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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 198**      Session of  
2001

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INTRODUCED BY RHOADES, BELL, COSTA, BOSCOLA AND O'PAKE,  
JANUARY 30, 2001

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REFERRED TO STATE GOVERNMENT, JANUARY 30, 2001

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AN ACT

1 Providing for the Office of State Inspector General and for the  
2 powers and duties of the office.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the State  
7 Inspector General Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Executive agency." The Governor and the departments,  
13 boards, commissions, authorities and other officers and agencies  
14 of the Commonwealth. The term does not include any court or  
15 other officer or agency of the unified judicial system, the  
16 General Assembly and its officers and agencies or any  
17 independent agency.

1 "Independent agency." The Department of the Attorney  
2 General, the Pennsylvania Fish and Boat Commission, the  
3 Pennsylvania Game Commission, the Pennsylvania Historical and  
4 Museum Commission, the State Civil Service Commission, the  
5 Pennsylvania Turnpike Commission, the Milk Marketing Board, the  
6 Pennsylvania Liquor Control Board, the Pennsylvania Human  
7 Relations Commission, the Pennsylvania Labor Relations Board,  
8 the Pennsylvania Securities Commission, the State Tax  
9 Equalization Board, the Pennsylvania Higher Education Assistance  
10 Agency, the Pennsylvania Crime Commission, the State Ethics  
11 Commission, the Department of the Auditor General, the Board of  
12 Claims, the Treasury Department, the Pennsylvania Public Utility  
13 Commission, the Pennsylvania Housing Finance Agency, the  
14 Independent Regulatory Review Commission and the State System of  
15 Higher Education.

16 Section 3. Establishment of Office of State Inspector General.

17 There is hereby established the Office of State Inspector  
18 General as an independent executive agency, the purpose of which  
19 shall be:

20 (1) To deter, detect, prevent and eradicate fraud,  
21 waste, misconduct and abuse in the programs, operations and  
22 contracting of all executive agencies.

23 (2) To provide leadership and coordination and recommend  
24 policies for activities in the executive agency designed to  
25 promote economy, efficiency and effectiveness in all  
26 executive agencies.

27 (3) To perform the other functions and duties provided  
28 for in this act.

29 Section 4. Appointments.

30 (a) General rule.--The Office of State Inspector General

1 shall be headed by a State Inspector General appointed by the  
2 Governor by and with the advice and consent of a majority of the  
3 members elected to the Senate. The State Inspector General shall  
4 be appointed without regard to political affiliation and solely  
5 on the basis of integrity and demonstrated ability in  
6 accounting, auditing, financial analysis, law, management  
7 analysis, public administration or investigations. The State  
8 Inspector General shall report to the Governor. The State  
9 Inspector General and other personnel of the Office of State  
10 Inspector General shall not report to, or be subject to  
11 supervision by, any officer of an executive agency which they  
12 may be monitoring or to which they may be assigned. The State  
13 Inspector General shall promptly report to the General Assembly  
14 and to the Attorney General any instance where the State  
15 Inspector General believes that any public official or public  
16 employee has improperly or unlawfully attempted to influence,  
17 prevent or prohibit the initiating, carrying out or completing  
18 of any audit or investigation or the issuing of any subpoena  
19 where such audit or investigation or subpoena is required to be  
20 performed or issued pursuant to the statutory duties imposed  
21 upon the State Inspector General by this act. The compensation  
22 of the State Inspector General shall be set by the Executive  
23 Board.

24 (b) Removal.--The State Inspector General shall serve at the  
25 pleasure of the Governor. Should the Governor determine to  
26 remove the State Inspector General, the Governor shall  
27 communicate the reasons for any such removal to the Senate and  
28 the House of Representatives.

29 (c) Deputy Inspectors General; employees.--The State  
30 Inspector General shall appoint persons as Deputy Inspectors

1 General in a sufficient number to fully implement the purposes,  
2 duties and responsibilities of the Office of State Inspector  
3 General as it relates to all executive agencies. Persons so  
4 appointed shall substantially meet the same qualifications as  
5 those prescribed for the State Inspector General in subsection  
6 (a). The State Inspector General shall also appoint such  
7 additional clerical, technical and professional staff as may be  
8 appropriate and may contract for such additional services as  
9 shall be necessary for the performance of his function. The  
10 compensation of Deputy Inspectors General and such clerical,  
11 technical and professional staff shall be set by the Executive  
12 Board.

13 Section 5. Duties and responsibilities.

14 (a) General rule.--It shall be the duty and responsibility  
15 of the State Inspector General and of each Deputy Inspector  
16 General, with respect to the particular executive agency which  
17 he may be monitoring or to which he may be assigned:

18 (1) To provide policy direction for and to conduct,  
19 supervise and coordinate audits and investigations relating  
20 to the program and operations of the executive agency.

21 (2) To recommend policies for, supervise or coordinate  
22 other activities carried out or financed by the executive  
23 agency for the purpose of promoting economy and efficiency in  
24 the administration of, or preventing and detecting fraud and  
25 abuse in, its programs and operations.

26 (3) To recommend policies for, supervise or coordinate  
27 relationships between the executive agency and other Federal,  
28 State and local governmental agencies and nongovernmental  
29 entities with respect to the purposes of this act. Nothing in  
30 this act shall provide the State Inspector General with

1 jurisdiction over the political subdivisions of this  
2 Commonwealth, their officials or employees. To the extent the  
3 State Inspector General believes that his investigations  
4 require him to investigate the political subdivisions of this  
5 Commonwealth, their officials, employees or contractors, he  
6 shall request the assistance of the Attorney General or such  
7 other State or local law enforcement agencies as shall have  
8 jurisdiction to assist him in such investigations. The State  
9 Inspector General shall report to the Governor and to the  
10 General Assembly any instance where he believes that any such  
11 request has been improperly refused.

12 (4) To have direct and prompt access to the head of the  
13 executive agency and to keep the head of the executive  
14 agency, the Governor and the General Assembly fully and  
15 currently informed concerning fraud and other serious  
16 problems, abuses and deficiencies relating to the  
17 administration of programs and operations administered or  
18 financed by the executive agency, to recommend corrective  
19 action concerning such problems, abuses and deficiencies and  
20 to report on the progress made in implementing such  
21 corrective action.

22 (b) Coordination.--In carrying out the duties and  
23 responsibilities provided for under this act, the Office of  
24 State Inspector General shall give particular regard to the  
25 activities of the Legislative Budget and Finance Committee of  
26 the General Assembly, the Office of Attorney General and the  
27 Office of Auditor General with a view toward avoiding  
28 duplication and ensuring effective coordination and cooperation.

29 (c) Reports of violations of criminal law.--In carrying out  
30 the duties and responsibilities provided for under this act, the

1 State Inspector General shall report expeditiously to the  
2 Governor whenever the State Inspector General has reasonable  
3 grounds to believe there has been a violation of State criminal  
4 law or that a civil action should be initiated by the  
5 Commonwealth. The State Inspector General shall, when he deems  
6 it appropriate, refer such matters to the appropriate agencies  
7 for criminal prosecution or commencement of a civil action.

8 Section 6. Annual reports.

9 (a) Requirement.--The State Inspector General shall, not  
10 later than January 31 of each year, prepare an annual report  
11 summarizing the activities of the office during the immediately  
12 preceding year. The report shall include, but not be limited to,  
13 the following:

14 (1) A description of significant problems, abuses and  
15 deficiencies relating to the administration of programs and  
16 operations of executive agencies during the reporting period.

17 (2) A description of the recommendations for corrective  
18 action made by the Office of State Inspector General during  
19 the reporting period with respect to significant problems,  
20 abuses or deficiencies identified pursuant to paragraph (1).

21 (3) An identification of each significant recommendation  
22 described in previous reports on which corrective action has  
23 not been completed.

24 (4) A summary of matters referred to prosecutive  
25 authorities and the prosecutions and convictions which have  
26 resulted.

27 (5) A listing of each audit report completed by the  
28 Office of State Inspector General during the reporting  
29 period.

30 (b) Distribution.--Annual reports of the State Inspector

1 General shall be furnished expeditiously to the head of each  
2 executive agency involved, to the appropriate committees of the  
3 General Assembly and the Governor.

4 (c) Availability to public.--The annual report of the State  
5 Inspector General shall be made available to the public and the  
6 media upon request.

7 (d) Reports to head of executive agency.--The State  
8 Inspector General shall report immediately to the head of the  
9 executive agency involved whenever he becomes aware of  
10 particularly serious or flagrant problems, abuses or  
11 deficiencies relating to the administration of programs and  
12 operations of that executive agency and shall transmit any such  
13 report to the appropriate committees of the General Assembly  
14 within 30 calendar days, together with a report by the head of  
15 the executive agency containing any comments that person deems  
16 appropriate.

17 (e) Disclosures.--Nothing in this section shall be construed  
18 to authorize the public disclosure of information which is  
19 specifically prohibited from disclosure by any other provision  
20 of law or is a part of an ongoing criminal investigation.  
21 Notwithstanding this provision, any report under this section  
22 may be disclosed to the public in the form which includes  
23 information with respect to a part of an ongoing criminal  
24 investigation if such information has been included in a public  
25 record. Nothing in this section or in any other provision of  
26 this act shall be construed to authorize or permit the  
27 withholding of information from the General Assembly or from any  
28 committee of the General Assembly.

29 Section 7. Availability of information and assistance.

30 (a) Power to issue subpoenas.--The Office of State Inspector

1 General is authorized to require by subpoena, issued under the  
2 hand and seal of the Governor, the production of all  
3 information, documents, reports, answers, records, accounts,  
4 paper and other data and documentary evidence necessary in the  
5 performance of the functions assigned by this act, which  
6 subpoena, in the case of contumacy or refusal to obey, shall be  
7 enforceable by order of the Commonwealth Court.

8 (b) Oaths and affirmations.--To administer to or take from  
9 any person an oath, affirmation or affidavit, whenever necessary  
10 in the performance of the functions assigned by this act, which  
11 oath, affirmation or affidavit, when administered or taken by or  
12 before an employee of the Office of State Inspector General  
13 designated by the State Inspector General, shall have the same  
14 force and effect as if administered or taken by or before an  
15 officer having a seal.

16 (c) Information and assistance.--Upon request of the State  
17 Inspector General or his duly authorized designee for  
18 information or assistance, executive agencies shall immediately  
19 furnish the State Inspector General or his authorized designee  
20 such information or assistance. Whenever information or  
21 assistance requested is, in the judgment of the State Inspector  
22 General, unreasonably refused or not provided, the State  
23 Inspector General may report the circumstances to the head of  
24 the agency and the Governor for appropriate action. No public  
25 official or employee covered by a collective bargaining  
26 agreement who is under investigation for improper or illegal  
27 conduct which could result in disciplinary action relating to  
28 employment shall be questioned by the State Inspector General  
29 unless informed of his rights to assistance from the exclusive  
30 collective bargaining representative in accordance with the law.



1 Should the public official or employee request such assistance,  
2 no questioning shall occur until such assistance has been  
3 provided.

4 (d) Officers and equipment.--Each head of an executive  
5 agency shall provide any Deputy State Inspector General or other  
6 employees of the Office of State Inspector General monitoring or  
7 assigned to such agency with appropriate and adequate office  
8 space at central and field office locations of the executive  
9 agency, together with such equipment, office supplies and  
10 communications facilities and services as may be necessary for  
11 such persons to carry out their duties and shall provide  
12 necessary maintenance services for such offices and the  
13 equipment and facilities located therein.

14 Section 8. Complaints by employees; reprisals.

15 (a) Investigation of complaints.--The Office of State  
16 Inspector General may receive and investigate complaints or  
17 information concerning the possible existence of any activity in  
18 an executive agency constituting a violation of law, rules or  
19 regulations or mismanagement, fraud, waste of funds, abuse of  
20 authority, malfeasance, misfeasance, nonfeasance or a  
21 substantial and specific danger to the public health and safety.

22 (b) Reprisals prohibited.--No person shall take or threaten  
23 to take any action against any employee as a reprisal for making  
24 a complaint or disclosing information to the Office of State  
25 Inspector General, unless the complaint was made or the  
26 information disclosed with the knowledge that it was false or  
27 with willful disregard for its truth or falsity.

28 (c) Protection additional.--The protection set forth in this  
29 act for employees who report, in good faith, fraud, waste,  
30 misconduct, malfeasance, misfeasance, nonfeasance or abuse is in

1 addition and supplementary to those protections provided by the  
2 act of December 12, 1986 (P.L.1559, No.169), known as the  
3 Whistleblower Law.

4 Section 9. Study.

5 The State Inspector General shall conduct a study to  
6 determine the feasibility of extending the authority of his  
7 office to independent agencies, with the exception of the State  
8 Treasury, the Auditor General and the Office of Attorney  
9 General, not included within the purview of this act. The study,  
10 with the recommendations of the State Inspector General, shall  
11 be completed and made available to the Governor and the  
12 appropriate standing committees of the General Assembly nine  
13 months after the effective date of this act.

14 Section 10. Sunset.

15 Unless the provisions of this section are repealed or  
16 amended, the Office of State Inspector General shall be subject  
17 to evaluation and review and shall terminate five years from the  
18 effective date of this act.

19 Section 11. Effective date.

20 This act shall take effect in 60 days.