

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1618 Session of 2015

INTRODUCED BY FEE, REGAN, BLOOM, R. BROWN, CAUSER, CORBIN, CUTLER, EVANKOVICH, GREINER, GROVE, A. HARRIS, HICKERNELL, PHILLIPS-HILL, JOZWIAK, KAMPF, KAUFER, KAUFFMAN, KLUNK, LAWRENCE, MACKENZIE, MAJOR, METCALFE, B. MILLER, MURT, OBERLANDER, PETRI, PICKETT, RAPP, SANKEY, TOEPEL, TOPPER, WARD, ZIMMERMAN, JAMES AND STEPHENS, OCTOBER 15, 2015

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 15, 2015

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled,
 2 "An act providing for and reorganizing the conduct of the
 3 executive and administrative work of the Commonwealth by the
 4 Executive Department thereof and the administrative
 5 departments, boards, commissions, and officers thereof,
 6 including the boards of trustees of State Normal Schools, or
 7 Teachers Colleges; abolishing, creating, reorganizing or
 8 authorizing the reorganization of certain administrative
 9 departments, boards, and commissions; defining the powers and
 10 duties of the Governor and other executive and administrative
 11 officers, and of the several administrative departments,
 12 boards, commissions, and officers; fixing the salaries of the
 13 Governor, Lieutenant Governor, and certain other executive
 14 and administrative officers; providing for the appointment of
 15 certain administrative officers, and of all deputies and
 16 other assistants and employes in certain departments, boards,
 17 and commissions; and prescribing the manner in which the
 18 number and compensation of the deputies and all other
 19 assistants and employes of certain departments, boards and
 20 commissions shall be determined," establishing the Office of
 21 State Inspector General.

22 The General Assembly finds and declares that:

23 (1) The prevention of fraud, waste, abuse and corruption
 24 of the agencies of State government is an important
 25 responsibility of the Commonwealth.

1 (2) The prevention of waste, fraud, abuse and corruption
2 in State agencies depends in part on the development,
3 implementation and enforcement of sound policies and
4 procedures to that end.

5 (3) Each State agency should exercise constant vigilance
6 and firmly commit to the implementation and enforcement of
7 such policies and procedures.

8 (4) The establishment of a full-time program of
9 investigation and performance review to provide increased
10 accountability and oversight over State agencies best helps
11 deter and identify waste, fraud, abuse and illegal acts.

12 (5) The statutory creation of a wholly independent
13 office of Inspector General to conduct investigations,
14 inspections and other reviews in accordance with those
15 professional standards that relate to the fields of
16 investigation in governmental environments is necessary to
17 achieve these goals.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
21 as The Administrative Code of 1929, is amended by adding an
22 article to read:

23 ARTICLE V-A

24 OFFICE OF STATE INSPECTOR GENERAL

25 Section 501-A. Definitions.

26 The following words and phrases when used in this article
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Office." The Office of State Inspector General.

30 "Executive agency." As defined in section 102 of the act of

1 act of October 15, 1980 (P.L.950, No.164), known as the
2 Commonwealth Attorneys Act.

3 Section 502-A. Office of State Inspector General.

4 (a) Establishment.--The Office of State Inspector General is
5 established.

6 (b) Appointment.--Within 90 days of the effective date of
7 this section, the Governor shall nominate a State Inspector
8 General who shall serve for a term of six years. The nomination
9 of the State Inspector General shall be confirmed by the Senate
10 by two-thirds of all the members of the Senate. Compensation
11 shall be set by the Executive Board established under section
12 204. The State Inspector General may serve no more than two
13 terms.

14 (c) Limitation.--The State Inspector General may not seek
15 election nor accept appointment to a political office during his
16 or her tenure as State Inspector General and for one year
17 thereafter.

18 (d) Removal.--The State Inspector General may be removed by
19 the Governor for cause.

20 Section 503-A. Powers, purpose and duties.

21 (a) Powers.--The State Inspector General shall have the
22 power to do the following:

23 (1) Make an investigation and report relating to the
24 administration of a program and operation of an executive
25 agency that the State Inspector General determines is
26 necessary. If the State Inspector General determines that a
27 report should be issued, the State Inspector General may
28 consult with the Office of General Counsel or the Attorney
29 General before issuing the report to insure against an
30 adverse impact on a grand jury proceeding or prosecution

1 being conducted by a law enforcement agency.

2 (2) Request information or assistance necessary for
3 carrying out the duties and responsibilities under this
4 article from a Federal, State or local government agency or a
5 unit of a Federal, State or local government agency.

6 (3) Require and obtain, by written notice from an
7 officer and employee of an executive agency and the Executive
8 Department, information, documents, reports, answers,
9 records, accounts, papers and other necessary data and
10 documentary evidence.

11 (4) Have direct and prompt access to the heads of
12 executive agencies if necessary for a purpose pertaining to
13 the performance of functions and responsibilities under this
14 article.

15 (5) Select, appoint and employ officers and employees
16 necessary for carrying out the functions, powers and duties
17 of the office. The officers and employees must be employed in
18 accordance with current procedures of the Office of
19 Administration and may be assigned by the State Inspector
20 General to a designated executive agency.

21 (b) Purpose.--The purpose of the Office of State Inspector
22 General is as follows:

23 (1) To deter, detect, prevent and eradicate fraud,
24 waste, misconduct and abuse in a program, operation and
25 contracting of an executive agency.

26 (2) To keep the head of an executive agency, the
27 Governor and the President pro tempore of the Senate and the
28 Speaker of the House of Representatives fully informed about
29 a problem and deficiency relating to the administration of a
30 program, operation and contracting in an executive agency.

1 (3) To provide leadership, coordination and control over
2 satellite Inspector General Offices in a designated executive
3 agency to insure a coordinated and efficient administration
4 of duties and use of staff. The existing Office of Inspector
5 General in the Department of Transportation shall continue as
6 a satellite Inspector General Office. Each satellite
7 Inspector General Office in an executive agency shall report
8 to and follow the direction of the State Inspector General.

9 (c) Duties.--It is the duty of the State Inspector General
10 to:

11 (1) Inspect, evaluate, investigate and review the
12 activities, records and individuals with contracts,
13 procurements, grants, agreements and other financial
14 arrangements undertaken by an executive agency, for the
15 purposes of identifying fraud, waste, misconduct or abuse.

16 (2) Conduct criminal, civil and administrative
17 investigations.

18 (3) Make referrals to the Auditor General for the audit
19 of the economy, efficiency and effectiveness of an executive
20 agency's operations and functions and conduct reviews of the
21 executive agency's performance measurement system.

22 (4) Review the reliability and validity of the
23 information provided by an executive agency's performance
24 measures and standards.

25 (5) Provide information and evidence that relates to
26 criminal acts to appropriate law enforcement officials.

27 (6) Receive and investigate complaints from any source
28 or upon the State Inspector General's own initiative
29 concerning alleged abuses, frauds and service deficiencies,
30 including deficiencies in the operation and maintenance of a

1 facility.

2 (7) Engage in prevention activities, including, but not
3 limited to, review of legislation, review of rules,
4 regulations, policies, procedures and transactions, training
5 and education.

6 (8) Refer matters for further civil, criminal and
7 administrative action to appropriate administrative and
8 prosecutorial agencies.

9 (9) Conduct joint investigations and projects with other
10 oversight or law enforcement agencies.

11 (10) Recommend remedial actions to be taken by an
12 executive agency to overcome or correct operating or
13 maintenance deficiencies and inefficiencies that were
14 identified by the State Inspector General.

15 (11) Issue public reports.

16 (12) Monitor implementation of recommendations made by
17 the State Inspector General and other audit agencies.

18 (13) Maintain information regarding the cost of
19 investigations and cooperate with appropriate administrative
20 and prosecutorial agencies in recovering the costs from
21 nongovernmental entities involved in willful misconduct.

22 (14) Perform any other functions necessary to effectuate
23 this article.

24 Section 504-A. Request for information.

25 (a) Duty.--Upon request of the State Inspector General for
26 information or assistance, an executive agency must within 10
27 days furnish the information and assistance to the State
28 Inspector General or an authorized designee.

29 (b) Report.--If information or assistance requested under
30 subsection (a) is, in the judgment of the State Inspector

1 General, unreasonably refused or not provided, the State
2 Inspector General may report the circumstances to the head of
3 the agency, the Office of General Counsel, the President pro
4 tempore of the Senate and the Speaker of the House of
5 Representatives for appropriate action.

6 Section 505-A. Complaint, disclosure and reprisal.

7 (a) Complaint.--The State Inspector General may receive and
8 investigate a complaint or information concerning the possible
9 existence of an activity in an executive agency constituting any
10 of the following:

11 (1) A violation of a law, rule or regulation.

12 (2) Mismanagement, fraud, waste of funds, abuse of
13 authority, malfeasance, misfeasance and nonfeasance.

14 (3) A substantial and specific danger to the public
15 health and safety.

16 (b) Disclosure.--A person may not take or threaten to take
17 action against an employee as a reprisal for making a complaint
18 or disclosing information to the State Inspector General, except
19 if the complaint was made or the information was disclosed with
20 the knowledge that the complaint or information was false or
21 with willful disregard for the truth or falsity of the complaint
22 or information.

23 (c) Protection.--The protections in this article for
24 employees who report, in good faith, fraud, waste, misconduct,
25 malfeasance, misfeasance, nonfeasance or abuse shall be in
26 addition and supplementary to each protection provided by the
27 act of December 12, 1986 (P.L.1559, No.169), known as the
28 Whistleblower Law.

29 Section 506-A. Appropriation.

30 The appropriation for the office shall be in a separate line

1 item and shall be under the jurisdiction of the State Inspector
2 General.

3 Section 2. Except as otherwise provided in Article V-A of
4 the act, all activities initiated by the Office of Inspector
5 General in existence on the effective date of this section shall
6 continue and remain in full force and effect and may be
7 completed under Article V-A of the act. Orders, regulations,
8 rules and decisions which were made by the Office of Inspector
9 General in existence on the effective date of this section and
10 which are in effect on the effective date of this section shall
11 remain in full force and effect until revoked, vacated or
12 modified under Article V-A of the act. Contracts, obligations
13 and collective bargaining agreements entered into by the Office
14 of Inspector General in existence on the effective date of this
15 section are not affected nor impaired by the addition of Article
16 V-A of the act.

17 Section 3. This act shall take effect in 60 days.