

The Senate Committee on Government Oversight offered the following substitute to HB 960:

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:

14 (1) 'Abuse' means the intentional, wrongful, or improper use or destruction of state  
15 resources.

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 in the executive branch of state government who is  
21 employed by an agency, including agency heads, directors, and commissioners.

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 created by this article.

26 (8) 'Officer' means any person appointed to any agency, board, authority, bureau,  
27 commission, or council in the executive branch of state government.

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. The jurisdiction, authorization, powers, and duties granted to the office in

40 this article shall be in addition to, and not in contravention of, any and all jurisdiction,  
41 authorization, powers, and duties of the Attorney General or any other state or local law  
42 enforcement agency.

43 (b) The Governor shall appoint an inspector general subject to confirmation by the Senate.  
44 The initial appointment shall expire on June 30, 2022, and all subsequent appointments  
45 shall be for terms of six years, with the first such appointment beginning on July 1, 2022,  
46 and expiring on June 30, 2028. In the event of a vacancy for any reason except the  
47 expiration of the term of office, the Governor shall appoint a successor to serve the  
48 remainder of that term. The inspector general shall be eligible to serve one or more  
49 successive terms. The Governor shall have the authority to remove the inspector general  
50 from office for good cause after providing to the inspector general written notice. Removal  
51 of the inspector general shall be effective upon the date upon which such notice is signed  
52 by the Governor or, at the election of the Governor, upon any subsequent date specified in  
53 the notice.

54 (c) The inspector general shall have jurisdiction over any official, officer, employee,  
55 department, division, bureau, board, commission, or agency in the executive branch of state  
56 government.

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

61 45-12-212.

62 The inspector general shall have the following duties:

63 (1) Receive and investigate complaints from any source alleging fraud, waste, abuse, or  
64 corruption that has been committed or is being committed against an agency of the state;

- 65 (2) Investigate acts that may constitute violations of Articles 1 and 2 of Chapter 10 of  
66 Title 16 committed by officers, officials, or employees of agencies;
- 67 (3) Investigate acts that may constitute violations of Chapter 10 of Title 45 committed  
68 by officers, officials, or employees of agencies;
- 69 (4) Investigate retaliation claims regarding officers, officials, or employees of agencies  
70 submitted pursuant to subsection (e) of Code Section 45-1-4;
- 71 (5) Report suspected acts of fraud, waste, abuse, or corruption against or within an  
72 agency to the Governor and, as appropriate, other state or federal entities with jurisdiction  
73 over the matter;
- 74 (6) Upon conclusion of an investigation that results in a finding of fraud, waste, abuse,  
75 or corruption, issue a report or letter to the office of the Governor as requested and,  
76 subject to the provisions of subsection (c) of Code Section 45-12-214, release to the  
77 public any such report unless the public release of such report would compromise a  
78 pending criminal investigation known to the inspector general or otherwise be exempt  
79 from disclosure pursuant to Code Section 50-18-72;
- 80 (7) Instruct and educate agencies on the detection and prevention of fraud, waste, abuse,  
81 and corruption; conduct evaluations and audits of relevant agency policies and procedures  
82 implicated by any investigation; and create a remedial action plan to prevent recurrences  
83 of fraud, waste, abuse, and corruption;
- 84 (8) Close an investigation when he or she concludes there is insufficient evidence that  
85 a violation has occurred. Closure by the inspector general shall not bar him or her from  
86 reopening the investigation if circumstances warrant;
- 87 (9) Act as a liaison with outside agencies and agencies of the government of the United  
88 States to promote accountability, integrity, and efficiency in state government;
- 89 (10) Act as a liaison and monitor the activities of internal affairs units, inspectors  
90 general, and offices of professional standards within agencies; provided, however, that

91 the inspector general shall not have supervisory authority over any such units, inspectors  
92 general, or offices;

93 (11) Conduct special investigations and management reviews of agencies at the request  
94 of the Governor; and

95 (12) Other duties assigned by the Governor that are consistent with this article and that  
96 involve or concern the management, operation, or personnel of agencies.

97 45-12-213.

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

99 (b) In any agency where fraud, waste, abuse, or corruption is detected, the agency shall  
100 take remedial steps to prevent recurrences of similar conduct, including the implementation  
101 of the remedial action plan described in paragraph (7) of Code Section 45-12-212.

102 (c) With the Governor's approval, the inspector general shall have access to all records  
103 available to the Governor pursuant to Article V, Section II, Paragraph X of the Constitution  
104 of Georgia.

105 (d) The inspector general shall be authorized to enter upon the premises of any agency at  
106 any time, without prior announcement, if necessary for the successful completion of an  
107 investigation. In the course of an investigation, the inspector general shall be authorized  
108 to question any official, officer, or employee serving in the agency and may inspect and  
109 copy any books, records, or papers in the possession of the agency, taking care to preserve  
110 the confidentiality of information contained in responses to questions or the books, records,  
111 or papers that are made confidential by law.

112 45-12-214.

113 (a) The knowing failure of any official, officer, or employee to comply with an  
114 investigation made pursuant to this article or the knowing provision of false information  
115 during an investigation may be cause for discipline, up to and including termination by the

116 agency, so long as such official, officer, or employee is subject to termination or other  
117 discipline by such agency.

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

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

128 45-12-215.

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

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

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

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

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

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

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

148 (c) In the case of a refusal to obey any issued subpoena, the inspector general or his or her  
149 designee may request that the Attorney General petition the superior court within any  
150 jurisdiction where the investigation is carried on, where the subpoenaed person resides, or  
151 where the subpoenaed person carries on business or may be found to compel compliance  
152 with the subpoena. Upon the filing of the petition, the court shall enter an order directing  
153 the person to appear before the court at a specified time and place and then and there show  
154 cause why he or she has not attended, answered questions under penalty of perjury, or  
155 produced the requested items as required. If it appears to the court that the subpoena was  
156 regularly issued by the inspector general, the court shall enter an order that the person  
157 named in the subpoena appear at the time and place fixed in the order and answer questions  
158 under penalty of perjury or produce the requested items as required. Upon failure to obey  
159 the order, the person shall be subject to contempt of court. All process in any such case  
160 may be served at any place within this state. Nothing in this Code section limits or alters  
161 a person's existing rights or protections under state or federal law."

162 **SECTION 2.**

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

165

**SECTION 3.**

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