

No. 2017-29

## AN ACT

SB 527

Amending the act of April 9, 1929 (P.L.177, No.175), entitled, "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; providing for the regulation of pari-mutuel thoroughbred horse racing and harness horse racing activities, imposing certain taxes and providing for the disposition of funds from pari-mutuel tickets; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," establishing the Office of State Inspector General.

The General Assembly finds and declares that:

(1) The prevention of fraud, waste, abuse and corruption in the administration of State government agencies is an important responsibility of the Commonwealth.

(2) The prevention of waste, fraud, abuse and corruption in the administration of State government depends in part on the development, implementation and enforcement of sound policies and procedures to that end.

(3) Each State agency should exercise constant vigilance and firmly commit to the implementation and enforcement of such policies and procedures.

(4) The establishment of a full-time program of investigation and performance review to provide increased accountability and oversight over State agencies best helps deter and identify waste, fraud, abuse and illegal acts.

(5) The statutory creation of the Office of State Inspector General to conduct investigations, inspections and other reviews in accordance with those professional standards that relate to the fields of investigation in governmental environments is necessary to achieve these goals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:

**ARTICLE V-A**  
**OFFICE OF STATE INSPECTOR GENERAL**

**Section 501-A. Definitions.**

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Executive agency." As defined in section 102 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

"Office." The Office of State Inspector General.

**Section 502-A. Office of State Inspector General.**

(a) **Establishment.**—The Office of State Inspector General is established.

(b) **Appointment.**—Within 90 days of the effective date of this section, the Governor shall appoint a State Inspector General who shall serve concurrent with the Governor's term of office. Compensation shall be set by the Executive Board established under section 204.

(c) **Qualifications.**—The State Inspector General shall be selected without regard to political affiliation on the basis of integrity, capability for strong leadership and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation or criminal justice administration or other appropriate fields.

(d) **Limitation.**—The State Inspector General may not seek election to a political office during his or her tenure as State Inspector General.

(e) **Removal.**—The State Inspector General may be removed by the Governor, including for cause.

**Section 503-A. Powers, purpose and duties.**

(a) **Powers.**—The State Inspector General shall have the power to:

(1) Make an investigation and report relating to the administration of a program and operation of an executive agency that the State Inspector General determines is necessary. If the State Inspector General determines that a report should be issued, the State Inspector General may consult with the Office of General Counsel or the Attorney General before issuing the report to insure against an adverse impact on a grand jury proceeding or prosecution being conducted by a law enforcement agency.

(2) Request information or assistance necessary for carrying out the duties and responsibilities under this article from the Federal Government, an executive agency or a local government agency or a unit of a Federal, State or local government agency.

(3) Require and obtain, by written notice from an officer and employee of an executive agency, information, documents, reports, answers, records, accounts, papers and other necessary data and documentary evidence.

(4) Have direct and prompt access to the heads of executive agencies if necessary for a purpose pertaining to the performance of functions and responsibilities under this article.

(5) Select, appoint and employ individuals necessary for carrying out the functions, powers and duties of the office. The employees shall be employed in accordance with current procedures of the Office of Administration and may be assigned by the State Inspector General to a designated executive agency.

(b) **Purpose.**—The purpose of the Office of State Inspector General is as follows:

*(1) To deter, detect, prevent and eradicate fraud, waste, misconduct and abuse in a program, operation and contracting of an executive agency.*

*(2) To keep the head of an executive agency and the Governor fully informed about a problem and deficiency relating to the operation or administration of a program or contracts entered into by an executive agency.*

*(3) To provide leadership, coordination and control over satellite Inspector General Offices in a designated executive agency to ensure a coordinated and efficient administration of duties and use of staff. The existing Office of Inspector General in the Department of Transportation shall continue as a satellite Inspector General Office. Each satellite Inspector General Office in an executive agency shall report to and follow the direction of the State Inspector General.*

*(c) Duties.—The State Inspector General shall:*

*(1) Inspect, evaluate, investigate and review the activities, records and individuals with contracts, procurements, grants, agreements and other financial arrangements undertaken by an executive agency for the purposes of identifying fraud, waste, misconduct or abuse.*

*(2) Conduct civil and administrative investigations of a program or operation of an executive agency.*

*(3) Make referrals to the Auditor General for the audit of the economy, efficiency and effectiveness of an executive agency's operations and functions and conduct reviews of the executive agency's compliance with the performance measurement system.*

*(4) Review the reliability and validity of the information provided by an executive agency's performance measures and standards.*

*(5) Provide information and evidence that relates to criminal acts discovered during the course of an investigation into an executive agency to appropriate law enforcement officials.*

*(6) Receive and investigate complaints from a source or upon the State Inspector General's own initiative concerning alleged abuses, frauds and service deficiencies, including deficiencies in the operation and maintenance of an executive agency facility.*

*(7) Engage in prevention activities, including, but not limited to, review of legislation, rules, regulations, policies, procedures and transactions, training and education.*

*(8) Refer matters for further civil, criminal and administrative action to appropriate administrative and prosecutorial agencies.*

*(9) Conduct joint investigations and projects with other oversight or law enforcement agencies that are consistent with the powers and duties contained under this article.*

*(10) Recommend remedial actions to be taken by an executive agency to overcome or correct operating or maintenance deficiencies and inefficiencies that were identified by the State Inspector General.*

*(11) Issue public reports.*

*(12) Maintain information regarding the cost of investigations and cooperate with appropriate administrative and prosecutorial agencies in recovering the costs from nongovernmental entities involved in willful misconduct.*

*(13) Perform other functions necessary to effectuate this article.*

**Section 504-A. Request for information.**

(a) *Duty.*—Upon request of the State Inspector General for information or assistance, an executive agency must within 10 days furnish the information and assistance to the State Inspector General or an authorized designee.

(b) *Report.*—If information or assistance requested under subsection (a) is, in the judgment of the State Inspector General, unreasonably refused or not provided, the State Inspector General may report the circumstances to the head of the agency and the Office of General Counsel for appropriate action.

**Section 505-A. Subpoenas and witness fees.**

(a) *Authorization.*—In accordance with the powers under section 503-A(a) and duties under section 503-A(c), the State Inspector General may issue a subpoena relating to any matter pertinent to an examination to a person under the State Inspector General's jurisdiction or to an individual or a person receiving services from or through an executive agency. If a person fails or refuses to obey a subpoena, the State Inspector General may petition a court of competent jurisdiction to enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court.

(b) *Form and effect.*—A subpoena under subsection (a) shall be in substantially the same form and have the same force and effect as a subpoena issued by a court of common pleas. The State Inspector General shall have the benefit of the process of the appropriate court of common pleas if necessary to enforce a subpoena.

(c) *Confidentiality.*—A subpoena issued under this section must clearly indicate on the face of the subpoena that the subpoena is issued in connection with a confidential proceeding and a breach of confidentiality by the person subpoenaed may result in a civil penalty or misdemeanor.

(d) *Fees.*—Witnesses subpoenaed under this section shall be compensated under 42 Pa.C.S. § 5903 (relating to compensation and expenses of witnesses).

**Section 506-A. Criminal charges.**

Notwithstanding any other provision of law, the State Inspector General shall have the power to investigate and may file criminal charges for a violation of any of the following:

(1) Section 481 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

(2) Section 1408 of the Human Services Code.

(3) 18 Pa.C.S. § 7313 (relating to buying or exchanging Federal food order coupons, stamps, authorization cards or access devices).

(4) 18 Pa.C.S. § 7314 (relating to fraudulent traffic in food orders).

**Section 507-A. Complaint, disclosure and reprisal.**

(a) *Complaint.*—The State Inspector General may receive and investigate a complaint or information concerning the possible existence of an activity in an executive agency constituting any of the following:

(1) A violation of a law, rule or regulation.

(2) Mismanagement, fraud, waste of funds, abuse of authority, malfeasance, misfeasance and nonfeasance.

*(3) A substantial and specific danger to the public health and safety.*

*(b) Disclosure.—No person may take or threaten to take action against an employee as a reprisal for making a complaint or disclosing information to the State Inspector General, except if the complaint was made or the information was disclosed with the knowledge that the complaint or information was false or with willful disregard for the truth or falsity of the complaint or information.*

*(c) Protection.—The protections in this article for employees who report, in good faith, fraud, waste, misconduct, malfeasance, misfeasance, nonfeasance or abuse shall be in addition and supplementary to each protection provided by the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.*

*Section 508-A. Appropriation.*

*The appropriation for the office shall be in a separate line item and shall be under the jurisdiction of the State Inspector General.*

*Section 509-A. Report to General Assembly.*

*By December 31 of each year, the State Inspector General shall issue an annual report to the Senate and the House of Representatives. The annual report shall include, at a minimum, the following:*

*(1) Information relating to investigations undertaken by the office, including the number of cases investigated, categorized by type, with a specific section detailing investigations conducted within the Department of Human Services.*

*(2) An accounting of taxpayer money that was recovered as a result of the work of the office.*

*(3) The monetary value that resulted from fraud prevention activities as a result of the work of the office.*

*(4) Summaries of performance of each bureau within the office.*

*(5) Specific recommendations concerning the improvement of any State program to further reduce waste, fraud and abuse.*

Section 2. Except as otherwise provided in Article V-A of the act:

(1) All activities initiated by the Office of Inspector General in existence on the effective date of this section shall continue and remain in full force and effect and may be completed under Article V-A of the act.

(2) Orders, regulations, rules and decisions which were made by the Office of Inspector General in existence on the effective date of this section and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under Article V-A of the act.

(3) Contracts, obligations and collective bargaining agreements entered into by the Office of Inspector General in existence on the effective date of this section are not affected nor impaired by the addition of Article V-A of the act.

Section 3. This act shall take effect in 60 days.

APPROVED—The 20th day of July, A.D. 2017

TOM WOLF