

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1618** Session of  
2015

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OCTOBER 15, 2015

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
NOVEMBER 23, 2015

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## 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

1 responsibility of the Commonwealth.

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

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

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

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

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

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

24 ARTICLE V-A

25 OFFICE OF STATE INSPECTOR GENERAL

26 Section 501-A. Definitions.

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

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

1 "Executive agency." As defined in section 102 of the act of  
2 act of October 15, 1980 (P.L.950, No.164), known as the  
3 Commonwealth Attorneys Act.

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

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

7 (b) Appointment.--Within 90 days of the effective date of <--  
8 this section, the THE Governor shall nominate a State Inspector <--  
9 General who shall serve for a term of six years. The nomination  
10 of the State Inspector General shall be confirmed by the Senate  
11 by two-thirds of all the members of the Senate. NO LATER THAN 90 <--  
12 DAYS PRIOR TO THE END OF THE TERM OF A STATE INSPECTOR GENERAL,  
13 THE GOVERNOR SHALL NOMINATE A STATE INSPECTOR GENERAL.

14 Compensation shall be set by the Executive Board established  
15 under section 204. The State Inspector General may serve no more  
16 than two terms.

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

21 (d) Removal.--The State Inspector General may be removed by  
22 the Governor ONLY for cause. <--

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

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

26 (1) Make an investigation and report relating to the  
27 administration of a program and operation of an executive  
28 agency that the State Inspector General determines is  
29 necessary. If the State Inspector General determines that a  
30 report should be issued, the State Inspector General may

1 consult with the Office of General Counsel or the Attorney  
2 General before issuing the report to insure against an  
3 adverse impact on a grand jury proceeding or prosecution  
4 being conducted by a law enforcement agency.

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

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

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

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

24 (6) ISSUE SUBPOENAS UNDER SECTION 505-A.

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

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

30 (2) To keep the head of an executive agency, the

1 Governor and the President pro tempore of the Senate and the  
2 Speaker of the House of Representatives fully informed about  
3 a problem and deficiency relating to the administration of a  
4 program, operation and contracting in an executive agency.

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

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

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

20 (2) Conduct criminal, civil and administrative  
21 investigations.

22 (3) Make referrals to the Auditor General for the audit  
23 of the economy, efficiency and effectiveness of an executive  
24 agency's operations and functions and conduct reviews of the  
25 executive agency's performance measurement system.

26 (4) Review the reliability and validity of the  
27 information provided by an executive agency's performance  
28 measures and standards.

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

1       (6) Receive and investigate complaints from any source  
2 or upon the State Inspector General's own initiative  
3 concerning alleged abuses, frauds and service deficiencies,  
4 including deficiencies in the operation and maintenance of a  
5 facility.

6       (7) Engage in prevention activities, including, but not  
7 limited to, review of legislation, review of rules,  
8 regulations, policies, procedures and transactions, training  
9 and education.

10       (8) Refer matters for further civil, criminal and  
11 administrative action to appropriate administrative and  
12 prosecutorial agencies.

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

15       (10) Recommend remedial actions to be taken by an  
16 executive agency to overcome or correct operating or  
17 maintenance deficiencies and inefficiencies that were  
18 identified by the State Inspector General.

19       (11) Issue public reports.

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

22       (13) Maintain information regarding the cost of  
23 investigations and cooperate with appropriate administrative  
24 and prosecutorial agencies in recovering the costs from  
25 nongovernmental entities involved in willful misconduct.

26       (14) Perform any other functions necessary to effectuate  
27 this article.

28 Section 504-A. Request for information.

29       (a) Duty.--Upon request of the State Inspector General for  
30 information or assistance, an executive agency must within 10

1 days furnish the information and assistance to the State  
2 Inspector General or an authorized designee.

3 (b) Report.--If information or assistance requested under  
4 subsection (a) is, in the judgment of the State Inspector  
5 General, unreasonably refused or not provided, the State  
6 Inspector General may report the circumstances to the head of  
7 the agency, the Office of General Counsel, the President pro  
8 tempore of the Senate and the Speaker of the House of  
9 Representatives for appropriate action.

10 SECTION 505-A. SUBPOENAS AND WITNESS FEES.

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11 (A) AUTHORIZATION.--THE STATE INSPECTOR GENERAL MAY ISSUE A  
12 SUBPOENA RELATING TO ANY MATTER PERTINENT TO AN EXAMINATION. IF  
13 A PERSON FAILS OR REFUSES TO OBEY A SUBPOENA, THE STATE  
14 INSPECTOR GENERAL MAY PETITION A COURT OF COMPETENT JURISDICTION  
15 TO ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY  
16 OR PRODUCE DOCUMENTARY EVIDENCE. FAILURE TO OBEY THE COURT ORDER  
17 SHALL BE PUNISHABLE AS CONTEMPT OF COURT.

18 (B) FORM AND EFFECT.--A SUBPOENA UNDER SUBSECTION (A) SHALL  
19 BE IN SUBSTANTIALLY THE SAME FORM AND HAVE THE SAME FORCE AND  
20 EFFECT AS A SUBPOENA ISSUED BY A COURT OF COMMON PLEAS. THE  
21 STATE INSPECTOR GENERAL SHALL HAVE THE BENEFIT OF THE PROCESS OF  
22 THE APPROPRIATE COURT OF COMMON PLEAS IF NECESSARY TO ENFORCE A  
23 SUBPOENA.

24 (C) CONFIDENTIALITY.--A SUBPOENA ISSUED UNDER THIS SECTION  
25 MUST CLEARLY INDICATE ON THE FACE OF THE SUBPOENA THAT THE  
26 SUBPOENA IS ISSUED IN CONNECTION WITH A CONFIDENTIAL PROCEEDING  
27 AND A BREACH OF CONFIDENTIALITY BY THE PERSON SUBPOENAED MAY  
28 RESULT IN A CIVIL PENALTY OR MISDEMEANOR.

29 (D) FEES.--WITNESSES SUBPOENAED UNDER THIS SECTION SHALL BE  
30 COMPENSATED UNDER 42 PA.C.S. § 5903 (RELATING TO COMPENSATION

1 AND EXPENSES OF WITNESSES).

2 Section ~~505-A~~ 506-A. Complaint, disclosure and reprisal. <--

3 (a) Complaint.--The State Inspector General may receive and  
4 investigate a complaint or information concerning the possible  
5 existence of an activity in an executive agency constituting any  
6 of the following:

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

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

10 (3) A substantial and specific danger to the public  
11 health and safety.

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

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

25 Section ~~506-A~~ 507-A. Appropriation. <--

26 The appropriation for the office shall be in a separate line  
27 item and shall be under the jurisdiction of the State Inspector  
28 General.

29 Section 2. Except as otherwise provided in Article V-A of  
30 the act, all activities initiated by the Office of Inspector



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

13 ~~Section 3. This act shall take effect in 60 days.~~ <--

14 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <--

15 (1) THE ADDITION OF SECTION 502-A(B) OF THE ACT SHALL  
16 TAKE EFFECT JANUARY 16, 2019.

17 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
18 DAYS.