

ACT No. 12

HOUSE BILL NO. 56

BY REPRESENTATIVES TUCKER, BALDONE, BILLIOT, TIM BURNS, DOERGE, DOVE, GALLOT, HENRY, HINES, LABRUZZO, LIGI, NOWLIN, PEARSON, PETERSON, RICHARD, SCHRODER, SMILEY, JANE SMITH, AND WILLIAMS AND SENATORS GRAY, LAFLEUR, NEVERS, SCALISE, AND WALSWORTH

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AN ACT

To amend and reenact R.S. 44:4.1(B)(31) and to enact R.S. 36:4(I) and Part VI of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:220.21 through 220.25, relative to the creation of the office of the state inspector general; to provide for the appointment, term of office, removal, powers, duties, and functions of the inspector general; to provide for the procedure for the appointment of the inspector general; to provide for staffing and funding of the office; to provide for the assistance and cooperation of entities in the executive branch of state government and other covered entities; to provide for the confidentiality of certain records; to provide for referral of the results of investigations of criminal matters to the appropriate authorities for prosecution; to provide for reports by the inspector general; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:4(I) is hereby enacted to read as follows:

§4. Structure of executive branch of state government

* * *

I. The office of the state inspector general, as more specifically provided in R.S. 49:220.21 through 220.25, shall be placed within the office of the governor.

* * *

Section 2. R.S. 44:4.1(B)(31) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

1 D. The attorney general or his designee shall be responsible for the legal
 2 representation of the office.

3 §220.23. State inspector general; appointment; term; vacancy; compensation;
 4 removal

5 A.(1) There shall be a state inspector general, hereinafter referred to as the
 6 "inspector general", who shall be appointed by the governor with the consent of the
 7 Senate. No person appointed inspector general shall hold or be a candidate for any
 8 elective office, including elective political party office, or any other public office or
 9 political party office. No person shall be appointed inspector general who has held
 10 any elective office or political party office within two years immediately preceding
 11 his appointment. No former inspector general shall be eligible to become a qualified
 12 candidate for any elective office, including elective political party office, nor shall
 13 he assume any elective office or political party office within four years after the
 14 termination of his service as inspector general.

15 (2) If a vacancy exists in the office of the state inspector general for more
 16 than six months, then the holder of the next highest level administrative position in
 17 the office shall become the inspector general, subject to confirmation by the Senate.

18 (3) Not later than one year from the date of appointment, if not already
 19 certified, the inspector general shall obtain certification as a Certified Inspector
 20 General from the Association of Inspectors General.

21 B. The inspector general shall serve a six-year term.

22 C. The salary of the inspector general shall be fixed by the governor, which
 23 amount shall not exceed the amount approved for such position by the legislature
 24 while in session. The salary of the inspector general may not be reduced by the
 25 governor or the legislature during his term of office.

26 D.(1) Notwithstanding the provisions of Subsection B of this Section, the
 27 inspector general may be removed by the governor provided such removal is
 28 approved by a majority vote of each house of the legislature.

29 (2) In order to obtain the consent of a majority of the elected members of
 30 each house of the legislature, the clerk of the House of Representatives and the

1 secretary of the Senate shall prepare and transmit a ballot to each member of the
2 legislature by certified mail with return receipt requested, unless it is determined that
3 the legislature will be in session in time for the ballots to be distributed to them and
4 returned by them during the session. The ballot shall be uniform and include
5 pertinent information as the clerk and secretary shall determine.

6 §220.24. Authority; duties; powers; standards; functions

7 A. The inspector general shall serve as the executive head and chief
8 administrative officer of the office and shall have responsibility for the policies of
9 the office, except as otherwise provided by this Part, and for the administration,
10 control, and operation of the functions and affairs of the office.

11 B. The inspector general is authorized to examine and investigate the
12 management and affairs of the covered agencies concerning waste, inefficiencies,
13 mismanagement, misconduct, abuse, fraud, and corruption, and he may conduct all
14 necessary investigations into such areas, including but not limited to:

15 (1) Misuse of state-owned automobiles, planes, watercraft, and all other
16 movable and immovable property.

17 (2) Evidence of a pattern of excessive bills on state contracts.

18 (3) Unauthorized use of leave.

19 (4) Mismanagement of governmental operations.

20 (5) Waste or abuse of things of value belonging to or used by the covered
21 agencies.

22 (6) Construction, operation, and maintenance of facilities.

23 C.(1) The inspector general shall help prevent waste, inefficiency,
24 mismanagement, misconduct, abuse, fraud, and corruption in covered agencies by
25 periodically reviewing policies and procedures and monitoring operations and
26 making recommendations for improvement.

27 (2) The inspector general shall receive complaints of waste, inefficiency,
28 mismanagement, misconduct, abuse, fraud, or corruption in covered agencies and
29 determine whether they warrant investigation by the inspector general or by
30 appropriate federal, state, or local agencies or may conduct such investigations upon

1 his own initiative. In order to accomplish this, the office of the inspector general
2 shall maintain a toll-free fraud hotline number and web site for anonymous reporting.

3 (3) The inspector general shall investigate complaints of waste,
4 inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption and, when
5 appropriate, recommend whether disciplinary action or further investigation by
6 appropriate federal, state, or local agencies is warranted and take further action as
7 appropriate.

8 (4) The inspector general shall report complaints of fraud, abuse, or
9 corruption to such federal, state, or local agencies when there is evidence of what
10 may be criminal activity and when otherwise appropriate and shall otherwise
11 cooperate with such agencies in any further action.

12 (5) The inspector general shall make reports of his findings to the governor.
13 Such reports shall be subject to the provisions of R.S. 44:1 et seq.

14 (6) The inspector general shall submit an annual report to the governor and
15 the Joint Legislative Committee on the Budget at the end of each fiscal year that
16 describes the accomplishments and contributions made by the office toward
17 achieving the mission of helping to prevent and detect waste, fraud, and abuse in
18 Louisiana government. Upon completion, all final reports of the inspector general
19 immediately shall be filed with the Joint Legislative Committee on the Budget and
20 shall include the response of the agency, if any. All such reports shall be provided
21 to the staff of the governor's office and the Joint Legislative Committee on the
22 Budget upon request.

23 D. The inspector general shall provide for an opportunity for agency
24 response prior to the release of a report unless the inspector general, in conjunction
25 with a United States attorney, the state attorney general, district attorneys, or other
26 prosecutorial agencies, determines that supplying the affected person or entity with
27 such report will jeopardize a pending or potential criminal investigation.

28 E. All officers and employees of covered agencies shall extend full
29 cooperation and all reasonable assistance to the inspector general.

1 F.(1) In the performance of his duties, the inspector general and any member
2 of his staff designated by him may seek and obtain sworn testimony from any person
3 using the same procedure as is provided for taking depositions provided for in
4 Article 1443 in the Code of Civil Procedure.

5 (2) In the performance of his duties, the inspector general or any member of
6 his staff designated by him may compel the attendance of witnesses to be deposed
7 under oath or the production of public and private records by issuing a subpoena.
8 However, such a subpoena or subpoena duces tecum shall be issued only upon
9 approval of a judge of the district court of the parish in which the office of inspector
10 general is domiciled upon application in writing by the inspector general. The judge
11 shall issue a written decision within seventy-two hours after receipt of such
12 application. Any subpoena for production of private records shall be in compliance
13 with all applicable constitutionally established rights and processes. The subpoena
14 may be served by certified mail, return receipt requested, at the addressee's residence
15 or business address, or by representatives appointed by the inspector general, or may
16 be directed for service to the office of the state police. If a person refuses to obey a
17 subpoena issued by the inspector general, upon application by the inspector general,
18 the district court of the parish in which the office of inspector general is domiciled
19 may issue an order to the person requiring the person to appear before the court to
20 show cause why an order shall not be issued ordering such person to obey the
21 subpoena, and the person may be adjudged in contempt of court.

22 (3) The inspector general shall have access to all records, information, data,
23 reports, plans, projections, matters, contracts, memoranda, correspondence, and any
24 other materials of a covered agency and shall be deemed to be an authorized
25 representative and agent of each covered agency for the purposes of:

26 (a) Examining and investigating the records of all contractors,
27 subcontractors, grantees, or subgrantees of covered agencies, which records relate
28 to contracts, subcontracts, grants, or subgrants with a covered agency.

29 (b) Obtaining access to any records of a covered agency in the possession of
30 a third party, including but not limited to bank account records.

1 G. The inspector general and employees of the inspector general shall carry
 2 identifying cards.

3 H. The office of the state inspector general shall adhere to professional
 4 standards for initiating and conducting audits, investigations, inspections, and
 5 reviews such as those promulgated by the Association of Inspectors General. The
 6 office shall develop an operations manual that contains such standards and shall
 7 make it available to the public.

8 I. The inspector general shall engage in prevention activities, including but
 9 not limited to reviewing legislation, rules, regulations, policies, procedures, and
 10 transactions; providing for training and education; and making recommendations to
 11 the governor and the legislature to strengthen public integrity laws.

12 J. Upon credible information of corruption or fraud, the office of the state
 13 inspector general shall notify the appropriate law enforcement agencies. Subsequent
 14 to notifying the appropriate law enforcement agency, the inspector general may assist
 15 the law enforcement agency in conducting the investigation. Upon detecting a
 16 violation of one of the provisions of the Code of Governmental Ethics, the office of
 17 the state inspector general may file a complaint with the Board of Ethics.

18 K. The office of the state inspector general may conduct joint investigations
 19 and projects with other oversight or law enforcement agencies.

20 L. The inspector general shall do all things necessary to carry out the
 21 functions set forth in this Part.

22 §220.25. Confidentiality of certain records

23 Except for the reports of investigations released as provided in R.S.
 24 49:220.24, the records prepared or obtained by the inspector general in connection
 25 with investigations conducted by the inspector general shall be deemed confidential
 26 and protected from disclosure pursuant to R.S. 44:3 and 44:5. No privilege
 27 established by law shall be deemed waived on any record obtained by the inspector
 28 general in connection with the performance of the duties established in this Part.
 29 Any record or information obtained by the inspector general which is confidential
 30 pursuant to any other provision of law shall remain confidential, and it shall be a

1 misdemeanor punishable by a fine of not more than two thousand dollars or
 2 imprisonment for not more than one year, or both, for the inspector general or any
 3 of his employees to make public any such information or record.

4 Section 4. The books, papers, records, monies, and other property possessed,
 5 controlled, or used by the office of the inspector general which was created prior to the
 6 effective date of this Act initially by executive order and continued thereafter shall continue
 7 to be possessed, controlled, and used by the office of the inspector general created in this
 8 Act. The employees of the office of the inspector general which was created initially by
 9 executive order and continued thereafter prior to the effective date of this Act shall, to the
 10 extent required and in accordance with applicable civil service laws, continue to be
 11 employees of the office of the inspector general created by this Act and continue to perform
 12 the functions they performed prior to the effective date of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____