

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 527 Session of 2017

INTRODUCED BY AUMENT, REGAN, SCARNATI, MCGARRIGLE, ARGALL, VOGEL, GORDNER, RESCHENTHALER, VULAKOVICH, FOLMER, MARTIN, DISANTO, WARD, YUDICHAK, RAFFERTY, MENSCH, STEFANO, SCAVELLO, BARTOLOTTA AND BROWNE, MARCH 20, 2017

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, JUNE 5, 2017

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 IN THE ADMINISTRATION of State government <--
25 AGENCIES is an important responsibility of the Commonwealth. <--

26 (2) The prevention of waste, fraud, abuse and corruption

1 in ~~State agencies~~ THE ADMINISTRATION OF STATE GOVERNMENT <--  
2 depends in part on the development, implementation and  
3 enforcement of sound policies and procedures to that end.

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

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

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

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

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

22 ARTICLE V-A

23 OFFICE OF STATE INSPECTOR GENERAL

24 Section 501-A. Definitions.

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

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

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

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

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

5 (b) Appointment.--Within 90 days of the effective date of  
6 this section, the Governor shall ~~nominate~~ APPOINT a State <--  
7 Inspector General who shall serve for a term of six years. The <--  
8 nomination of the State Inspector General shall be confirmed by  
9 the Senate by two thirds of all the members of the Senate.

10 CONCURRENT WITH THE GOVERNOR'S TERM OF OFFICE. Compensation <--  
11 shall be set by the Executive Board established under section  
12 204. ~~The State Inspector General may not serve more than two~~ <--  
13 terms.

14 (C) QUALIFICATIONS.--THE STATE INSPECTOR GENERAL SHALL BE <--  
15 SELECTED WITHOUT REGARD TO POLITICAL AFFILIATION ON THE BASIS OF  
16 INTEGRITY, CAPABILITY FOR STRONG LEADERSHIP AND DEMONSTRATED  
17 ABILITY IN ACCOUNTING, AUDITING, FINANCIAL ANALYSIS, LAW,  
18 MANAGEMENT ANALYSIS, PUBLIC ADMINISTRATION, INVESTIGATION OR  
19 CRIMINAL JUSTICE ADMINISTRATION OR OTHER APPROPRIATE FIELDS.

20 ~~(e)~~ (D) Limitation.--The State Inspector General may not <--  
21 seek election ~~nor accept appointment~~ to a political office <--  
22 during his or her tenure as State Inspector General ~~and for one~~ <--  
23 year thereafter.

24 ~~(d)~~ (E) Removal.--The State Inspector General may be removed <--  
25 by the Governor for cause.

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

27 (a) Powers.--The State Inspector General shall have the  
28 power to:

29 (1) Make an investigation and report relating to the  
30 administration of a program and operation of an executive

1 agency that the State Inspector General determines is  
2 necessary. If the State Inspector General determines that a  
3 report should be issued, the State Inspector General may  
4 consult with the Office of General Counsel or the Attorney  
5 General before issuing the report to insure against an  
6 adverse impact on a grand jury proceeding or prosecution  
7 being conducted by a law enforcement agency.

8 (2) Request information or assistance necessary for  
9 carrying out the duties and responsibilities under this  
10 article from a ~~Federal, State or~~ THE FEDERAL GOVERNMENT, AN <--  
11 EXECUTIVE AGENCY OR A local government agency or a unit of a  
12 Federal, State or local government agency.

13 (3) Require and obtain, by written notice from an  
14 officer and employee of an executive agency and the Executive <--  
15 Department, information, documents, reports, answers,  
16 records, accounts, papers and other necessary data and  
17 documentary evidence.

18 (4) Have direct and prompt access to the heads of  
19 executive agencies if necessary for a purpose pertaining to  
20 the performance of functions and responsibilities under this  
21 article.

22 (5) Select, appoint and employ ~~officers and employees~~ <--  
23 INDIVIDUALS necessary for carrying out the functions, powers <--  
24 and duties of the office. The ~~officers and~~ employees shall be <--  
25 employed in accordance with current procedures of the Office  
26 of Administration and may be assigned by the State Inspector  
27 General to a designated executive agency.

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

30 (1) To deter, detect, prevent and eradicate fraud,

1 waste, misconduct and abuse in a program, operation and  
2 contracting of an executive agency.

3 (2) To keep the head of an executive agency, AND the <--  
4 Governor and the President pro tempore of the Senate and the <--  
5 Speaker of the House of Representatives fully informed about  
6 a problem and deficiency relating to the OPERATION OR <--  
7 administration of a program, operation and contracting of OR <--  
8 CONTRACTS ENTERED INTO BY an executive agency.

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

18 (c) Duties.--The State Inspector General shall:

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

24 (2) Conduct ~~criminal,~~ civil and administrative <--  
25 investigations OF A PROGRAM OR OPERATION OF AN EXECUTIVE <--  
26 AGENCY.

27 (3) Make referrals to the Auditor General for the audit  
28 of the economy, efficiency and effectiveness of an executive  
29 agency's operations and functions and conduct reviews of the  
30 executive agency's COMPLIANCE WITH THE performance <--

1 measurement system.

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

5 (5) Provide information and evidence that relates to  
6 criminal acts DISCOVERED DURING THE COURSE OF AN <--  
7 INVESTIGATION INTO AN EXECUTIVE AGENCY to appropriate law  
8 enforcement officials.

9 (6) Receive and investigate complaints from a source or  
10 upon the State Inspector General's own initiative concerning  
11 alleged abuses, frauds and service deficiencies, including  
12 deficiencies in the operation and maintenance of a AN <--  
13 EXECUTIVE AGENCY facility.

14 (7) Engage in prevention activities, including, but not  
15 limited to, review of legislation, rules, regulations,  
16 policies, procedures and transactions, training and  
17 education.

18 (8) Refer matters for further civil, criminal and  
19 administrative action to appropriate administrative and  
20 prosecutorial agencies.

21 (9) Conduct joint investigations and projects with other  
22 oversight or law enforcement agencies THAT ARE CONSISTENT <--  
23 WITH THE POWERS AND DUTIES CONTAINED UNDER THIS ARTICLE.

24 (10) Recommend remedial actions to be taken by an  
25 executive agency to overcome or correct operating or  
26 maintenance deficiencies and inefficiencies that were  
27 identified by the State Inspector General.

28 (11) Issue public reports.

29 ~~(12) Monitor implementation of recommendations made by~~ <--  
30 ~~the State Inspector General and other audit agencies.~~

1           ~~(13)~~ (12) Maintain information regarding the cost of <--  
2 investigations and cooperate with appropriate administrative  
3 and prosecutorial agencies in recovering the costs from  
4 nongovernmental entities involved in willful misconduct.

5           ~~(14)~~ (13) Perform other functions necessary to <--  
6 effectuate this article.

7 Section 504-A. Request for information.

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

12       (b) Report.--If information or assistance requested under  
13 subsection (a) is, in the judgment of the State Inspector  
14 General, unreasonably refused or not provided, the State  
15 Inspector General may report the circumstances to the head of  
16 the agency, AND the Office of General Counsel, the President pro <--  
17 tempore of the Senate and the Speaker of the House of  
18 Representatives for appropriate action.

19 SECTION 505-A. SUBPOENAS AND WITNESS FEES. <--

20       (A) AUTHORIZATION.--IN ACCORDANCE WITH THE POWERS UNDER  
21 SECTION 503-A(A) AND DUTIES UNDER SECTION 503-A(C), THE STATE  
22 INSPECTOR GENERAL MAY ISSUE A SUBPOENA RELATING TO ANY MATTER  
23 PERTINENT TO AN EXAMINATION TO A PERSON UNDER THE STATE  
24 INSPECTOR GENERAL'S JURISDICTION OR TO AN INDIVIDUAL OR A PERSON  
25 RECEIVING SERVICES FROM OR THROUGH AN EXECUTIVE AGENCY. IF A  
26 PERSON FAILS OR REFUSES TO OBEY A SUBPOENA, THE STATE INSPECTOR  
27 GENERAL MAY PETITION A COURT OF COMPETENT JURISDICTION TO ENTER  
28 AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE  
29 DOCUMENTARY EVIDENCE. FAILURE TO OBEY THE COURT ORDER SHALL BE  
30 PUNISHABLE AS CONTEMPT OF COURT.

1 (B) FORM AND EFFECT.--A SUBPOENA UNDER SUBSECTION (A) SHALL  
2 BE IN SUBSTANTIALLY THE SAME FORM AND HAVE THE SAME FORCE AND  
3 EFFECT AS A SUBPOENA ISSUED BY A COURT OF COMMON PLEAS. THE  
4 STATE INSPECTOR GENERAL SHALL HAVE THE BENEFIT OF THE PROCESS OF  
5 THE APPROPRIATE COURT OF COMMON PLEAS IF NECESSARY TO ENFORCE A  
6 SUBPOENA.

7 (C) CONFIDENTIALITY.--A SUBPOENA ISSUED UNDER THIS SECTION  
8 MUST CLEARLY INDICATE ON THE FACE OF THE SUBPOENA THAT THE  
9 SUBPOENA IS ISSUED IN CONNECTION WITH A CONFIDENTIAL PROCEEDING  
10 AND A BREACH OF CONFIDENTIALITY BY THE PERSON SUBPOENAED MAY  
11 RESULT IN A CIVIL PENALTY OR MISDEMEANOR.

12 (D) FEES.--WITNESSES SUBPOENAED UNDER THIS SECTION SHALL BE  
13 COMPENSATED UNDER 42 PA.C.S. § 5903 (RELATING TO COMPENSATION  
14 AND EXPENSES OF WITNESSES).  
15 SECTION 506-A. CRIMINAL CHARGES.

16 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE  
17 INSPECTOR GENERAL SHALL HAVE THE POWER TO INVESTIGATE AND MAY  
18 FILE CRIMINAL CHARGES FOR A VIOLATION OF ANY OF THE FOLLOWING:

19 (1) SECTION 481 OF THE ACT OF JUNE 13, 1967 (P.L.31,  
20 NO.21), KNOWN AS THE HUMAN SERVICES CODE.

21 (2) SECTION 1408 OF THE HUMAN SERVICES CODE.

22 (3) 18 PA.C.S. § 7313 (RELATING TO BUYING OR EXCHANGING  
23 FEDERAL FOOD ORDER COUPONS, STAMPS, AUTHORIZATION CARDS OR  
24 ACCESS DEVICES).

25 (4) 18 PA.C.S. § 7314 (RELATING TO FRAUDULENT TRAFFIC IN  
26 FOOD ORDERS).

27 Section 505-A 507-A. Complaint, disclosure and reprisal. <--

28 (a) Complaint.--The State Inspector General may receive and  
29 investigate a complaint or information concerning the possible  
30 existence of an activity in an executive agency constituting any



1 of the following:

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

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

5 (3) A substantial and specific danger to the public  
6 health and safety.

7 (b) Disclosure.--No person may take or threaten to take  
8 action against an employee as a reprisal for making a complaint  
9 or disclosing information to the State Inspector General, except  
10 if the complaint was made or the information was disclosed with  
11 the knowledge that the complaint or information was false or  
12 with willful disregard for the truth or falsity of the complaint  
13 or information.

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

20 Section 506-A 508-A. Appropriation. <--

21 The appropriation for the office shall be in a separate line  
22 item and shall be under the jurisdiction of the State Inspector  
23 General.

24 SECTION 509-A. REPORT TO GENERAL ASSEMBLY. <--

25 BY DECEMBER 31 OF EACH YEAR, THE STATE INSPECTOR GENERAL  
26 SHALL ISSUE AN ANNUAL REPORT TO THE SENATE AND THE HOUSE OF  
27 REPRESENTATIVES. THE ANNUAL REPORT SHALL INCLUDE, AT A MINIMUM,  
28 THE FOLLOWING:

29 (1) INFORMATION RELATING TO INVESTIGATIONS UNDERTAKEN BY  
30 THE OFFICE, INCLUDING THE NUMBER OF CASES INVESTIGATED,

1 CATEGORIZED BY TYPE, WITH A SPECIFIC SECTION DETAILING  
2 INVESTIGATIONS CONDUCTED WITHIN THE DEPARTMENT OF HUMAN  
3 SERVICES.

4 (2) AN ACCOUNTING OF TAXPAYER MONEY THAT WAS RECOVERED  
5 AS A RESULT OF THE WORK OF THE OFFICE.

6 (3) THE MONETARY VALUE THAT RESULTED FROM FRAUD  
7 PREVENTION ACTIVITIES AS A RESULT OF THE WORK OF THE OFFICE.

8 (4) SUMMARIES OF PERFORMANCE OF EACH BUREAU WITHIN THE  
9 OFFICE.

10 (5) SPECIFIC RECOMMENDATIONS CONCERNING THE IMPROVEMENT  
11 OF ANY STATE PROGRAM TO FURTHER REDUCE WASTE, FRAUD AND  
12 ABUSE.

13 Section 2. Except as otherwise provided in Article V-A of  
14 the act:

15 (1) All activities initiated by the Office of Inspector  
16 General in existence on the effective date of this section  
17 shall continue and remain in full force and effect and may be  
18 completed under Article V-A of the act.

19 (2) Orders, regulations, rules and decisions which were  
20 made by the Office of Inspector General in existence on the  
21 effective date of this section and which are in effect on the  
22 effective date of this section shall remain in full force and  
23 effect until revoked, vacated or modified under Article V-A  
24 of the act.

25 (3) Contracts, obligations and collective bargaining  
26 agreements entered into by the Office of Inspector General in  
27 existence on the effective date of this section are not  
28 affected nor impaired by the addition of Article V-A of the  
29 act.

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