

House Bill 960

By: Representatives Leverett of the 33<sup>rd</sup>, Barr of the 103<sup>rd</sup>, Oliver of the 82<sup>nd</sup>, and Wilson of the 80<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the  
2 Governor, so as to establish the Office of the Inspector General; to provide for definitions;  
3 to provide for duties; to provide certain powers; to provide procedures for the application of  
4 the duties and powers of such office; to provide a duty to report certain actions; to provide  
5 for related matters; to provide for an effective date; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor,  
10 is amended by adding a new article to read as follows:

11 "ARTICLE 7

12 45-12-210.

13 As used in this article, the term:

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14 (1) 'Abuse' means the intentional, wrongful, or improper use or destruction of state  
15 resources or improper practice that does not involve prosecutable fraud.

16 (2) 'Agency' shall have the same meaning as provided for in paragraph (2) of Code  
17 Section 50-4-1.

18 (3) 'Corruption' means an intentional act of fraud, waste, or abuse or the use of public  
19 office for personal or pecuniary gain for oneself or another.

20 (4) 'Employee' means any person who is employed by an agency, including agency  
21 heads, directors, commissioners, and presidents.

22 (5) 'Fraud' means an act of intentional or reckless deceit to mislead or otherwise deceive.

23 (6) 'Inspector general' means the inspector general created by this article or his or her  
24 designee.

25 (7) 'Office' means the Office of the Inspector General.

26 (8) 'Officer' means any person appointed to any agency, board, authority, bureau,  
27 commission, or council.

28 (9) 'Official' means any person elected to office within the executive branch of  
29 government.

30 (10) 'Peace officer' shall have the same meaning as provided for in subparagraph (A) of  
31 paragraph (8) of Code Section 35-8-2.

32 (11) 'Waste' means a reckless or grossly negligent act that causes state funds to be spent  
33 in a manner that was not authorized or represents significant inefficiency and needless  
34 expense.

35 45-12-211.

36 (a) There is created the Office of the Inspector General, for which purpose shall be to  
37 investigate the management and operation of agencies. The office shall be assigned to the  
38 Office of the Governor for administrative purposes only, as described in Code  
39 Section 50-4-3.

40 (b) The Governor shall appoint an inspector general who may not be removed from office  
41 except for good cause.

42 (c) The inspector general shall have jurisdiction over any official, officer, employee,  
43 department, division, bureau, board, commission, or agency in the executive branch of state  
44 government, as well as other persons doing business with any agency or receiving state  
45 funds or state administered funds from any agency.

46 (d) The inspector general shall establish the organization structure appropriate to carrying  
47 out the responsibilities and functions of the office and shall have the power to employ,  
48 promote, and remove such assistants, employees, and personnel as deemed necessary for  
49 the efficient and effective administration of the office.

50 45-12-212.

51 The inspector general shall have the following duties:

52 (1) Receive and investigate complaints from any source alleging fraud, waste, abuse, or  
53 corruption that has been committed or is being committed against an agency or the state  
54 or investigate such actions on his or her own initiative;

55 (2) Investigate acts that may constitute violations of Articles 1 and 2 of Chapter 10 of  
56 Title 16 committed by officers, officials, or employees of agencies;

57 (3) Investigate acts that may constitute violations of Chapter 10 of Title 45 committed  
58 by officers, officials, or employees of agencies;

59 (4) Investigate retaliation claims submitted pursuant to subsection (e) of Code  
60 Section 45-1-4;

61 (5) Report suspected acts of fraud, waste, abuse, or corruption against or within an  
62 agency to the Governor and, as appropriate, other state or federal entities with jurisdiction  
63 over the matter;

64 (6) Upon conclusion of an investigation, issue a report or letter to the Office of the  
65 Governor as requested;

66 (7) Prepare and release written reports to the public, as deemed appropriate by the  
67 inspector general and to the extent permitted by law;

68 (8) Advise agencies on the detection and prevention of fraud, waste, abuse, and  
69 corruption; conduct evaluations and audits of relevant agency policies and procedures  
70 implicated by any investigation; and create a remedial action plan to prevent recurrences  
71 of fraud, waste, abuse, and corruption;

72 (9) Close an investigation when he or she concludes there is insufficient evidence that  
73 a violation has occurred. Closure by the inspector general shall not bar him or her from  
74 reopening the investigation if circumstances warrant;

75 (10) In any agency where fraud, waste, abuse, or corruption is detected, the agency shall  
76 take remedial steps to prevent recurrences of similar conduct, including the  
77 implementation of the remedial action plan described in paragraph (8) of this Code  
78 section;

79 (11) Act as a liaison with outside agencies and agencies of the government of the United  
80 States to promote accountability, integrity, and efficiency in state government;

81 (12) Oversee the activities of the office, internal affairs units, and offices of professional  
82 standards within agencies;

83 (13) Conduct special investigations and management reviews at the request of the  
84 Governor; and

85 (14) Other duties assigned by the Governor that are consistent with this article.

86 45-12-213.

87 (a) Agencies shall cooperate with any investigation conducted pursuant to this article.

88 (b) With the Governor's approval, the inspector general shall have access to all records  
89 available to the Governor pursuant to Article V, Section II, Paragraph X of the Constitution  
90 of Georgia.

91 (c) The inspector general shall be authorized to enter upon the premises of any agency at  
92 any time, without prior announcement, if necessary for the successful completion of an  
93 investigation. In the course of an investigation, the inspector general shall be authorized  
94 to question any official, officer, or employee serving in, and any other person transacting  
95 business with, the agency and may inspect and copy any books, records, or papers in the  
96 possession of the agency, taking care to preserve the confidentiality of information  
97 contained in responses to questions or the books, records, or papers that are made  
98 confidential by law.

99 (d) If the inspector general determines that any alleged misconduct involves any person  
100 not subject to the jurisdiction of the office, the inspector general shall refer the reported  
101 allegations to the appropriate body.

102 45-12-214.

103 (a) The knowing failure of any official, officer, or employee to comply with an  
104 investigation made pursuant to this article or the knowing provision of false information  
105 during an investigation shall be cause for discipline, up to and including termination.

106 (b) No agency, officer, or official shall take action against an official, officer, or employee  
107 for disclosing or threatening to disclose the existence of any activity constituting waste,  
108 fraud, abuse, or corruption to the inspector general, unless the disclosure or threatened  
109 disclosure was made with knowledge that the disclosure was false or was made with willful  
110 disregard for its truth or falsity.

111 (c) Any report disclosed by the office pursuant to Code Section 50-18-70, et seq., or  
112 otherwise may differ from the complete written report in that the inspector general shall  
113 have the discretion to redact or otherwise protect the names of complainants and witnesses,  
114 or other facts that, if not redacted, might compromise the identity of a complainant or  
115 witness.

116 45-12-215.

117 (a) In performing any investigation authorized by this article, the inspector general shall  
118 be authorized to administer oaths, examine witnesses under oath, and issue any subpoenas  
119 necessary to compel the attendance of witnesses and the production of all books, records,  
120 papers, and tangible items that constitute or contain evidence which the inspector general  
121 finds reasonably relevant or material to the investigation.

122 (b)(1) Service of any subpoena issued under this article shall be made by any designated  
123 person.

124 (2)(A) Service upon a natural person may be made by personal delivery of the  
125 subpoena to that person.

126 (B) Subpoenas upon a natural person may also be served by registered or certified mail  
127 or statutory overnight delivery, and the return receipt shall constitute prima facie proof  
128 of service.

129 (C) Service upon a natural person may also be made by serving his or her counsel of  
130 record.

131 (3) Service may be made upon a domestic or foreign corporation by delivering the  
132 subpoena to an officer, to a managing or general agent, or to any other agent authorized  
133 by appointment or by law to receive service of process.

134 (4) A subpoena requiring the attendance of a witness may be served at any place within  
135 this state.

136 (c) In the case of a refusal to obey any issued subpoena, the inspector general or his or her  
137 designee may petition the superior court within any jurisdiction where the investigation is  
138 carried on, where the subpoenaed person resides, or where the subpoenaed person carries  
139 on business or may be found to compel compliance with the subpoena. Upon the filing of  
140 the petition, the court shall enter an order directing the person to appear before the court  
141 at a specified time and place and then and there show cause why he or she has not attended,  
142 answered questions under penalty of perjury, or produced the papers as required. If it

143 appears to the court that the subpoena was regularly issued by the inspector general, the  
144 court shall enter an order that the person appear before the person named in the subpoena  
145 at the time and place fixed in the order and answer questions under penalty of perjury or  
146 produce the required papers. Upon failure to obey the order, the person shall be subject to  
147 contempt of court. All process in any such case may be served at any place within this  
148 state. Nothing in this Code section limits or alters a person's existing rights or protections  
149 under state or federal law.

150 45-12-216.

151 (a) For the purposes of this article, the inspector general shall have the authority to employ  
152 peace officers.

153 (b) Persons employed full time or part time for the purpose of conducting potential  
154 criminal investigations under this article shall be certified peace officers and shall have all  
155 the powers of a certified peace officer of this state, including but not limited to the power  
156 to obtain, serve, and execute search warrants. Such Georgia certified peace officers shall  
157 be subject to the requirements of Chapter 8 of Title 35, the 'Georgia Peace Officer  
158 Standards and Training Act,' and are specifically required to complete the training required  
159 for peace officers by that chapter. Such certified peace officers shall be authorized, upon  
160 completion of the required training, with the written approval of the inspector general, and  
161 notwithstanding Code Sections 16-11-126 and 16-11-129, to carry firearms of a standard  
162 police issue when engaged in detecting, investigating, or preventing crimes under this  
163 article."

164 **SECTION 2.**

165 This Act shall become effective upon its approval by the Governor or upon its becoming law  
166 without such approval.

167

**SECTION 3.**

168 All laws and parts of laws in conflict with this Act are repealed.