

CHAPTER 119

AN ACT establishing an office of the Inspector General, supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:15B-1 Findings, declarations relative to an office of the Inspector General.

1. The Legislature finds and declares that:

the State of New Jersey expends more than \$28 billion in taxpayer funds each year, and agencies at other levels of government expend billions more;

it is fundamental that all government officials be publicly accountable for such expenditures; promoting integrity in the administration and operations of government and improving public accountability are the cornerstones of government;

one of the remedial actions that can be taken to improve such accountability is to identify areas where State spending is wasteful or inefficient;

the Governor has the responsibility to ensure a balanced budget, manage the operations of State government effectively and efficiently, and maintain necessary government programs and assistance to the public;

it is the duty of the Governor to guard against extravagance, waste, or fiscal mismanagement in the administration of any State appropriation;

it is critically important that public officers and employees, at all levels of government, discharge their duties and responsibilities in a lawful and ethical manner, while conserving the fiscal resources that have been entrusted to the government's care by the taxpayers;

there is a compelling need to centralize the responsibility for reviewing, auditing, evaluating, and overseeing the expenditure of State funds by, and the procurement process of, all State departments and agencies, independent authorities, county and municipal governments, and boards of education; and

there is a need, therefore, to create the Office of the Inspector General, which will report directly to the Governor, to ensure that these responsibilities are met.

C.52:15B-2 Office of the Inspector General established.

2. a. There is hereby created an Office of the Inspector General. The office shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the office shall be allocated in, but not of, the Department of the Treasury. Notwithstanding this allocation, the office shall be independent of any supervision or control by the State Treasurer, or the department or by any division, board, office, or other officer thereof.

b. The Inspector General shall report directly to the Governor.

c. The Inspector General shall submit requests for the budget of the office directly to the Division of Budget and Accounting in the Department of the Treasury.

C.52:15B-3 Inspector General, appointment, term, compensation.

3. a. The Office of the Inspector General shall be administered by the Inspector General. The Inspector General shall be appointed by the Governor with the advice and consent of the Senate. The Inspector General shall be a person qualified by education, training, and prior work experience to direct the work of the office and to perform the duties and functions and fulfill the responsibilities of the position.

b. The Inspector General shall serve for a term of five years and until a successor is appointed and has qualified.

c. The Inspector General shall devote full time to the duties and responsibilities of the office and shall receive a salary as shall be provided pursuant to law.

d. During the term of office, the Inspector General may be removed by the Governor only for cause upon notice and opportunity to be heard.

e. A vacancy in the position of Inspector General due to a cause other than the expiration of the term shall be filled for the unexpired term only in the same manner as the original appointment.

C.52:15B-4 Inspector General prohibited from running for elective public office.

4. A person who holds the position of Inspector General shall not be a candidate for, or hold elective public office, for a period of two years immediately following the termination of that person's service as Inspector General.

C.52:15B-5 Establishment of internal organizational structure of the office.

5. a. The Inspector General shall establish the internal organizational structure of the office in a manner appropriate to carrying out the duties and functions, and fulfilling the responsibilities, of the office. The Inspector General shall have the power to appoint, employ, promote, and remove such assistants, employees, and personnel as the Inspector General deems necessary for the efficient and effective administration of the office. All such assistants, employees and personnel shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.).

b. Within the limits of funds appropriated for such purposes, the Inspector General may obtain the services of certified public accountants, qualified management consultants, and other professionals necessary to independently perform the duties and functions of the office.

C.52:15B-6 Cooperation with Inspector General by State agencies.

6. The Inspector General is authorized to call upon any department, office, division or agency of State government to provide such information, resources, or other assistance deemed necessary to discharge the duties and functions and to fulfill the responsibilities of the Inspector General under this act. Each department, office, division and agency of this State shall cooperate with the Inspector General and furnish the office with the assistance necessary to accomplish the purposes of this act.

C.52:15B-7 Authority of Inspector General.

7. The Inspector General is authorized to:

establish a full-time program of audit, investigation, and performance review designed to provide increased accountability, integrity, and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, which contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General.

investigate the performance of governmental officers, employees, appointees, functions, and programs in order to promote efficiency, to identify cost savings, and to detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds.

receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

C.52:15B-8 Powers of Inspector General.

8. a. The Inspector General shall have all the powers necessary to carry out the duties and functions and to fulfill the responsibilities described in this act, including the power to conduct investigations, audits, evaluations, inspections, and other reviews.

b. The Inspector General and the office shall conduct audits, investigations, and performance reviews in accordance with prevailing national and professional standards, rules, and practices relating to such audits, investigations, and reviews in government environments, and the Inspector General shall ensure that the office remains in compliance with such standards, rules, and practices.

c. In furtherance of an investigation, the Inspector General may compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Inspector General reasonably believes may be able to give information relating to a matter under investigation. For this purpose, the Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place,

by subpoena, any documents, books, records, papers, objects, or other evidence that the Inspector General reasonably believes may relate to a matter under investigation.

If any person to whom such subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers or other documents required, the Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers or other documents, as applicable. Any person failing to obey the court's order may be punished by the court as for contempt.

d. A person compelled to appear by the Inspector General and provide sworn testimony shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his or her rights. A witness compelled to appear and testify shall be accorded all due process rights.

C.52:15B-9 Cooperation, joint investigations.

9. The Inspector General is authorized to cooperate and conduct joint investigations with other oversight or law enforcement authorities. The Inspector General is authorized and shall be permitted to participate in investigations conducted by other oversight or law enforcement authorities in this State.

C.52:15B-10 Declining to investigate complaint.

10. The Inspector General may decline to investigate a complaint received when it is determined that: the complaint is trivial, frivolous, vexatious or not made in good faith; the complaint has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

C.52:15B-11 Authority to refer complaints.

11. The Inspector General is authorized to refer complaints received that allege criminal conduct to the Attorney General or other appropriate prosecutorial authority. In the course of conducting audits, investigations, and performance reviews, the Inspector General generally may refer matters for further civil, criminal, and administrative action to the appropriate authorities.

C.52:15B-12 Notification of refusal to investigate referred complaints of criminal, other conduct.

12. a. When the Inspector General refers complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority and the Attorney General or prosecutorial authority decides not to investigate or prosecute the matter, the Attorney General or the prosecutorial authority shall promptly notify the Inspector General. The Attorney General or the prosecutorial authority shall inform the Inspector General as to whether an investigation is ongoing with regard to any matter so referred. The Inspector General shall preserve the confidentiality of the existence of any ongoing criminal investigation.

If the Attorney General or the prosecutorial authority decides not to investigate or act upon the matter referred, the Inspector General is authorized to continue an investigation after the receipt of such a notice.

Upon completion of an investigation or, in a case where the investigation leads to prosecution, upon completion of the prosecution, the Attorney General or the prosecutorial authority shall report promptly the findings and results to the Inspector General. In the course of informing the Inspector General, the Attorney General or prosecutorial authority shall give full consideration to the authority, duties, functions, and responsibilities of the Inspector General, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

b. With respect to referrals other than those described in subsection a. of this section, the appropriate authority to which a matter has been referred by the Inspector General shall report to the Inspector General promptly when a final determination is made to not investigate or act upon the matter referred, or promptly upon completion of the investigation or action taken. The appropriate authority shall inform the Inspector General as to whether an investigation is

ongoing with regard to any matter so referred.

In the course of informing the Inspector General, the appropriate authority shall give full consideration to the authority, duties, functions, and responsibilities of the Inspector General, the public interest in disclosure, and the need for protecting the confidentiality of complainants and informants.

If the governmental entity decides not to investigate or act upon the matter referred, the Inspector General is authorized to continue an investigation after the receipt of such a notice.

c. The Inspector General shall maintain a record of all matters referred and the responses received and shall be authorized to disclose information received as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure and the need for protecting the confidentiality of complainants and informants and preserving the confidentiality of ongoing criminal investigations.

C.52:15B-13 Compliance with request for access to government record, procedure.

13. Whenever a person requests access to a government record that the Inspector General, during the course of an investigation, obtained from another public agency, which record was open for public inspection, examination or copying before the investigation commenced, the public agency from which the Inspector General obtained the record shall comply with the request if made pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), provided that the request does not in any way identify the record sought by means of a reference to the Inspector General's investigation or to an investigation by any other public agency, including, but not limited to, a reference to a subpoena issued pursuant to such investigation.

C.52:15B-14 Meetings with public officers, employees.

14. The Inspector General shall meet at periodic intervals, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews. The Attorney General, the State Treasurer, the State Auditor, and such other public officers or employees shall attend such meetings for the purpose of consultation, coordination, and cooperation with the Inspector General.

The focus of all parties during such meetings shall be to: facilitate communication and exchange information on completed, current, and future audits, investigations, and reviews; avoid duplication and fragmentation of efforts; optimize the use of resources; avoid divisiveness and organizational uncertainty; promote effective working relationships; and avoid the unnecessary expenditure of public funds.

C.52:15B-15 Report of findings.

15. The Inspector General shall report the findings of audits, investigations, and reviews performed by the office, and issue recommendations for corrective or remedial action, to the Governor, the President of the Senate and the Speaker of the General Assembly and to the entity at issue. The Inspector General shall monitor the implementation of those recommendations.

C.52:15B-16 Periodic annual reports.

16. The Inspector General shall provide periodic reports to the Governor, and shall issue an annual report to the Governor and the Legislature, which shall be available to the public.

17. Such sums as may be required for the costs of the Office of the Inspector General shall be transferred from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and such further approval as shall be required pursuant to the transfer provisions of the annual appropriations act, to the Office of the Inspector General to establish the Office of the Inspector General and implement the provisions of this act.

18. This act shall take effect immediately.

Approved July 1, 2005.