

House Bill 736

By: Representatives Barr of the 103rd, Watson of the 172nd, Hill of the 3rd, Smith of the 70th,
Wiedower of the 119th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to
2 public officers and employees, so as to establish the Office of State Inspector General; to
3 provide for definitions; to provide for duties; to provide certain powers; to provide
4 procedures for the application of the duties and powers of such office; to provide a duty to
5 report certain actions; to provide for related matters; 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 public officers
10 and employees, 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, 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, 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 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 State 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 State Inspector General, whose 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 shall serve at the pleasure of the
41 Governor.

42 (c) The inspector general shall have jurisdiction over all officials, officers, and employees
43 of agencies, as well as other persons doing business with agencies or receiving state funds
44 or state administered funds.

45 45-12-212.

46 The inspector general shall have the following duties:

47 (1) Investigate fraud, waste, abuse, and corruption in agencies;

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

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

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

54 (5) Receive and investigate complaints alleging fraud, waste, abuse, or corruption that
55 have been committed or are being committed against an agency or the state;

56 (6) Report suspected acts of fraud, waste, abuse, or corruption against or within an
57 agency to the Governor and, as appropriate, other state or federal entities with jurisdiction
58 over the matter;

59 (7) Upon conclusion of an investigation, issue a report or letter to the office of the
60 Governor;

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

64 (9) After detecting fraud, waste, abuse, or corruption, evaluate relevant policies and
65 procedures, and he or she may require the agency to adopt changes that prevent
66 recurrences of similar acts of fraud, waste, abuse, and corruption;

67 (10) Advise and consult with agencies on the detection and prevention of fraud, waste,
68 abuse, and corruption;

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

71 (12) Oversee the activities of inspectors general, internal affairs units, and offices of
72 professional standards within agencies;

73 (13) Conduct special investigations and management reviews at the request of the
74 Governor; and

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

76 45-12-213.

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

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

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

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

92 45-12-214.

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

96 (b) No agency, officer, or official shall take action against an official, officer, or employee
97 for disclosing or threatening to disclose the existence of any activity constituting waste,
98 fraud, abuse, and corruption to the inspector general, unless the disclosure or threatened
99 disclosure was made with knowledge that the disclosure was knowingly false or was made
100 with willful disregard for its truth or falsity.

101 45-12-215.

102 (a) In performing any investigation authorized by this article, the inspector general shall
103 be authorized to administer oaths, examine witnesses under oath, and issue any subpoenas
104 necessary to compel the attendance of witnesses and the production of all books, records,
105 papers, and tangible items.

106 (b) A person duly subpoenaed for testimony, documents, and other items who neglects or
107 refuses to testify or produce documents or other items under the requirements of the
108 subpoena shall be subject to punishment as may be determined by a court of competent
109 jurisdiction. Nothing in this Code section limits or alters a person's existing rights or
110 protections under state or federal law.

111 45-12-216.

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

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

125 **SECTION 2.**

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