

House Bill 960 (COMMITTEE SUBSTITUTE)

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:

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

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

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

60 45-12-212.

61 The inspector general shall have the following duties:

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

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

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

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

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

96 45-12-213.

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

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

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

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

111 45-12-214.

112 (a) The knowing failure of any official, officer, or employee to comply with an  
113 investigation made pursuant to this article or the knowing provision of false information  
114 during an investigation may be cause for discipline, up to and including termination by the  
115 agency, so long as such official, officer, or employee is subject to termination or other  
116 discipline by such agency.

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

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

127 45-12-215.

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

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

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

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

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

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

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

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

161 45-12-216.

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

164 (b) Persons employed full time or part time for the purpose of conducting potential  
165 criminal investigations under this article shall be certified peace officers and shall have all  
166 the powers of a certified peace officer of this state, including but not limited to the power  
167 to obtain, serve, and execute search warrants. Such Georgia certified peace officers shall

168 be subject to the requirements of Chapter 8 of Title 35, the 'Georgia Peace Officer  
169 Standards and Training Act,' and are specifically required to complete the training required  
170 for peace officers by that chapter. Such certified peace officers shall be authorized, upon  
171 completion of the required training, with the written approval of the inspector general, and  
172 notwithstanding Code Sections 16-11-126 and 16-11-129, to carry firearms of a standard  
173 police issue when engaged in detecting, investigating, or preventing crimes under this  
174 article."

175 **SECTION 2.**

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

178 **SECTION 3.**

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