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CHAPTER 6.

OFFICE OF THE STATE INSPECTOR GENERAL

SECTION 1-6-10. Definitions.

As used in this title:

(1) "Agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive department of state government, including administrative bodies. "Agency" includes a body corporate and politic established as an instrumentality of the State. "Agency" does not include:

- (a) the judicial department of state government;
- (b) quasijudicial bodies of state government;
- (c) the legislative department of state government; or
- (d) political subdivisions.

(2) "Business relationship" means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

- (a) a pecuniary interest in a contract or purchase with the agency; or
- (b) a license or permit requiring the exercise of judgment or discretion by the agency.

(3) "Employee" means an individual who is employed by an agency on a full-time, part-time, temporary, intermittent, or hourly basis. "Employee" includes an individual who contracts with an agency for personal services.

(4) 'Person' means:

(a) an individual, labor union and organization, joint apprenticeship committee, partnership, association, corporation, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other legal or commercial entity located in part or in whole in the State or doing business in the State;

- (b) the State and any agency or local subdivision of an agency; or
- (c) a political subdivision.

(5) "Political subdivision" includes a county, city, municipality, town, village, township, district, authority, special purpose district, school district, other local government entity, or other public corporation or entity whether organized and existing under charter or general law.

(6) "Special state appointee" means a person who is:

- (a) not a state officer or employee; and
- (b) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by name that:

(i) is authorized by statute or Executive Order; and

(ii) functions in a policy or an advisory role in the executive, including the administrative, department of state government, including a separate body corporate and politic.

(7) "State officer" means any of the following:

- (a) the Governor;
- (b) the Lieutenant Governor;
- (c) the Secretary of State;
- (d) the State Comptroller General;
- (e) the State Treasurer;
- (f) the Attorney General;
- (g) the Superintendent of Education;
- (h) the Commissioner of Agriculture; or
- (i) the Adjutant General.

(8) "Wrongdoing" means action by an agency which results in substantial abuse, misuse, destruction, or loss of substantial public funds or public resources. "Wrongdoing" also includes an allegation that a

public employee has intentionally violated federal or state statutory law or regulations or other political subdivision ordinances or regulations or a code of ethics, which violation is not merely technical or of a minimum nature.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-20. Office of State Inspector General established; duties; appointment and removal; information and documents.

(A) There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and a staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies.

(C) The Governor shall appoint the State Inspector General with the advice and consent of the Senate for a term of four years. A Governor may reappoint the State Inspector General for additional terms. The State Inspector General's compensation must not be reduced during the State Inspector General's uninterrupted continued tenure in office.

(D) The State Inspector General:

(1) may be removed from office only by the Governor as provided in Section 1-3-240(C);

(2) must be selected without regard to political affiliation and 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 closely related fields;

(3) is entitled to receive compensation set by the Governor and approved by the State Budget and Control Board.

(E) Upon request of the State Inspector General for information or assistance, all agencies are directed to fully cooperate with and furnish the State Inspector General with all documents, reports, answers, records, accounts, papers, and other necessary data and documentary information to perform the mission of the State Inspector General.

(F) Except for information declared confidential under this chapter, records of the Office of the State Inspector General are subject to public inspection under Chapter 4, Title 30.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-30. Powers of the State Inspector General.

The State Inspector General may:

(1) initiate, supervise, and coordinate investigations authorized by this chapter;

(2) recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in state government;

(3) receive complaints alleging a violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, or person who has a business relationship with an agency;

(4) receive complaints from any individual, including those employed by any agency, alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency;

- (5) adopt rules and regulations for administering the Office of the State Inspector General;
- (6) offer every employee, state officer, special state appointee, and person who has a business relationship with an agency training in the Rules of Conduct pursuant to Article 7, Chapter 13, Title 8 of the South Carolina Code of Laws;
- (7) provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency;
- (8) recommend legislation to the Governor and General Assembly to strengthen public integrity laws; and
- (9) annually submit a report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives detailing the State Inspector General's activities.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-40. Mandatory reports of misconduct to Governor, agency head, and law enforcement; agency report of disciplinary and preventative action.

(A) If the State Inspector General has reasonable cause to believe that fraud, waste, abuse, mismanagement, misconduct, or wrongdoing has occurred or is occurring, he must report the suspected conduct to:

- (1) the Governor; and
- (2) the head of the agency affected by the conduct or employing the person allegedly engaged in the suspected conduct.

(B) In addition to the reporting requirements in subsection (A), if the State Inspector General has reasonable cause to believe that a crime has occurred or is occurring, he must report the conduct to the appropriate state or federal law enforcement agencies and prosecuting authorities that have jurisdiction over the matter.

(C) In addition to fully cooperating with the State Inspector General's investigation, the head of the agency employing a person allegedly engaged in the suspected conduct is responsible for submitting a report to the State Inspector General describing any and all actions taken with the employee and within the agency to prevent the alleged conduct from occurring again.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-50. Investigatory powers; subpoena; report and advice; civil actions.

The State Inspector General has the following powers:

- (A) As part of an investigation, the State Inspector General may:
 - (1) administer oaths;
 - (2) examine witnesses under oath;
 - (3) issue subpoenas and subpoenas duces tecum; and
 - (4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.
- (B) The State Inspector General may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Inspector General or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Inspector General.
- (C) For an investigation that results in a report, the State Inspector General must prepare a written report that remains confidential until it is issued as a final report. The State Inspector General is the authority who determines if an investigation requires a report. The State Inspector General, in his discretion, may give an agency advice or recommendations that remain confidential and are not issued as a report.

(D) If the Attorney General has elected not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained, the State Inspector General may file a civil action for the recovery of the funds pursuant to Section 1-6-70 of this chapter.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-60. Evidence of ethics violation; complaint.

If the State Inspector General investigates and determines that there is specific and credible evidence that a current or former employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the State Inspector General may file a complaint with the Ethics Commission and represent the State in any proceeding before the Ethics Commission.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-70. Evidence of misconduct resulting in financial loss; report to Attorney General; civil actions.

(A) This section applies if the State Inspector General finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the State or in an unlawful benefit to an individual in the conduct of state business.

(B) If the State Inspector General finds evidence described in subsection (A), the State Inspector General shall certify a report of the matter to the Attorney General and provide the Attorney General with any relevant documents, transcripts, written statements, or other evidence. Not later than one hundred eighty days after receipt of the report from the State Inspector General, the Attorney General must do one of the following:

(1) file a civil action, including an action upon a state officer's official bond, to secure for the State the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the Attorney General, the State Inspector General shall assist the Attorney General in the investigation, preparation, and prosecution of the civil action;

(2) inform the State Inspector General that the Attorney General does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the Attorney General elects not to file a civil action, the Attorney General must return to the State Inspector General all documents, transcripts, written statements, or other evidence initially provided by the State Inspector General; or

(3) inform the State Inspector General that the Attorney General is diligently reviewing the matter and after further review may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General, and the Attorney General has neither filed a civil action nor informed the State Inspector General that he does not intend to file a civil action, the Attorney General loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and must return to the State Inspector General all documents, transcripts, written statements, or other evidence provided by the State Inspector General.

(C) The State Inspector General may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained if the State Inspector General has found evidence described in subsection (A) and reported to the Attorney General pursuant to subsection (B) and:

(1) the Attorney General has elected pursuant to subsection (B)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) pursuant to subsection (B)(3), more than three hundred sixty-five days have passed since the State Inspector General certified the report to the Attorney General pursuant to subsection (B), and the Attorney General has not filed a civil action.

(D) If the State Inspector General has found evidence pursuant to subsection (A), the State Inspector General may institute forfeiture proceedings as allowed by law in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds is located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-80. Evidence of criminal activity; certification and information to be provided to prosecuting attorney.

(A) If the State Inspector General discovers evidence of criminal activity, the State Inspector General shall certify to the appropriate prosecuting attorney the following information:

- (1) the identity of a person who may be involved in the criminal activity; and
- (2) the criminal statute that the State Inspector General believes has been violated.

(B) In addition, the State Inspector General must provide the prosecuting attorney with any relevant documents, transcripts, written statements, or other evidence. If the prosecuting attorney decides to prosecute the crime described in the information certified to the prosecuting attorney, or any other related crimes, the State Inspector General must cooperate with the prosecuting attorney in the investigation and prosecution of the case. Upon request of the prosecuting attorney, the State Inspector General may participate on behalf of the State in a resulting criminal trial.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-90. Toll-free public telephone number for receiving information.

The State Inspector General must establish a toll-free public telephone number for the purpose of receiving information concerning fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency. The phone number must be prominently posted by all agencies, in clear view of all employees and the public, and in a conspicuous location on the agency's Internet website.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

SECTION 1-6-100. Confidentiality of identity of person reporting information in good faith; public inspection; exception.

(A) If an individual discloses information alleging fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in an agency in good faith to the State Inspector General, the individual's identity is confidential and must not be disclosed to anyone other than the Governor, the staff of the Office of the State Inspector General, or an authority to whom the investigation is subsequently referred or certified, unless:

- (1) the State Inspector General makes a written determination that it is in the public interest to disclose the individual's identity; or
- (2) the individual consents in writing to disclosure of the individual's identity.

(B) After an investigation is completed and a report is issued pursuant to Section 1-6-50(C), the investigative records of the State Inspector General are subject to public inspection pursuant to Chapter 4 of this title. However, if an individual's identity is confidential pursuant to subsection (A), the

individual's identity or any information that reasonably might lead to the discovery of the individual's identity must not be disclosed, except as pursuant to subsection (A) or subsection (E).

(C) This subsection does not apply to a person who is a party to an action brought by the State Inspector General. Information received by the State Inspector General is not required to be produced in the course of discovery, unless ordered by a court after a showing of particularized need and proof that the information requested cannot be obtained from another source.

(D) Except as provided in subsection (E), a person commits the misdemeanor of unlawful disclosure of confidential information if he knowingly or intentionally discloses:

(1) confidential information or records; or

(2) the identity of a person whose identity is confidential under subsection (A).

A person convicted pursuant to this subsection must be fined not more than one thousand dollars or imprisoned not more than one year. If the person convicted is an officer or employee of the State, he must be dismissed from office or employment and is ineligible to hold any public office in this State for a period of five years after the conviction.

(E) A person may disclose confidential information, records, or an individual's identity that is confidential pursuant to subsection (A) if the Governor authorizes the disclosure of this information in the public interest.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.