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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ESTABLISHING AN OFFICE OF
INSPECTOR GENERAL

Introduced By: Representatives Barros, Shanley, Maldonado, Blazejewski, and Hearn

Date Introduced: February 15, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is
2 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
7 with the purpose of preventing and detecting fraud, waste, abuse and mismanagement in the
8 expenditure of public funds, whether federal, state, or local, and relating to any and all state
9 programs and operations (including the review of legislation, regulations and licensing and
10 permitting procedures) as well as the procurement of any supplies, services, or construction, by
11 agencies, bureaus, divisions, sections, departments, offices, commissions, institutions and
12 activities of the state of Rhode Island, including those districts, authorities, or political
13 subdivisions created by the general assembly, the governor, and any court, including any city and
14 town within the state of Rhode Island. Investigations may include the expenditures by
15 nongovernmental agencies of federal, state and local public funds.

16 **42-9.4-2. Definitions.**

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

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

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

10 (3) "Contractor" means any person, corporation, partnership, business, union, committee,
11 or other organization entity or group of individuals performing any tasks, or duties defined under
12 a written or oral contract with and for the state of Rhode Island or the joint committee on
13 legislative services.

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

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

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

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

26 **42-9.4-3. Establishment of office -- Appointment and removal of inspector general.**

27 There is hereby established an office of inspector general, hereinafter "the office". There
28 shall be in the office an inspector general, who shall be the administrative head of the office and
29 who shall be appointed by the speaker of the house of representatives and confirmed by the senate
30 for a five (5) year term to begin July 1 and end June 30, five (5) years later. The appointee shall
31 serve two (2) consecutive terms only. The person so appointed shall be selected without regard to
32 political affiliation and with a demonstrated ability in more than one of the following areas:
33 accounting, auditing, financial analysis, law, management analysis, public administration,
34 investigation and criminal justice administration.

1 The selection process of a qualified inspector general shall include at least one public
2 forum. The inspector general shall have at least five (5) years' experience in accounting, criminal
3 justice, or a closely related profession and a bachelor's degree from an accredited college or
4 university with a major in accounting, criminal justice, or a closely related field of study.

5 No inspector general shall hold, or be a candidate for, any other elective or appointed
6 public office while inspector general. No inspector general shall hold a position in any political
7 party or political committee, or participate in any political campaign of any candidate for public
8 office while an inspector general.

9 In case of a vacancy in the position of inspector general, their successor shall be
10 appointed in the manner described herein, and shall serve from their date of appointment until the
11 fifth June 30 following their appointment.

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

20 **42-9.4-4. Employees -- Appointment and removal, salaries, qualifications.**

21 The inspector general may appoint and remove such employees as they deem necessary
22 to perform the duties of the office, including, but not limited to: assistant inspectors general, chief
23 and deputy counsels, clerks, paralegals, accountants, auditors, financial management analysts and
24 investigators. The inspector general may determine their salaries and duties; provided, however,
25 that the total amount of all such salaries shall not exceed the sum appropriated therefor by the
26 general assembly.

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

33 No officer or employee of the office of inspector general shall hold, or be a candidate for,
34 any elective public office while an officer or employee, nor shall they hold a position in any

1 political party or political committee, or participate in any political campaign of any candidate for
2 public office while an officer or employee.

3 **42-9.4-5. Inspector general -- Salary and budget.**

4 The general assembly shall annually set the salary of the inspector general and shall
5 appropriate sufficient funds for the total budget for the office of the inspector general.

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

7 The office shall, pursuant to the provisions of chapter 35 of title 42, "Administrative
8 Procedures," promulgate rules and regulations which shall govern its proceedings.

9 **42-9.4-7. Duties.**

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

30 **42-9.4-8. Inspection of records and papers –Investigations – Subpoenas.**

31 (a) The inspector general, in carrying out the duties outlined in this chapter, shall have
32 access to all records, reports, audits, reviews, papers, books, documents, recommendations,
33 correspondence, including information relative to the purchase of services or anticipated
34 purchase of services from any contractor by any public body listed in §42-9.4-1, and any other

1 data and material that is maintained by or available to any public body regardless of the media in
2 which it is maintained which is in any way related to the programs and operations with respect to
3 the state of Rhode Island, including any local town, municipality or city.

4 (b) The inspector general may request information, cooperation and assistance from any
5 state, county or local governmental agency as may be necessary for carrying out their duties and
6 responsibilities. Upon receipt of such request, each person in charge of, or the governing body of
7 any public body listed in §42-9.4-1, shall furnish to the inspector general or their authorized agent
8 or representative such information, cooperation and assistance, including information relative to
9 the purchase of services or anticipated purchase of services from any contractor by any public
10 body within ten (10) business days of receipt of the inspector general's request. If the request for
11 the information requested cannot be complied with, within the ten (10) business days, the senior
12 official of the governmental agency must notify the inspector general before the expiration of the
13 ten (10) business days as to the reason that the request cannot be complied with in the time frame
14 of this section and shall provide a specific date for expected compliance.

15 (c) The inspector general may initiate and conduct investigations, audits and compliance
16 reviews and shall prepare detailed reports relating to findings and conclusions concerning the
17 administration of the programs and operations of the applicable public bodies listed in §42-9.4-1,
18 as are in the judgment of the inspector general necessary and may conduct an examination of any
19 public documents and any information with respect to whether internal quality controls are in
20 place and operating.

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

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

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

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

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

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

19 **42-9.4-9. Subpoena for witness testimony and for release of material evidence.**

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

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

33 (c) A witness required by subpoena to attend and testify under oath and/or produce books
34 and records or other items as demanded, shall be given not less than forty-eight (48) hours' notice

1 of the time and place for the taking of testimony or delivery of subpoenaed items, unless such
2 notice shall unduly interfere with the conduct of the investigation.

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

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

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

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

29 (g) Any subpoena issued pursuant to this section shall not be made public by the
30 inspector general or any persons subject to their direction or by any member of the inspector
31 general's office designated to hear testimony under this section, and the same provisions with
32 reference to secrecy, which govern grand jury proceedings, shall govern testimony given.
33 Whoever violates the provisions of this paragraph shall be punished by imprisonment for not
34 more than six (6) months in a jail or house of correction or by a fine of not more than one

1 thousand dollars (\$1,000). Disclosure of such testimony may be made to such members of the
2 staff of the office of inspector general as is deemed necessary by the inspector general to assist in
3 the performance of the office's duties and responsibilities and such members of the staff may be
4 present at the taking of such testimony.

5 **42-9.4-10. Compact – Investigation.**

6 (a) The inspector general must accept and may investigate or audit complaints or
7 information from any individual concerning the possible existence of any activity constituting
8 fraud, waste, abuse and mismanagement relating to programs and operations as listed in §42-9.4-
9 1.

10 (b) The inspector general shall not, after receipt of a complaint or information from an
11 employee, contractor or private citizen who requests confidentiality, disclose the identity of that
12 individual without the written consent of said individual, unless the inspector general determines
13 such disclosure is necessary and unavoidable during the course of an investigation. In such event,
14 the individual shall be notified immediately of such disclosure. The inspector general shall set up
15 an anonymous toll-free hotline for reporting possible wrongdoings, and maintain an online
16 website which shall include, without limitation, a form of complaint.

17 (c) Employees are protected under the provisions of the "Rhode Island Whistleblowers'
18 Protection Act," chapter 50 of title 28.

19 **42-9.4-11. Reports to the attorney general or United States attorney.**

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

25 The inspector general shall refer audit or investigative findings to the state ethics
26 commission, or to any other federal, state or local agency, which has an interest in said findings.

27 Any referrals made under this section shall not be made public.

28 **42-9.4-12. Coordination with other state agencies.**

29 The inspector general may coordinate with other state agencies that are responsible for
30 investigating, auditing, reviewing or evaluating the management of state agencies for the purpose
31 of sharing information and avoiding duplication of effort.

32 **42-9.4-13. Civil actions.**

33 The inspector general shall have the authority to institute a civil recovery action if
34 authorized by the attorney general. In any case where the inspector general has discovered

1 fraudulent acts and believes that civil recovery proceedings may be appropriate, they shall refer
2 the matter to the attorney general. The attorney general may institute whatever proceedings they
3 deem appropriate, may refer the matter to another state or local agency, may authorize the
4 initiation of appropriate civil proceedings by the inspector general, may retain the matter for
5 further investigation, or may remand the matter to the inspector general for further investigation.

6 **42-9.4-14. Annual and interim reports.**

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

12 (b) The report shall include, but not be limited to: a description of significant problems in
13 the areas of fraud, waste and abuse within programs and operations within the jurisdiction of the
14 office; a description of the recommendations for corrective action made by the office during the
15 reporting period with respect to significant deficiencies in the areas of fraud, waste and abuse; the
16 identification of each significant recommendation described in previous annual reports on which
17 corrective action has not been completed; a summary of matters referred to prosecuting
18 authorities and the prosecutions and convictions which have resulted; a summary of any matters
19 concerning the recovery of monies as a result of a civil suit by the office of inspector general or a
20 referral to another agency for the purposes of such suit; a list of all audit reports completed by the
21 office during the reporting period; a statement of recommendations relating to regulations or
22 procedures which have been found to be duplicative, unnecessary or burdensome; and a statement
23 of recommendations of amendments to this chapter or the rules, regulations or procedures
24 governing the office of inspector general which would improve the effectiveness or the operation
25 of the office.

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

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

1 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 -- ESTABLISHING AN OFFICE OF
INSPECTOR GENERAL

1 This act would establish the office of inspector general as an independent administrative
2 agency charged with the purpose of preventing and detecting fraud, waste and abuse, and
3 mismanagement in the expenditure of public funds.

4 This act would take effect upon passage.

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