

Legislation Text

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Proposing an amendment to The Philadelphia Home Rule Charter to provide for the creation of an Office of Inspector General, to provide for the powers and duties of, and annual appropriations to, such Office, to establish requirements for City officials, employees, contractors and others in connection with the work of the Inspector General, and to otherwise provide for incorporation of the Inspector General into the City government, all under certain terms and conditions; and providing for the submission of the amendment to the electors of Philadelphia.

WHEREAS, Under Section 6 of the First Class City Home Rule Act (53 P.S. §13106), an amendment to The Philadelphia Home Rule Charter may be proposed by a resolution of the Council of the City of Philadelphia adopted with the concurrence of two-thirds of its elected members; now, therefore, be it

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the following amendment to The Philadelphia Home Rule Charter is hereby proposed and shall be submitted to the electors of the City on an election date designated by ordinance:

Explanation:

~~Strikethrough~~ indicates matter deleted.

Italics indicates new matter added.

ARTICLE II - LEGISLATIVE BRANCH

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CHAPTER 2 COUNCILMANIC PROCEDURE

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§ 2-202. Submission of Ordinances to the Mayor.

Every ordinance shall, before it takes effect, be certified to the Mayor for his approval. The Mayor shall sign the ordinance if he approves it, whereupon it shall become law. If he disapproves it, he shall return it to the Council with the reason for his disapproval at the first meeting thereof held not less than ten days after he receives it. If the Council shall pass the bill by a vote of two-thirds of all of its members within seven days after the bill has been returned with the Mayor's disapproval, it shall become law without his approval. If the Mayor does not return the ordinance within the time required, it shall become law without his approval. The Mayor may disapprove or reduce any item or items of any ordinance making appropriations, except the items in the annual operating budget ordinance making appropriations (a) to the Auditing Department for the compensation of auditors regularly employed by it, (b) for the work of the Personnel Director and the Civil Service Commission, ~~and~~ (c) for the work of the Board of Ethics, *and (d) for the work of the Inspector General,*

which shall become law if any part of the ordinance is approved. Subject only to the foregoing exceptions, the approved part or parts of any ordinance making an appropriation shall become law, and the part or parts disapproved shall not become law unless passed by the Council over the Mayor's veto as provided herein.

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CHAPTER 3 LEGISLATION

§2-300. The Annual Operating Budget Ordinance.

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(4) In every annual operating budget ordinance:

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(h) The amount appropriated to the Office of the Inspector General shall be adequate to enable the Inspector General to perform the duties of that Office. Should the Council fail to make an adequate appropriation to the Office of Inspector General, the Inspector General may petition any Court of Common Pleas of Philadelphia County for a mandamus to the Council to perform its duty under this section.

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ARTICLE III - EXECUTIVE AND ADMINISTRATIVE BRANCH - ORGANIZATION

CHAPTER 1 OFFICERS, DEPARTMENTS, BOARDS, COMMISSIONS AND OTHER AGENCIES

§3-100. Executive and Administrative Officers, Departments, Boards, Commissions and Agencies Designated. The executive and administrative work of the City shall be performed by:

(a) The following elected or appointed officers:

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~~Victim Advocate.~~ *Advocate;*

Inspector General.

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CHAPTER 2 ELECTION OR APPOINTMENT

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§3-215. *Inspector General. The Mayor shall appoint the Inspector General.*

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CHAPTER 4 TERMS OF OFFICE

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§3-406. *Inspector General.*

The Inspector General shall serve for a term concurrent with that of the Mayor and as provided in 9-203.

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CHAPTER 6 COMPENSATION

§3-600. The Mayor and Other Officers.

Until the Council shall otherwise ordain, annual salaries shall be payable in equal semi-monthly installments as follows:

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Commissioner of Fleet Services, ~~\$135,000~~; \$135,000;

Inspector General, no less than \$150,000.

The compensation fixed by this charter for any officer shall be reduced by an amount equal to any compensation which he receives in addition thereto for any services, rendered by virtue of his office, to the City or to any other governmental agency.

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ARTICLE IV EXECUTIVE AND ADMINISTRATIVE BRANCH POWERS AND DUTIES

The Mayor, The City Representative and

Departments, Boards and Commissions under the Mayor

CHAPTER 1
THE MAYOR

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§ 4-106. Information and Complaints.

The Mayor shall establish an agency in ~~his office~~ for receiving and answering all requests for information about the City or its government. Such agency shall also receive and ~~investigate~~ *refer to the appropriate agency for investigation* complaints concerning the operation of the City government.

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CHAPTER 26
INSPECTOR GENERAL

§4-2600. Powers and Duties.

For purposes of this Section 4-2600 and Section 10-112, the phrase “all agencies of the City” shall include all officers, departments boards, commission, including all former county officers and boards and Council.

The Inspector General shall have the power and the duty to perform the following functions:

(1) In response to a complaint or on the Inspector General’s own initiative, investigate alleged fraud, corruption, waste, abuse and misconduct concerning City activities and business that may constitute a violation of law, City personnel rules, regulations or policies, City contract or other agreement involving:

- (a) Any City agency, or any officer, employee, or member thereof;*
- (b) Any contractor, subcontractor or other entity that does business with any agency of the City, in connection with such agency’s City business;*
- (c) Any recipient of City funding or subsidy, by grant, subgrant, direct appropriation, operation of law or otherwise, in connection with such funding or subsidy received from the City;*
- (d) Any transaction involving the sale, transfer, lease or other use of City property;*
- (e) Any recipient of a specific permission or benefit, such as a permit, a license, or a land disposition; and*
- (f) Any governmental or quasi-governmental agency in connection with their business with the City.*

(2) Provide investigative expertise and support to any agency of the City, or any other agency, entity or

law enforcement authority, that may request the Inspector General's assistance;

(3) Prepare reports regarding individual investigations and determinations of institutional patterns of fraud, waste or misconduct; and make recommendations to the Mayor, the Council, or any other appropriate agency, entity or official concerning remedies, policies and methods to prevent fraud, corruption, waste, abuse and misconduct;

(4) Provide to the Law Department, and to counsel representing any non-City entity, a copy of any report of investigation that includes recommendation for further action by no later than the time submitted to the relevant agency, entity or official;

(5) Refer investigations for further action by an appropriate entity, including agencies of the City, and refer evidence of violation of law to the appropriate law enforcement authority, including local, state and federal authorities;

(6) Coordinate and work in cooperation with federal law enforcement agencies, Commonwealth law enforcement agencies, the District Attorney, the Board of Ethics, the Citizens Police Oversight Commission, the City Controller, the Law Department, and Council's Committee on Ethics to ensure efficiency and non-duplication of investigatory activities; and conduct joint investigations and programs with such investigative and oversight agencies;

(7) Implement and oversee a comprehensive Integrity Officer Program, as may be established by the Mayor;

(8) Broadly and regularly distribute to City officials and employees, and make generally available to them and to the public, information concerning the role of the Inspector General and the responsibilities of City officials and employees pursuant to Section 10-112 of this Charter and ensure distribution by City officials and departments of such information to other persons and entities that are a party to transactions subject to investigation by the Inspector General;

(9) Maintain in confidence all records of investigation, including the identities of individuals who provide information in connection with an investigation, except as necessary to carry out the Inspector General's duties as set forth in this Section 4-2600;

(10) Submit an annual report to the Mayor and City Council that summarizes the number and types of complaints received during the course of the year, the number and types of investigations conducted, the types of recommendations made to City officials and departments, the information provided to City officials and employees regarding their responsibilities, the expenditures of the Office during the course of the year and such other information as the Inspector General shall deem appropriate. The report, which shall be made available to the public, shall not contain any information which, if disclosed, would constitute an invasion of the privacy of a City officer or employee, or of a person or entity that is a party to a transaction subject to investigation by the Inspector General, or that would undermine the integrity of any investigation; and

(11) Such other related responsibilities as Council may from time to time provide for by ordinance.

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ARTICLE VII
EXECUTIVE AND ADMINISTRATIVE BRANCH - POWERS AND DUTIES
Personnel Director and Civil Service Commission and the Civil Service

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CHAPTER 3
CIVIL SERVICE: GENERAL PROVISIONS AND EXEMPTIONS

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§ 7-301. Exemptions.

All officers and employees of the City, including all officers and employees of all departments, all independent boards and commissions and all departmental boards and commissions, shall be under civil service except:

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(g) *Such investigators as the Inspector General may require.*

ARTICLE VIII
PROVISIONS OF GENERAL APPLICATION

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CHAPTER 4
EXECUTIVE AND
ADMINISTRATIVE BRANCH

§8-400. Certain General Provisions to Apply to Certain Officers.

All of the provisions of this charter which apply generally to department heads or departments, boards and commissions shall apply to the Mayor, the Managing Director, the Director of Finance, the City Treasurer, the City Representative, the Insurance Public Advocate, the Public School and Child Advocate, the Handicapped and Disabled Advocate, the Victim Advocate, *the Inspector General*, and the Personnel Director and to their offices.

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ARTICLE IX
REMOVAL OF ELECTIVE AND APPOINTIVE OFFICERS

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CHAPTER 2
REMOVAL OF APPOINTIVE OFFICERS

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§9-203. *Removal for Cause.*

Prior to the expiration of a term, the Inspector General may only be removed by the Mayor for cause. Before the Inspector General is removed, the Inspector General must be provided with a written statement of the reasons for removal, and shall be given the opportunity for a hearing pursuant to the process set forth in 9-201, provided that if the Civil Service Commission finds that the Mayor's charges were not well founded or that they do not constitute a sufficient cause for dismissal the remedy shall be as follows:

- (1) Reinstatement to the position if the Council votes for reinstatement of the Inspector General no later than the second session of Council after the Commission's determination has been made and communicated to the Clerk of Council; or*
- (2) If Council does not vote to reinstate the Inspector General within in the time authorized, the Commission may award the Inspector General the salary for the balance of the term the Inspector General would otherwise have served, or such part thereof as the Commission deems appropriate, and the Council shall promptly make an appropriation out of which the award can be paid.*

ARTICLE X

PROHIBITED AND REQUIRED ACTIVITIES OF COUNCIL MEMBERS, CITY OFFICERS, EMPLOYEES
AND OTHERS, AND PENALTIES

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§ 10-112. *Responsibilities of Officers, Employees, Elected Officials and Recipients of City Contracts and Funding in Connection With Allegations of Fraud, Corruption and Other Forms of Misconduct and the Inspector General.*

- (1) Every elected official, appointed officer and employee shall, with respect to alleged fraud, corruption, waste, abuse and misconduct concerning City activities and business subject to investigation by the Inspector General as set forth in Section 4-2600 of this Charter:*
 - (a) Report to the Inspector General any knowledge or information brought to his or her attention that any person or entity may have engaged in such conduct. A report to another agency with investigative authority, if required by law, shall satisfy any duty under this subparagraph (a).*
 - (b) Cooperate fully with the Inspector General in the discharge of the Inspector General's duties as set forth in Section 4-2600 by providing truthful and complete information and testimony, and by providing full and unrestricted access to City activities, property, records, and all other forms of information pertaining to an investigation undertaken by the Inspector General, subject to the exercise of such rights as granted by the laws of the United States and the Commonwealth and except to the extent another investigative authority with jurisdiction has determined that such cooperation would interfere with an ongoing criminal investigation, in which case such elected official, appointed officer or employee shall refer the Inspector General to the appropriate criminal investigative authority and cooperate and coordinate with the*

Inspector General only to the extent appropriate.

(2) The head of each City agency shall, upon receipt of a report from the Inspector General pursuant to Section 4-2600(c), take appropriate measures to ensure the confidentiality of the information contained in such report and promptly submit a response to the Inspector General identifying any administrative or other action planned or taken to correct violations or address findings made in such report.

(3) All contractors, subcontractors, and others that receive City funds through business with the City; all City concessionaires, lessors and lessees; all recipients of any City grant or subsidy received through the authority or approval of the City; and all direct recipients of City funding shall, in connection with such business, agreement, assistance or funding:

(a) Report to the Inspector General knowledge or information of alleged fraud, corruption, waste, abuse and misconduct concerning City activities and business subject to investigation by the Inspector General as set forth in Section 4-2600 of this Charter; and

(b) Cooperate with representatives of the Inspector General by providing complete and accurate information as well as the necessary assistance in matters under investigation.

(4) No person shall retaliate against, punish or penalize any other person for complying with the requirements of this Section, or otherwise assisting the Inspector General in the performance of the Inspector General's duties, or attempt to prevent anyone from providing to a City official or employee information regarding conduct that is subject to investigation by the Inspector General.

(5) No person shall provide information to the Inspector General, or the Inspector General's representative, nor make a complaint primarily for a purpose other than that of identifying fraud, corruption, waste, abuse and misconduct concerning City activities and business subject to investigation by the Inspector General as set forth in Section 4-2600 of this Charter nor provide information or make an allegation when the person knows or should know that the information is provided or allegation made for some other purpose.

(6) The knowing failure of any appointed officer or employee to comply with the requirements of this Section shall constitute cause for suspension or removal from employment or subject such individual to other penalties as may be provided by law.

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§ 10-107. Political Activities.

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(6) No person while serving as the Inspector General, or serving as an employee of the Office of Inspector General, shall make financial contributions to any candidate for any City office or to any incumbent City official. No person who has served as Inspector General shall seek any elective City office for at least two years after termination of service as Inspector General.

(6) (7) Any officer or employee of the City who violates any of the foregoing provisions of this section shall, in addition to any penalties provided for hereafter, be subject to a sanction of ineligibility for any office or position under the City for up to one year.

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APPENDIX

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CHAPTER A-2

§ A-200. Schedule.

This charter shall become effective on the first Monday of January, 1952, except in the following particulars:

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(a) The amendments to this Charter relating to the Office of Inspector General, and the responsibilities of elected officials, appointed officers, employees and others in connection with alleged fraud, waste, abuse and other forms of misconduct and the Inspector General, shall take effect on July 1, 2023.

(b) A City employee serving, as of June 30, 2022, in a position in the Office of the Mayor exempt from civil service under the Office of the Inspector General may, within six months after the effective date set forth in paragraph (a), be transferred by the Office of the Inspector General, with the consent of the Mayor, to a civil service position in that Office approved by the Civil Service Commission and may be continued in such position without the need for such employee to take a Civil Service examination. Nothing herein shall preclude the reclassification or reallocation as provided by the civil service regulations of any position held by any such employee.