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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- INSPECTOR GENERAL

Introduced By: Senators Raptakis, F. Lombardi, Burke, de la Cruz, Rogers, DeLuca, Paolino, E Morgan, and Felag

Date Introduced: February 12, 2024

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 9.4

4 INSPECTOR GENERAL

5 **42-9.4-1. Purpose.**

6 The office of inspector general shall be an independent administrative agency charged with
7 the purpose of preventing and detecting fraud, waste, abuse and mismanagement in the expenditure
8 of public funds, whether federal, state, or local, and relating to any and all state programs and
9 operations as well as the procurement of any supplies, services, or construction, by agencies,
10 bureaus, divisions, sections, departments, offices, commissions, institutions and activities of the
11 state of Rhode Island, including those districts, authorities, or political subdivisions created by the
12 general assembly, the governor, and any court, including any city and town within the state of
13 Rhode Island.

14 **42-9.4-2. Definitions.**

15 As used in this chapter, unless the context requires otherwise, the following words shall
16 have the following meanings:

17 (1) "Construction" means the process of building, altering, repairing, improving, or
18 demolishing any public structure or building, or other improvements of any kind to any public
19 property.

1 (2) "Contract" means all types of agreements, including grants and orders, for the purchase
2 or disposal of supplies, services, construction, or any other item. It includes: awards; contracts of a
3 fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of
4 job or task orders; leases; letter contracts; purchase orders; and construction management contracts.
5 It also includes supplemental agreements with respect to any of the foregoing.

6 (3) "Contractor" means any person, corporation, partnership, business, union, committee,
7 or other organization entity or group of individuals performing any tasks, or duties defined under a
8 written or oral contract with and for the state of Rhode Island.

9 (4) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining
10 of any supplies, services, or construction. It also includes all functions that pertain to the obtaining
11 of any supply, service, or construction item, including a description of requirements, selection and
12 solicitation of sources, preparation, and award of contract, and all phases of contract administration.

13 (5) "Public funds" means state, federal and local funds, either appropriated, non-
14 appropriated or given under right of grant.

15 (6) "Services" means the rendering, by a contractor, of its time and effort rather than the
16 furnishing of a specific end product, other than reports which are merely incidental to the required
17 performance of services.

18 (7) "Supplies" means all property, including, but not limited to, leases of real property,
19 printing, and insurance, except land or permanent interest in land.

20 **42-9.4-3. Establishment of office; Appointment and removal of inspector general.**

21 (a) There is hereby established an office of inspector general, hereinafter called (the
22 "office"). There shall be in the office an inspector general, who shall be the administrative head of
23 the office and who shall be appointed by a majority vote of the governor, the attorney general and
24 the general treasurer for a five (5) year term to begin July 1 and end June 30, five (5) years later.
25 The appointee shall serve one term only. The person so appointed shall be selected without regard
26 to political affiliation and with a demonstrated ability in accounting, auditing, financial analysis,
27 law, management analysis, public administration, investigation or criminal justice administration.

28 (b) The selection process of a qualified inspector general shall include at least one public
29 forum. If an inspector general is not selected within one month of a new inspector general term, the
30 governor shall appoint an inspector general. The inspector general shall have at least five (5) years
31 of experience in accounting, criminal justice, or a closely related profession and a bachelor's degree
32 from an accredited college or university with a major in accounting, criminal justice, or a closely
33 related field of study.

34 (c) No inspector general shall hold, or be a candidate for, any other elective or appointed

1 public office while an inspector general and for one year thereafter. No inspector general shall hold
2 a position in any political party or political committee, or participate in any political campaign of
3 any candidate for public office while an inspector general.

4 (d) In case of a vacancy in the position of inspector general, their successor shall be
5 appointed in the manner described above, and shall serve from their date of appointment until the
6 fifth June 30 following their appointment. If this vacancy is not filled within one month, then the
7 governor shall appoint an inspector general.

8 (e) The person so appointed may be removed from office for cause by a unanimous vote of
9 the governor, the lieutenant governor and the secretary of state. Such cause may include substantial
10 neglect of duty, gross misconduct or conviction of a crime whether or not it is work related. The
11 reasons for removal of the inspector general shall be stated in writing and shall include the basis
12 for such removal. Such writing shall be a public document. The inspector general shall have ten
13 (10) days to submit a written appeal, which shall be a public document. If no appeal is made, the
14 inspector general shall be dismissed from office. If an appeal is made, a vote shall be taken in the
15 senate. A two-thirds (2/3) vote of the senate shall be required to dismiss the inspector general.

16 **42-9.4-4. Employees; Appointment and removal, salaries, qualifications.**

17 (a) The inspector general may, subject to appropriation, appoint and remove such
18 employees as they deem necessary to perform the duties of the office, including, but not limited to,
19 assistant inspector generals, chief and deputy counsels, clerks, paralegals, accountants, auditors,
20 financial management analysts and investigators. The inspector general may determine their
21 salaries and duties; provided, however, that the total amount of all such salaries shall not exceed
22 the sum appropriated therefor by the general assembly.

23 (b) The inspector general shall file an annual personnel report not later than the first
24 Wednesday in February with the senate and house finance committees containing the job
25 classifications, duties and salary of each officer and employee within the department together with
26 personnel regulations applicable to said officers and employees. The inspector general shall file
27 amendments to such report with the senate and house finance committees whenever any change
28 becomes effective.

29 (c) No officer or employee of the office of inspector general shall hold, or be a candidate
30 for, any elective public office while an officer or employee, or for one year thereafter, nor shall
31 they hold a position in any political party or political committee, or participate in any political
32 campaign of any candidate for public office while an officer or employee.

33 **42-9.4-5. Inspector general; Salary and budget.**

34 The general assembly shall annually set the salary of the inspector general and set the total

1 budget for the office of the inspector general.

2 **42-9.4-6. Rules and regulations.**

3 The office shall, pursuant to the provisions of chapter 35 of title 42, (administrative
4 procedures act), promulgate rules and regulations which shall govern its proceedings.

5 **42-9.4-7. Duties.**

6 The inspector general shall supervise, coordinate and/or conduct audits, criminal, civil and
7 administrative investigations and inspections or oversight reviews, when necessary, relating to
8 programs and operations listed in § 42-9.4-1. The inspector general shall review statutes and
9 regulations relating to programs and operations listed in § 42-9.4-1 and shall determine if public
10 bodies listed in § 42-9.4-1 are in compliance and shall make recommendations concerning the effect
11 of such statutes or regulations on the prevention and detection of fraud, waste and abuse. The
12 inspector general may recommend policies that will assist in the prevention or detection of fraud,
13 waste and abuse and mismanagement. The person in charge of, or the governing body of any public
14 body listed in § 42-9.4-1, may request the assistance of the office of inspector general with respect
15 to implementation of any reviews, audits, and/or investigations as deemed appropriate and
16 implement suggested policy or procedure changes. In such events the inspector general may assign
17 personnel to conduct, supervise, or coordinate such activity as deemed necessary and appropriate
18 to perform their duties in a diligent and prudent manner. The inspector general may recommend
19 policies for the conduct, supervision or coordination of relationship, between state and local
20 governmental agencies as well as federal governmental agencies and nongovernmental entities with
21 respect to all matters relating to the prevention and detection of fraud, waste, abuse and
22 mismanagement in or relating to any and all programs and activities of the state of Rhode Island as
23 listed in § 42-9.4-1.

24 **42-9.4-8. Inspection of records and papers; Investigations; Subpoenas.**

25 (a) The inspector general, in carrying out the duties outlined in this chapter, shall have
26 access to all records, reports, audits, reviews, papers, books, documents, recommendations,
27 correspondence, including information relative to the purchase of services or anticipated purchase
28 of services from any contractor by any public body listed in § 42-9.4-1, and any other data and
29 material that is maintained by or available to any public body regardless of the media in which it is
30 maintained which is in any way related to the programs and operations with respect to the state of
31 Rhode Island, including any local town, municipality or city.

32 (b) The inspector general may request information, cooperation and assistance from any
33 state, or local governmental agency as may be necessary for carrying out their duties and
34 responsibilities. Upon receipt of such request, each person in charge of, or the governing body of

1 any public body listed in § 42-9.4-1, shall furnish to the inspector general or their authorized agent
2 or representative such information, cooperation and assistance, including information relative to
3 the purchase of services or anticipated purchase of services from any contractor by any public body
4 within ten (10) business days of receipt of the inspector general's request. If the request for the
5 information requested cannot be complied within the ten (10) business days, the senior official of
6 the governmental agency shall notify the inspector general before the expiration of the ten (10)
7 business days as to the reason that the request cannot be complied with in the time frame of this
8 section and shall provide a specific date for expected compliance.

9 (c) The inspector general may initiate and conduct investigations, audits and compliance
10 reviews and shall prepare detailed reports relating to findings and conclusions concerning the
11 administration of the programs and operations of the applicable public bodies listed in § 42-9.4-1,
12 as are in the judgment of the inspector general necessary and may conduct an examination of any
13 public documents.

14 (d) The inspector general shall have direct and prompt access to the head of any public
15 body listed in § 42-9.4-1 when necessary for any purpose pertaining to the performance of their
16 duties and responsibilities under this chapter.

17 (e) The inspector general may request the production, on a voluntary basis, of testimony or
18 documents from any individual, firm or nongovernmental entity which relate to actions or matters
19 that pertain to state, municipal or local governmental agencies as dictated by their duties and
20 responsibilities.

21 (f)(1) The inspector general may issue a subpoena for the production of all records, reports,
22 audits, reviews, papers, books, documents, recommendations, correspondence and any other data
23 and material relevant to any matter under audit or investigation pursuant to the provisions of this
24 chapter, no matter in which media the information is maintained.

25 (2) A subpoena may be issued only when a person, corporation or other entity under
26 investigation or being audited refuses to voluntarily comply with a request from the inspector
27 general.

28 (3) Such subpoena shall be served in the same manner as a subpoena for the production of
29 documents in civil cases issued on behalf of the state of Rhode Island, and all provisions of law
30 relative to said subpoena shall apply to a subpoena issued pursuant to this chapter. Any justice of
31 the superior court may, upon application by the inspector general, issue an order to compel the
32 production of records, reports, audits, reviews, papers, books, documents, recommendations,
33 correspondence and any other data and material as aforesaid in the same manner and to the same
34 extent as before said superior court. Any failure to obey such order may be punished by the superior

1 court as a contempt of court.

2 (4) Any subpoena issued pursuant to this section, shall not be made public by the inspector
3 general or any officer or employee of that department, nor shall any documents or records provided
4 pursuant to this section be made public until such time as it is necessary for the inspector general
5 to do so in the performance of their official duties. The production of such documents or records
6 pursuant to subpoena shall be governed by the same provisions with reference to secrecy, which
7 govern the proceedings of a grand jury. Disclosure of such production, attendance, and testimony
8 may be made to such members of the staff of the office of the inspector general as is deemed
9 necessary in the performance of the inspector general's duties and responsibilities under this chapter
10 and such members of the staff may be present at the production of records.

11 **42-9.4-9. Subpoena for witness testimony and for release of material evidence.**

12 (a) Whenever the inspector general has reason to believe that a person has information or
13 evidence in their possession with respect to any matter which is within the inspector general's
14 jurisdiction to investigate, they may issue a subpoena for the attendance and testimony under oath
15 of any person as designated, or the surrender of identified item(s) of evidence; provided, however,
16 that such subpoena may be issued by the inspector general only in the performance of official duties
17 relating to the detection of fraud, waste, abuse and mismanagement. The subpoena for testimony
18 or specific items identified as needed in support of an investigation shall include: the name and
19 address of the prospective witness or specific items identified as needed for the investigation and
20 the reasons for requesting a subpoena for testimony or production of items deemed necessary to
21 support the investigation.

22 (b) The inspector general or anyone duly authorized by law shall serve such subpoena.
23 Once the subpoena is served, the serving officer shall annotate the time and date served, the person
24 served and the location of service.

25 (c) A witness required by subpoena to attend and testify under oath and/or produce books
26 and records or other items as demanded, shall be given not less than forty-eight (48) hour notice of
27 the time and place for the taking of testimony or delivery of subpoenaed items, unless such notice
28 shall unduly interfere with the conduct of the investigation.

29 Such witness, at the time of service of a subpoena, shall be notified of the matter under
30 investigation concerning which such witness will be required to testify. A subject of an
31 investigation is a person whose conduct is within the scope of the investigation and is suspected of
32 committing or being party to an offense under investigation. The failure to furnish such witness
33 with any notice or information required to be given by this section shall cause the issued subpoena
34 to be invalid.

1 (d) A person subpoenaed to testify under oath shall appear and testify under oath at the
2 time and place designated on the subpoena. In addition, the witness shall be notified that they have
3 a right to consult with and to have an attorney present at the time the testimony is taken and that
4 they have a constitutional right not to furnish or produce evidence that may tend to incriminate
5 them.

6 (e) The terms of any such subpoena shall be reasonable and focused on specific testimony
7 or evidence sought and shall directly relate to the matters under investigation. A subpoena issued
8 that is broad in nature is not considered valid. No subpoena may be issued for purposes of
9 harassment or for any illegitimate or improper purpose. All constitutional and statutory rights and
10 privileges which exist with respect to any subpoena issued by the inspector general, including the
11 privilege against self-incrimination, shall have the same force and effect with any and all existing
12 laws and constitutional rights.

13 (f) A subpoenaed person may object to the subpoena served upon them in advance of the
14 return date of the subpoena by a motion to quash filed in the superior court of the state of Rhode
15 Island. The filing of a motion to quash shall stay all pending subpoenas until further order of the
16 superior court. Any justice of the superior court may, upon application by the inspector general,
17 issue an order to compel the attendance of witnesses subpoenaed as aforesaid and the giving of
18 testimony under oath in furtherance of any audit or investigation under this chapter in the same
19 manner and to the same extent as before the superior court. Failure to obey any order of the court
20 with respect to a subpoena may be punished by said court as contempt.

21 (g) Any subpoena issued pursuant to this section shall not be made public by the inspector
22 general or any persons subject to their direction or by any member of the inspector general's office
23 designated to hear testimony under this section, and the same provisions with reference to secrecy,
24 which govern grand jury proceedings, shall govern testimony given. Whoever violates the
25 provisions of this subsection shall be punished by imprisonment for not more than six (6) months
26 in a jail or house of correction or by a fine of not more than one thousand dollars (\$1,000).
27 Disclosure of such testimony may be made to such members of the staff of the office of inspector
28 general as is deemed necessary by the inspector general to assist in the performance of the office's
29 duties and responsibilities and such members of the staff may be present at the taking of such
30 testimony.

31 **42-9.4-10. Compact -- Investigation.**

32 (a) The inspector general shall accept and may investigate or audit complaints or
33 information from any individual concerning the possible existence of any activity constituting
34 fraud, waste, abuse and mismanagement relating to programs and operations as listed in § 42-9.4-

1 1.

2 (b) The inspector general shall not, after receipt of a complaint or information from an
3 employee who requests confidentiality, disclose the identity of the employee without the written
4 consent of said employee, unless the inspector general determines such disclosure is necessary and
5 unavoidable during the course of an investigation. In such event, the employee shall be notified
6 immediately of such disclosure.

7 (c) Employees are protected under the "Rhode Island whistleblowers' protection act,"
8 chapter 50 of title 28.

9 **42-9.4-11. Reports to the attorney general or United States attorney.**

10 (a) In carrying out their duties and responsibilities, the inspector general shall report to the
11 attorney general, the United States attorney or both whenever the inspector general has reasonable
12 grounds to believe there has been a violation of federal or state criminal law. The attorney general
13 shall institute appropriate proceedings in the furtherance of completing an investigation and, if
14 warranted, to refer a matter for prosecution.

15 (b) The inspector general shall refer audit or investigative findings to the state ethics
16 commission, or to any other federal, state or local agency, which has an interest in said findings.

17 (c) Any referrals made under this section shall not be made public.

18 **42-9.4-12. Civil actions.**

19 The inspector general shall have the authority to institute a civil recovery action if
20 authorized by the attorney general. In any case where the inspector general has discovered
21 fraudulent acts and believes that civil recovery proceedings may be appropriate, the inspector
22 general shall refer the matter to the attorney general. The attorney general may institute whatever
23 proceedings they deem appropriate, may refer the matter to another state or local agency, may
24 authorize the initiation of appropriate civil proceedings by the inspector general, may retain the
25 matter for further investigation, or may remand the matter to the inspector general for further
26 investigation.

27 **42-9.4-13. Annual and interim reports.**

28 (a) The office of inspector general shall, no later than April 1 of each year, prepare a report
29 summarizing the activities of the office of inspector general for the prior calendar year. The office
30 of inspector general may also prepare interim reports. These reports shall be forwarded to the
31 governor, lieutenant governor, attorney general, secretary of state, general treasurer and the general
32 assembly and shall be made available to the public.

33 (b) The report shall include, but not be limited to: a description of significant problems in
34 the areas of fraud, waste and abuse within programs and operations within the jurisdiction of the

1 office; a description of the recommendations for corrective action made by the office during the
2 reporting period with respect to significant deficiencies in the areas of fraud, waste and abuse; the
3 identification of each significant recommendation described in previous annual reports on which
4 corrective action has not been completed; a summary of matters referred to prosecuting authorities
5 and the prosecutions and convictions which have resulted; a summary of any matters concerning
6 the recovery of monies as a result of a civil suit by the office of inspector general or a referral to
7 another agency for the purposes of such suit; a list of all audit reports completed by the office
8 during the reporting period and a statement of recommendations of amendments to this chapter or
9 the rules, regulations or procedures governing the office of inspector general which would improve
10 the effectiveness or the operation of the office.

11 (c) The head or governing body of each public body may, within sixty (60) days of receipt,
12 comment upon any references to such public body contained within the report. Such comment, if
13 any, shall be forwarded to the governor, the attorney general, the general assembly and the office
14 of inspector general.

15 (d) The report of the inspector general shall be made public on the day of filing; provided,
16 that the report shall not list the names of individuals or corporations, nor describe them with
17 sufficient particularity as to readily identify them to the general public in those cases in which no
18 official disposition has been made by the office of inspector general, the office of attorney general
19 or the local office of the U.S. Attorney.

20 **42-9.4-14. Confidentiality of records.**

21 (a) All records of the office of inspector general shall be confidential and shall not be public
22 records, unless it is necessary for the inspector general to make such records public in the
23 performance of their duties.

24 (b) Violation of the provisions of the confidentiality of proceedings by the inspector general
25 or any member of the staff, or by any member of the inspector general's office, shall be punished
26 by imprisonment in a jail or house of correction for not more than six (6) months or by a fine of not
27 more than one thousand dollars (\$1,000).

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- INSPECTOR GENERAL

1 This act would establish an office of inspector general as an independent administrative
2 agency charged with preventing and detecting fraud, waste and abuse, and mismanagement in the
3 expenditure of public funds, regardless of whether funds are from the state, federal or local
4 governments. The inspector general would oversee all state programs and operations as well as the
5 procurement of supplies by state agencies.

6 This act would take effect upon passage.

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