

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1457

6
7 H.P. 1009

House of Representatives, May 3, 1985

8 Reference to the Committee on State Government suggested and ordered
9 printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Racine of Biddeford.

11 Cosponsored by Representative Richard of Madison and Representative
Therault of Fort Kent.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Establish the Office of Inspector
18 General to Investigate Fraud, Waste or
19 Abuse in the Expenditure of Public
20 Funds.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 5 MRSA c. 161 is enacted to read:

25 CHAPTER 161

26 INSPECTOR GENERAL

27 §1951. Definitions

28 As used in this chapter, unless the context oth-
29 erwise indicates, the following terms have the fol-
30 lowing meanings.

31 1. Construction. "Construction" means the pro-
32 cess of planning, acquiring, designing, building, al-

1 tering, repairing, maintaining, servicing, improving,
2 demolishing, equipping or furnishing any structure or
3 appurtenance, including facilities and utilities or
4 other improvements of any kind to any real property.

5 2. Contractor. "Contractor" means any person,
6 corporation, partnership, business, union, committee
7 or other organization, entity or group of individu-
8 als.

9 3. Council. "Council" means the Inspector Gen-
10 eral Council.

11 4. Office. "Office" means the Office of Inspec-
12 tor General.

13 5. Procurement. "Procurement" means buying,
14 purchasing, renting, leasing or otherwise acquiring
15 or disposing of supplies, services or construction.

16 6. Public funds. "Public funds" means federal,
17 state or local funds.

18 7. Services. "Services" means the furnishing of
19 labor, time or effort by a contractor.

20 8. Supplies. "Supplies" means all property, in-
21 cluding, but not limited to, equipment, materials,
22 printing, insurance and the purchase or lease of real
23 property.

24 §1952. Inspector General

25 1. Establishment. The Office of Inspector Gen-
26 eral is established under the direction of the In-
27 spector General. The Inspector General shall be ap-
28 pointed by the Governor for a term of 4 years, sub-
29 ject to review by the joint standing committee of the
30 Legislature having jurisdiction over State Government
31 and to confirmation by the Legislature. The Inspec-
32 tor General shall be selected on the basis of his in-
33 tegrity and demonstrated ability in accounting, au-
34 diting, financial analysis, law, management analysis,
35 public administration, investigation or criminal jus-
36 tice administration.

1 2. Employees. The Inspector General may, sub-
2 ject to the Personnel Law, appoint such employees as
3 he may deem necessary, including, but not limited to,
4 assistant inspectors general, counsel, clerks, ac-
5 countants, auditors, financial management analysts
6 and investigators.

7 §1953. Inspector General Council

8 1. The Inspector General Council, as established
9 by Title 5, section 12004, subsection 10, paragraph
10 A, subparagraph (22-A), shall consist of the follow-
11 ing members:

12 A. The Attorney General;

13 B. The State Auditor;

14 C. The Commissioner of Public Safety;

15 D. The State Controller;

16 E. An attorney appointed by the Attorney Gener-
17 al;

18 F. A person with experience in business or ac-
19 counting appointed by the Governor; and

20 G. One member of the public appointed by the
21 Governor.

22 2. Terms. The members set out in subsection 1,
23 paragraphs A to D, shall serve during their terms in
24 the offices which they represent. The members on the
25 council appointed pursuant to subsection 1, para-
26 graphs E to G, shall serve for terms of 3 years, ex-
27 cept that, of those first appointed, the member ap-
28 pointed by the Attorney General shall serve for a
29 term of 3 years; one member appointed by the Governor
30 shall serve for a term of 2 years; and one member ap-
31 pointed by the Governor shall serve for a term of 4
32 years.

33 3. Compensation. The appointed members of the
34 council shall be compensated in accordance with Title
35 5, chapter 379.

1 4. Meetings. The Inspector General shall meet
2 with the council at least quarterly.

3 §1954. Purpose

4 The office shall act to prevent and detect fraud,
5 waste and abuse in the expenditure of public funds by
6 any state department, commission or agency or any
7 subdivisions or instrumentalities of the State in
8 programs and operations involving the procurement of
9 any supplies, services or construction.

10 §1955. Duties

11 The Inspector General shall, with the advice of
12 the council, have the following powers and duties:

13 1. Audits and investigations. To supervise, co-
14 ordinate and conduct audits and investigations, when
15 necessary, relating to programs and operations in-
16 volving the expenditure of public funds for the pur-
17 poses set out in section 1954;

18 2. Review of legislation and rules. To review
19 legislation and proposed rules and make recommenda-
20 tions concerning the effect of that legislation or
21 those rules on the prevention and detection of fraud,
22 waste and abuse;

23 3. Recommendations. To recommend policies to
24 prevent or detect fraud, waste and abuse;

25 4. Advice. Upon request, to advise and assist
26 any department, commission or agency or any subdivi-
27 sion or instrumentality of the State which is in-
28 volved in the expenditure of public funds for the
29 purpose of procurement of supplies or construction
30 and to make recommendations concerning coordination
31 of any federal, state, local or private agency or en-
32 tity with respect to all matters relating to the pre-
33 vention and detection of fraud, waste and abuse in
34 the expenditure of public funds for the purposes set
35 out in section 1954;

36 5. Federal funds. To apply for and receive any
37 federal funds to carry out the purposes of this chap-
38 ter; and

1 6. Rules. In accordance with the provisions of
2 the Maine Administrative Procedure Act, Title 5,
3 chapter 375, to promulgate rules to carry out this
4 chapter.

5 §1956. Inspection of records and papers

6 Except where state law specifically provides that
7 records shall be confidential in carrying out this
8 chapter, the Inspector General shall have access to
9 all records and documents maintained by or available
10 to any department, commission or agency or any subdivi-
11 sion or instrumentality of the State relating to
12 the expenditure of public funds with respect to which
13 the Inspector General has duties and responsibilities
14 pursuant to this chapter.

15 The Inspector General may request assistance from
16 any state, county or municipal agency as may be nec-
17 essary to carry out this chapter. The Inspector Gen-
18 eral may subpoena records or documents to carry out
19 his duties.

20 §1957. Reports to Attorney General or United States
21 Attorney

22 If the Inspector General has reasonable grounds
23 to believe that there has been a violation of federal
24 or state law, he shall report to the Attorney Gener-
25 al.

26 §1958. Civil actions

27 The Attorney General may bring a civil action in
28 the name of the State, if he discovers fraudulent
29 acts and believes that civil remedies are appropri-
30 ate.

31 §1959. Reports

32 The Inspector General shall annually report to
33 the Governor and Legislature summarizing the activi-
34 ties of the office during the preceding year. The
35 report shall include, but not be limited to, a de-
36 scription of significant problems of fraud, waste and
37 abuse; a description of the recommendations for cor-
38 rective action made by the Inspector General; the

1 identification of significant recommendations de-
2 scribed in previous annual reports for which correc-
3 tive action has not been completed; a summary of mat-
4 ters referred for prosecution or civil action and the
5 disposition thereof; a list of audit reports com-
6 pleted by the office; and recommendations for changes
7 in laws or rules within the jurisdiction of the of-
8 fice.

9 §1960. Complaints by public employees

10 1. Complaints. The Inspector General may re-
11 ceive and investigate complaints or information from
12 any public employee concerning the possible existence
13 of any fraud, waste or abuse in the expenditure of
14 public funds as set out in section 1954.

15 2. Confidentiality. The Inspector General shall
16 not, after receipt of a complaint or any information
17 from a public employee, disclose the identity of that
18 employee without the written consent of the employee,
19 unless the Inspector General determines that disclo-
20 sure is necessary and unavoidable during the course
21 of the investigation. At least 7 days prior to any
22 disclosure, the Inspector General shall notify the
23 public employee in writing.

24 Sec. 2. 5 MRSA §12004, sub-§10, ¶A, sub-¶(22-A)
25 is enacted to read:

26 (22-A) Finance Inspector Expenses 5 MRSA §1953
27 General Only
28 Council

29 STATEMENT OF FACT

30 The purpose of this bill is establish the Office
31 of the Inspector General, who will investigate any
32 possible fraud, waste or abuse in the expenditure of
33 public funds.

34 0612032285