

AN ACT concerning transportation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Toll Highway Act is amended by adding Section 8.5 as follows:

(605 ILCS 10/8.5 new)

Sec. 8.5. Toll Highway Inspector General.

(a) The Governor shall, with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote, appoint a Toll Highway Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, and mismanagement in the Authority. The Toll Highway Inspector General shall serve a 5-year term. If, during a recess of the Senate, there is a vacancy in the office of the Toll Highway Inspector General, the Governor shall make a temporary appointment until the next meeting of the Senate when the Governor shall make a nomination to fill that office. No person rejected for the office of the Toll Highway Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. The Governor may not appoint a relative, as defined by item (6) of Section 10-15 of the State Officials and Employees Ethics Act,

as the Toll Highway Inspector General. The Toll Highway Inspector General may be removed only for cause and may be removed only by the Governor.

(b) The Toll Highway Inspector General shall have the following qualifications:

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

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

(3) has 5 or more years of cumulative service (i) with a federal, state, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (ii) as a federal, state, or local prosecutor; (iii) as a federal or state judge with a criminal docket; (iv) as a senior manager or executive of a federal, state, or local agency; or (v) representing any combination of (i) through (iv).

(c) The term of the initial Toll Highway Inspector General shall commence upon qualification and shall run through June 30, 2015. The initial appointments shall be made within 60 days after the effective date of this amendatory Act of the 96th General Assembly. After the initial term, each Toll Highway Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. A Toll Highway Inspector General may be reappointed to one or more subsequent terms. A vacancy

occurring other than at the end of a term shall be filled by the Governor only for the balance of the term of the Toll Highway Inspector General whose office is vacant. Terms shall run regardless of whether the position is filled.

(d) The Toll Highway Inspector General shall have jurisdiction over the Authority and all board members, officers, and employees of, and vendors, subcontractors, and others doing business with the Authority. The jurisdiction of the Toll Highway Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. Investigations may be based on complaints from any source, including anonymous sources, and may be self-initiated, without a complaint. An investigation may not be initiated more than five years after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The authority to investigate alleged violations of the State Officials and Employees Ethics Act by officers, employees, vendors, subcontractors, and others doing business with the Authority shall remain with the Office of the Governor's Executive Inspector General. The Toll Highway Inspector General shall refer allegations of misconduct under

the State Officials and Employees Ethics Act to the Office of the Governor's Executive Inspector General for investigation. Upon completion of its investigation into such allegations, the Office of the Governor's Executive Inspector General shall report the results to the Toll Highway Inspector General, and the results of the investigation shall remain subject to any applicable confidentiality provisions in the State Officials and Employees Ethics Act. Where an investigation into a target or targets is split between allegations of misconduct under the State Officials and Employees Ethics Act, investigated by the Office of the Governor's Executive Inspector General, and allegations that are not of misconduct under the State Officials and Employees Ethics Act, investigated by the Toll Highway Inspector General, the Toll Highway Inspector General shall take reasonable steps, including continued consultation with the Office of the Governor's Executive Inspector General, to ensure that its investigation will not interfere with or disrupt any investigation by the Office of the Governor's Executive Inspector General or law enforcement authorities. In instances in which the Toll Highway Inspector General continues to investigate other allegations associated with allegations that have been referred to the Office of the Governor's Executive Inspector General pursuant to this subsection, the Toll Highway Inspector General shall report the results of its investigation to the Office of the Governor's Executive Inspector General.

(e)(1) If the Toll Highway Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance has occurred, then the Toll Highway Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section, which shall have 20 days to respond to the report.

(2) The summary report of the investigation shall include the following:

(A) a description of any allegations or other information received by the Toll Highway Inspector General pertinent to the investigation.

(B) a description of any alleged misconduct discovered in the course of the investigation.

(C) recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(D) other information the Toll Highway Inspector General deems relevant to the investigation or resulting recommendations.

(3) Within 60 days after issuance of a final summary report that resulted in a suspension of at least 3 days or termination of employment, the Toll Highway Inspector

General shall make the report available to the public by presenting the report to the Board of the Authority and by posting to the Authority's public website. The Toll Highway Inspector General shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Toll Highway Inspector General determines it is appropriate to protect the identity of a person before the report is made public. The Toll Highway Inspector General may also redact any information that he or she believes should not be made public, taking into consideration the factors set forth in this subsection and paragraph (1) of subsection (k) of this Section and other factors deemed relevant by the Toll Highway Inspector General to protect the Authority and any investigations by the Toll Highway Inspector General, other inspector general offices or law enforcement agencies. Prior to publication, the Toll Highway Inspector General shall permit the respondents and the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section to review the report and the documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report, provided, however, that the Toll Highway Inspector General shall have the sole and final authority to decide what redactions should be made. The Toll Highway Inspector General may make available to the public any other summary

report and any such responses or a redacted version of the report and responses.

(4) When the Toll Highway Inspector General concludes that there is insufficient evidence that a violation has occurred, the Toll Highway Inspector General shall close the investigation. The Toll Highway Inspector General shall provide the appropriate authority pursuant to paragraph (3) of subsection (f) of this Section with a written statement of the Toll Highway Inspector General's decision to close the investigation. At the request of the subject of the investigation, the Toll Highway Inspector General shall provide a written statement to the subject of the investigation of the Toll Highway Inspector General's decision to close the investigation. Closure by the Toll Highway Inspector General does not bar the Toll Highway Inspector General from resuming the investigation if circumstances warrant.

(f) The Toll Highway Inspector General shall:

(1) have access to all information and personnel necessary to perform the duties of the office.

(2) have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Section. A subpoena may be issued under this subparagraph (2) only by the Toll Highway Inspector General and not by members of the Toll Highway Inspector General's staff. Any person subpoenaed by the

Toll Highway Inspector General has the same rights, under Illinois law, as a person subpoenaed by a grand jury. The power to subpoena or to compel the production of books and papers, however, shall not extend to the person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Section. Subject to a person's privilege against self-incrimination, any person who fails to appear in response to a subpoena, answer any question, or produce any books or papers pertinent to an investigation under this Section, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Section is guilty of a Class A misdemeanor.

(3) submit reports as required by this Section and applicable administrative rules. Final reports and recommendations shall be submitted to the Authority's Executive Director and the Board of Directors for investigations not involving the Board. Final reports and recommendations shall be submitted to the Chair of the Board and to the Governor for investigations of any Board member other than the Chair of the Board. Final reports and recommendations for investigations of the Chair of the Board shall be submitted to the Governor.

(4) assist and coordinate with the ethics officer for

the Authority.

(5) participate in or conduct, when appropriate, multi-jurisdictional investigations provided the investigation involves the Authority in some way, including, but not limited to, joint investigations with the Office of the Governor's Executive Inspector General, or with State, local, or federal law enforcement authorities.

(6) serve as the Authority's primary liaison with law enforcement, investigatory, and prosecutorial agencies and, in that capacity, the Toll Highway Inspector General may request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, state, or federal governmental agency or unit thereof.

(7) review hiring and employment files of the Authority to ensure compliance with *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), and with all applicable employment laws.

(8) establish a policy that ensures the appropriate handling and correct recording of all investigations conducted by the Office, and ensures that the policy is accessible via the Internet in order that those seeking to report suspected wrongdoing are familiar with the process and that the subjects of those allegations are treated fairly.

(9) receive and investigate complaints or information from an employee of the Authority concerning the possible existence of an activity constituting a violation of law, rules or regulations, mismanagement, abuse of authority, or substantial and specific danger to the public health and safety. Any employee of the Authority who knowingly files a false complaint or files a complaint with reckless disregard for the truth or falsity of the facts underlying the complaint may be subject to discipline.

(10) review, coordinate, and recommend methods and procedures to increase the integrity of the Authority.

(g) Within six months of appointment, the initial Toll Highway Inspector General shall propose rules, in accordance with the provisions of the Illinois Administrative Procedure Act, establishing minimum requirements for initiating, conducting, and completing investigations. The rules must establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but is not limited to, site visits, telephone contacts, personal interviews, or requests for written responses. The rules must establish the process, contents, and timing for final reports and recommendations by the Toll Highway Inspector General and for a response and any remedial, disciplinary, or both action by an individual or individuals receiving the final reports and recommendations. The rules must also clarify how the Office of the Toll Highway Inspector

General shall interact with other local, state, and federal law enforcement authorities and investigations. Such rules shall provide that investigations and inquiries by the Office of the Toll Highway Inspector General must be conducted in compliance with the provisions of any collective bargaining agreement that applies to the affected employees of the Authority and that any recommendation for discipline or other action against any employee by the Office of the Toll Highway Inspector General must comply with the provisions of any applicable collective bargaining agreement.

(h) The Office of the Toll Highway Inspector General shall be an independent office of the Authority. Within its annual budget, the Authority shall provide a clearly delineated budget for the Office of the Toll Highway Inspector General. The budget of the Office of the Toll Highway Inspector General shall be adequate to support an independent and effective office. Except with the consent of the Toll Highway Inspector General, the Authority shall not reduce the budget of the Office of the Toll Highway Inspector General by more than 10 percent (i) within any fiscal year or (ii) over the five-year term of each Toll Highway Inspector General. To the extent allowed by law and the Authority's policies, the Toll Highway Inspector General shall have sole responsibility for organizing the Office of the Toll Highway Inspector General within the budget established by the Toll Highway Board, including the recruitment, supervision, and discipline of the

employees of that office. The Toll Highway Inspector General shall report directly to the Board of Directors of the Authority with respect to the prompt and efficient operation of the Office of the Tollway Highway Inspector General.

(i) (1) No Toll Highway Inspector General or employee of the Office of the Toll Highway Inspector General may, during his or her term of appointment or employment:

(A) become a candidate for any elective office;

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

(C) be actively involved in the affairs of any political party or political organization; or

(D) advocate for the appointment of another person to an appointed public office or elected office or position or actively participate in any campaign for any elective office. As used in this paragraph (1), "appointed public office" means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(2) No Toll Inspector General or employee of the Office of the Toll Highway Inspector General may, for one year after the termination of his or her appointment or employment:

(A) become a candidate for any elective office;

(B) hold any elected public office; or

(C) hold any appointed State, county, or local
judicial office.

(3) The requirements of subparagraph (C) of paragraph
(2) of this subsection may be waived by the Executive
Ethics Commission.

(j) All Board members, officers and employees of the
Authority have a duty to cooperate with the Toll Highway
Inspector General and employees of the Office of the Toll
Highway Inspector General in any investigation undertaken
pursuant to this Section. Failure to cooperate includes, but is
not limited to, intentional omissions and knowing false
statements. Failure to cooperate with an investigation
pursuant to this Section is grounds for disciplinary action,
including termination of employment. Nothing in this Section
limits or alters a person's existing rights or protections
under State or federal law.

(k)(1) The identity of any individual providing
information or reporting any possible or alleged
misconduct to the Toll Highway Inspector General shall be
kept confidential and may not be disclosed without the
consent of that individual, unless the individual consents
to disclosure of his or her name or disclosure of the
individual's identity is otherwise required by law. The
confidentiality granted by this subsection does not

preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(2) Subject to the provisions of subsection (e) of this Section, the Toll Highway Inspector General, and employees and agents of the Office of the Toll Highway Inspector General, shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(1) If the Toll Highway Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Toll Highway Inspector General, the Toll Highway Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission or other appropriate body. If the Toll Highway Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Toll Highway Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority. If a Toll Highway Inspector General determines that any alleged misconduct resulted in the loss of public funds in an amount of \$5,000 or greater, the Toll Highway Inspector General shall refer the allegations regarding that misconduct to the Attorney General and any other appropriate law enforcement authority.

(m) The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority, and the General Assembly a summary of reports and investigations made under this Section

no later than March 31 and September 30 of each year. The summaries shall detail the final disposition of the Inspector General's recommendations. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations. The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly.

(n) Any employee of the Authority subject to investigation or inquiry by the Toll Highway Inspector General or any agent or representative of the Toll Highway Inspector General concerning misconduct that is criminal in nature shall have the right to be notified of the right to remain silent during the investigation or inquiry and the right to be represented in the investigation or inquiry by an attorney or a representative of a labor organization that is the exclusive collective bargaining representative of employees of the Authority. Any investigation or inquiry by the Toll Highway Inspector General or any agent or representative of the Toll Highway Inspector General must be conducted in accordance with the rights of the employees as set forth in State and federal law and applicable judicial decisions. Any recommendations for discipline or any action taken against any employee by the Toll Highway Inspector General or any representative or agent of the Toll Highway Inspector General must comply with the provisions of the collective bargaining agreement that applies to the employee.

(o) Nothing in this Section shall diminish the rights, privileges, or remedies of a State employee under any other federal or State law, rule, or regulation or under any collective bargaining agreement.