100SB1426sam001

LRB101 07991 RJF 57824 a

1 AMENDMENT TO SENATE BILL 1426

2 AMENDMENT NO. _____. Amend Senate Bill 1426 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Sections 25-5 and 25-50 as follows:

6 (5 ILCS 430/25-5)

7 Sec. 25-5. Legislative Ethics Commission.

8 (a) The Legislative Ethics Commission is created.

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

13 The terms of the initial commissioners shall commence upon
14 qualification. Each appointing authority shall designate one
15 appointee who shall serve for a 2-year term running through
16 June 30, 2005. Each appointing authority shall designate one

1 appointee who shall serve for a 4-year term running through
2 June 30, 2007. The initial appointments shall be made within 60
3 days after the effective date of this Act.

4 After the initial terms, commissioners shall serve for
5 4-year terms commencing on July 1 of the year of appointment
6 and running through June 30 of the fourth following year.
7 Commissioners may be reappointed to one or more subsequent
8 terms.

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

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

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

1 authority, (iv) is a State officer or employee other than a
2 member of the General Assembly, or (v) is a candidate for
3 statewide office, federal office, or judicial office.

4 (c-5) If a commissioner is required to recuse himself or
5 herself from participating in a matter as provided in
6 subsection (c), the recusal shall create a temporary vacancy
7 for the limited purpose of consideration of the matter for
8 which the commissioner recused himself or herself, and the
9 appointing authority for the recusing commissioner shall make a
10 temporary appointment to fill the vacancy for consideration of
11 the matter for which the commissioner recused himself or
12 herself.

13 (d) The Legislative Ethics Commission shall have
14 jurisdiction over current and former members of the General
15 Assembly regarding events occurring during a member's term of
16 office and current and former State employees regarding events
17 occurring during any period of employment where the State
18 employee's ultimate jurisdictional authority is (i) a
19 legislative leader, (ii) the Senate Operations Commission, or
20 (iii) the Joint Committee on Legislative Support Services. The
21 jurisdiction of the Commission is limited to matters arising
22 under this Act.

23 An officer or executive branch State employee serving on a
24 legislative branch board or commission remains subject to the
25 jurisdiction of the Executive Ethics Commission and is not
26 subject to the jurisdiction of the Legislative Ethics

1 Commission.

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

15 (f) No commissioner, other than a commissioner who is a
16 member of the General Assembly, or employee of the Legislative
17 Ethics Commission may during his or her term of appointment or
18 employment:

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

20 (2) hold any other elected or appointed public office
21 except for appointments on governmental advisory boards or
22 study commissions or as otherwise expressly authorized by
23 law;

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

26 (4) advocate for the appointment of another person to

1 an appointed or elected office or position or actively
2 participate in any campaign for any elective office.

3 (f-5) No commissioner who is a member of the General
4 Assembly may be a candidate for statewide office, federal
5 office, or judicial office. If a commissioner who is a member
6 of the General Assembly files petitions to be a candidate for a
7 statewide office, federal office, or judicial office, he or she
8 shall be deemed to have resigned from his or her position as a
9 commissioner on the date his or her name is certified for the
10 ballot by the State Board of Elections or local election
11 authority and his or her position as a commissioner shall be
12 deemed vacant. Such person may not be reappointed to the
13 Commission during any time he or she is a candidate for
14 statewide office, federal office, or judicial office.

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

17 (h) The Legislative Ethics Commission shall appoint an
18 Executive Director subject to the approval of at least 3 of the
19 4 legislative leaders. The compensation of the Executive
20 Director shall be as determined by the Commission. The
21 Executive Director of the Legislative Ethics Commission may
22 employ, subject to the approval of at least 3 of the 4
23 legislative leaders, and determine the compensation of staff,
24 as appropriations permit.

25 (i) In consultation with the Legislative Inspector
26 General, the Legislative Ethics Commission may develop

1 comprehensive training for members and employees under its
2 jurisdiction that includes, but is not limited to, sexual
3 harassment, employment discrimination, and workplace civility.
4 The training may be recommended to the ultimate jurisdictional
5 authorities and may be approved by the Commission to satisfy
6 the sexual harassment training required under Section 5-10.5 or
7 be provided in addition to the annual sexual harassment
8 training required under Section 5-10.5. The Commission may seek
9 input from governmental agencies or private entities for
10 guidance in developing such training.

11 (Source: P.A. 100-588, eff. 6-8-18; revised 10-11-18.)

12 (5 ILCS 430/25-50)

13 Sec. 25-50. Investigation reports.

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

1 ultimate jurisdictional authority is the subject of the report,
2 he or she may only respond to the summary report in his or her
3 capacity as the subject of the report and shall not respond in
4 his or her capacity as the ultimate jurisdictional authority.
5 The response shall include a description of any corrective or
6 disciplinary action to be imposed. If the appropriate ultimate
7 jurisdictional authority or the member that is the subject of
8 the report does not respond within 20 days, or within an
9 extended time as agreed to by the Legislative Inspector
10 General, the Legislative Inspector General may proceed under
11 subsection (c) as if a response had been received. A member
12 receiving and responding to a report under this Section shall
13 be deemed to be acting in his or her official capacity.

14 (b) The summary report of the investigation shall include
15 the following:

16 (1) A description of any allegations or other
17 information received by the Legislative Inspector General
18 pertinent to the investigation.

19 (2) A description of any alleged misconduct discovered
20 in the course of the investigation.

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

25 (4) Other information the Legislative Inspector
26 General deems relevant to the investigation or resulting

1 recommendations.

2 (c) Within 30 days after receiving a response from the
3 appropriate ultimate jurisdictional authority or agency head
4 under subsection (a), the Legislative Inspector General shall
5 notify the Commission and the Attorney General if the
6 Legislative Inspector General believes that a complaint should
7 be filed with the Commission. If the Legislative Inspector
8 General desires to file a complaint with the Commission, the
9 Legislative Inspector General shall submit the summary report
10 and supporting documents to the Attorney General. If the
11 Attorney General concludes that there is insufficient evidence
12 that a violation has occurred, the Attorney General shall
13 notify the Legislative Inspector General and the Legislative
14 Inspector General shall deliver to the Legislative Ethics
15 Commission a copy of the summary report and response from the
16 ultimate jurisdictional authority or agency head. If the
17 Attorney General determines that reasonable cause exists to
18 believe that a violation has occurred, then the Legislative
19 Inspector General, represented by the Attorney General, may
20 file with the Legislative Ethics Commission a complaint. The
21 complaint shall set forth the alleged violation and the grounds
22 that exist to support the complaint. Except as provided under
23 subsection (1.5) of Section 20, the complaint must be filed
24 with the Commission within 12 months after the Legislative
25 Inspector General's initiation of an investigation ~~18 months~~
26 ~~after the most recent act of the alleged violation or of a~~

1 ~~series of alleged violations except where there is reasonable~~
2 ~~cause to believe that fraudulent concealment has occurred. To~~
3 ~~constitute fraudulent concealment sufficient to toll this~~
4 ~~limitations period, there must be an affirmative act or~~
5 ~~representation calculated to prevent discovery of the fact that~~
6 ~~a violation has occurred.~~ If a complaint is not filed with the
7 Commission within 6 months after notice by the Inspector
8 General to the Commission and the Attorney General, then the
9 Commission may set a meeting of the Commission at which the
10 Attorney General shall appear and provide a status report to
11 the Commission.

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

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

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

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

1 the respondent.

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

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

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

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

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

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

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

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

18 (Source: P.A. 100-588, eff. 6-8-18.)".