S T A T E O F N E W Y O R K

1777--A

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sens. PARKER, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing the office of the law enforcement inspector general; and making an appropriation therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new article 11-A to read as follows:

ARTICLE 11-A

OFFICE OF THE LAW ENFORCEMENT INSPECTOR GENERAL

SECTION 233. DEFINITIONS.
234. ESTABLISHMENT AND ORGANIZATION.
235. JURISDICTION.
236. POWERS AND DUTIES.
237. ANNUAL REPORTS.
238. DISCLOSURE OF INFORMATION.

S 233. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "INSPECTOR" SHALL MEAN THE LAW ENFORCEMENT INSPECTOR GENERAL CREATED BY THIS ARTICLE.

2. "INTELLIGENCE OPERATIONS" SHALL MEAN THE VARIETY OF INTELLIGENCE AND COUNTERINTELLIGENCE TASKS THAT ARE CARRIED OUT BY LAW ENFORCEMENT AND INTELLIGENCE AGENCIES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO ANALYSIS AND PRODUCTION; COLLECTION; DISSEMINATION AND INTEGRATION; EVALUATION AND FEEDBACK; PLANNING AND DIRECTION; AND PROCESSING AND EXPLOITATION OF INFORMATION COLLECTED FROM TARGETED INDIVIDUALS OR GROUPS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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3. "INTELLIGENCE AGENCIES" SHALL MEAN ANY GOVERNMENT AGENCIES RESPONSIBLE FOR THE COLLECTION, ANALYSIS OR EXPLOITATION OF INFORMATION AND INTELLIGENCE IN SUPPORT OF LAW ENFORCEMENT, NATIONAL SECURITY, DEFENSE AND HOMELAND SECURITY OBJECTIVES.

4. "LAW ENFORCEMENT AGENCIES" SHALL MEAN ANY ORGANIZATIONAL UNITS, OR SUBUNITS, OF THE FEDERAL, STATE, COUNTY OR MUNICIPAL GOVERNMENT WITH THE PRINCIPLE FUNCTIONS OF PREVENTION, DETECTION, AND INVESTIGATION OF CRIME AND THE APPREHENSION OF ALLEGED OFFENDERS.

S 234. ESTABLISHMENT AND ORGANIZATION. 1. THERE IS HEREBY ESTABLISHED THE OFFICE OF THE LAW ENFORCEMENT INSPECTOR GENERAL IN THE EXECUTIVE DEPARTMENT. THE HEAD OF THE OFFICE SHALL BE THE INSPECTOR WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVISE AND CONSENT OF THE SENATE.

2. THE INSPECTOR SHALL HOLD OFFICE FOR A TERM OF FIVE YEARS.

3. THE INSPECTOR SHALL REPORT DIRECTLY TO THE GOVERNOR.

4. SUCH PERSON APPOINTED AS INSPECTOR SHALL, UPON HIS OR HER APPOINTMENT, HAVE NOT LESS THAN TEN YEARS PROFESSIONAL EXPERIENCE IN AREAS OF LAW ENFORCEMENT AND LAW ENFORCEMENT TRAINING, PROVIDED THE EXPERIENCE INVOLVES EXPERTISE IN INTELLIGENCE OPERATIONS.

5. SUCH PERSON APPOINTED AS INSPECTOR SHALL BE SUBJECT TO A SECURITY CLEARANCE INVESTIGATION BY A FEDERAL GOVERNMENT AGENCY AUTHORIZED TO PERFORM SUCH INVESTIGATIONS.

6. THE SALARY OF THE INSPECTOR SHALL NOT EXCEED THE SALARY OF CERTAIN STATE OFFICERS AS DEFINED IN SECTION ONE HUNDRED SIXTY-NINE OF THIS CHAPTER.

S 235. JURISDICTION. THIS ARTICLE SHALL, SUBJECT TO THE LIMITATIONS CONTAINED HEREIN, CONFER UPON THE OFFICE OF THE LAW ENFORCEMENT INSPECTOR GENERAL JURISDICTION OVER ALL COVERED AGENCIES. FOR THE PURPOSES OF THIS ARTICLE "COVERED AGENCY" SHALL INCLUDE ALL STATE AND LOCAL GOVERNMENT LAW ENFORCEMENT AND INTELLIGENCE AGENCIES, INCLUDING THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, ENGAGED IN INTELLIGENCE OPERATIONS.

S 236. POWERS AND DUTIES. 1. GENERAL. (A) THE INSPECTOR SHALL MAKE ANY INVESTIGATION OF THE COVERED AGENCIES DIRECTED BY THE GOVERNOR, OR THE SENATE AND THE ASSEMBLY ACTING BY JOINT RESOLUTION.

(B) THE INSPECTOR IS AUTHORIZED AND EMPOWERED TO MAKE ANY STUDY OR INVESTIGATION OF THE COVERED AGENCIES THAT IN HIS OR HER OPINION MAY BE IN THE BEST INTERESTS OF THE STATE, INCLUDING BUT NOT LIMITED TO INVESTIGATIONS OF THE AFFAIRS, FUNCTIONS, ACCOUNTS, METHODS, PERSONNEL OR EFFICIENCY OF ANY COVERED AGENCY, OR WHETHER SUCH COVERED AGENCY OR AGENCIES ARE ACTING IN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE OR LOCAL LAWS, REGULATIONS OR RULES, OR LOCAL ORDINANCES.

(C) FOR ANY INVESTIGATION MADE PURSUANT TO THIS SECTION, THE INSPECTOR SHALL PREPARE A WRITTEN REPORT OR STATEMENT OF FINDINGS AND SHALL FORWARD A COPY OF SUCH REPORT OR STATEMENT TO THE REQUESTING PARTY, IF ANY. IN THE EVENT THAT THE MATTER INVESTIGATED INVOLVES OR MAY INVOLVE ALLEGATIONS OF CRIMINAL CONDUCT, OR CONDUCT THAT VIOLATES ANY OR ALL APPLICABLE FEDERAL, STATE OR LOCAL LAWS, REGULATIONS, RULES OR LOCAL ORDINANCES, THE INSPECTOR, UPON COMPLETION OF THE INVESTIGATION, SHALL ALSO FORWARD A COPY OF HIS OR HER WRITTEN REPORT OR STATEMENT OF FINDINGS TO THE GOVERNOR, AND TO THE ATTORNEY GENERAL OF NEW YORK STATE OR APPROPRIATE PROSECUTING ATTORNEY, OR, IN THE EVENT THE MATTER INVESTIGATED INVOLVES OR MAY INVOLVE A CONFLICT OF INTEREST OR UNETHICAL CONDUCT, AS SUCH ARE DEFINED IN THE PUBLIC OFFICERS LAW AND ALL APPLICABLE LOCAL MUNICIPAL CODES OF ETHICS, TO THE BOARD OF ETHICS OF THE APPROPRIATE POLITICAL ENTITY OR SUBDIVISION.

(D) THE JURISDICTION OF THE INSPECTOR SHALL EXTEND TO ANY COVERED AGENCY, OFFICER, OR EMPLOYEE OF SUCH AGENCIES, OR ANY PERSON OR ENTITY DOING BUSINESS WITH SUCH AGENCIES, OR ANY PERSON OR ENTITY WHO IS PAID OR RECEIVES MONEY FROM OR THROUGH THE COVERED AGENCIES.

(E) THE INSPECTOR MAY APPOINT THREE DEPUTIES, EITHER OF WHOM MAY, SUBJECT TO THE DIRECTION OF THE INSPECTOR, CONDUCT OR PRESIDE AT ANY INVESTIGATIONS AUTHORIZED BY THIS CHAPTER. THE INSPECTOR MAY ALSO APPOINT SUCH DIRECTORS, ASSISTANTS AND OTHER OFFICERS AND EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF HIS OR HER DUTIES AND MAY PRESCRIBE THEIR DUTIES AND FIX THEIR COMPENSATION WITH THE AMOUNTS APPROPRIATED THEREFOR.

2. INVESTIGATIONS. (A)(I) FOR THE PURPOSE OF ASCERTAINING FACTS IN CONNECTION WITH ANY STUDY OR INVESTIGATION AUTHORIZED BY THIS CHAPTER, THE INSPECTOR AND EACH DEPUTY SHALL HAVE FULL POWER TO COMPEL THE ATTENDANCE OF WITNESSES, INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE SUBPOENAS AND SUBPOENAS DUCES TECUM, TO ADMINISTER OATHS AND TO EXAMINE SUCH PERSONS AS HE OR SHE MAY DEEM NECESSARY.

(II) THE INSPECTOR SHALL HAVE THE POWER TO REQUIRE THE PRODUCTION OF ANY BOOKS AND PAPERS DEEMED RELEVANT OR MATERIAL TO ANY INVESTIGATION, EXAMINATION OR REVIEW.

(III) THE INSPECTOR SHALL HAVE THE POWER, NOTWITHSTANDING ANY LAW TO THE CONTRARY, TO EXAMINE AND COPY OR REMOVE DOCUMENTS OR RECORDS OF ANY KIND PREPARED, MAINTAINED OR HELD BY ANY COVERED AGENCY. THE REMOVAL OF SUCH RECORDS SHALL BE LIMITED TO THOSE CIRCUMSTANCES, AT THE DISCRETION OF THE INSPECTOR, IN WHICH A COPY THEREOF IS INSUFFICIENT FOR AN APPROPRIATE LEGAL OR INVESTIGATIVE PURPOSE, PROVIDED IN SUCH INSTANCES THE COPYING AND RETURN OF SUCH ORIGINAL, OR COPY WHERE THE ORIGINAL IS REQUIRED FOR AN APPROPRIATE LEGAL OR INVESTIGATIVE PURPOSE, IS EXPEDITED AND SUCH ORIGINAL OR COPY IS READILY ACCESSIBLE BY THE COVERED AGENCY.

(B) THE INSPECTOR OR ANY AGENT OR EMPLOYEE OF THE OFFICE DULY DESIGNATED IN WRITING BY HIM OR HER FOR SUCH PURPOSES MAY ADMINISTER OATHS OR AFFIRMATIONS, EXAMINE WITNESSES IN PUBLIC OR PRIVATE HEARING, RECEIVE EVIDENCE AND PRESIDE AT OR CONDUCT ANY SUCH STUDY OR INVESTIGATION.

3. REPORTS. THE INSPECTOR SHALL FORWARD TO THE GOVERNOR, AND TO THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY, THE MINORITY LEADERS OF THE SENATE AND ASSEMBLY, THE CHAIRS OF THE SENATE AND ASSEMBLY STANDING COMMITTEES ON INVESTIGATIONS, THE COMMANDANT OF THE STATE POLICE, THE COMMISSIONER OF THE NEW YORK POLICE DEPARTMENT AND THE ATTORNEY GENERAL OF NEW YORK STATE, A COPY OF ALL REPORTS PREPARED BY THE INSPECTOR AND HIS OR HER AGENTS AND EMPLOYEES CONCERNING THE AFFAIRS, FUNCTIONS, ACCOUNTS, METHODS, PERSONNEL OR EFFICIENCY OF ANY COVERED AGENCY, UPON ISSUANCE BY THE COMMISSIONER.

S 237. ANNUAL REPORTS. 1. THE INSPECTOR SHALL, NO LATER THAN MARCH THIRTY-FIRST OF EACH YEAR SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A REPORT SUMMARIZING THE ACTIVITIES OF THE OFFICE DURING THE PRECEDING CALENDAR YEAR.

2. (A) THE INSPECTOR SHALL NOT PUBLICLY DISCLOSE INFORMATION WHICH:

(I) IS A PART OF ANY ONGOING CRIMINAL INVESTIGATION;

(II) COMPROMISES AN INTELLIGENCE OPERATION;

(III) IS SPECIFICALLY PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF LAW.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, ANY REPORT UNDER THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC IN A FORM WHICH INCLUDES INFORMATION WITH RESPECT TO A PART OF AN ONGOING CRIMINAL INVESTIGATION ONLY IF SUCH INFORMATION HAS BEEN INCLUDED IN A PUBLIC RECORD.

S 238. DISCLOSURE OF INFORMATION. THE INSPECTOR SHALL NOT DISCLOSE INFORMATION WHICH IS PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF LAW.

S 2. The sum of ten million dollars ($10,000,000), or so much thereof as may be necessary, is hereby appropriated to the office of the law enforcement inspector general out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the comptroller in the manner prescribed by law.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.