

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

## **House Bill 3360**

BY DELEGATES KELLY AND HOTT

(BY REQUEST OF THE WEST VIRGINIA DEPARTMENT OF  
HOMELAND SECURITY)

[Passed March 11, 2023; in effect ninety days from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §15-13-1, *et seq.*, relating generally to creating the Office of the Inspector  
3 General in the Department of Homeland Security; authorizing the appointment of the  
4 Inspector General; setting forth duties and powers of the Inspector General; setting forth  
5 provisions for appointment and removal of Inspector General; establishing qualifications  
6 for Inspector General; authorizing delegation of duties; authorizing employing persons to  
7 perform duties of the office and authorizing and directing rulemaking.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 13. OFFICE OF THE INSPECTOR GENERAL.**

**§15A-13-1. Office created; appointment of Inspector General.**

1 (a) There is hereby created the Office of the Inspector General as a separate and  
2 independent operating agency within the department.

3 (b) The Office of the Inspector General shall be headed by the Inspector General.

4 (c) The Inspector General shall be appointed by the Governor, subject to the advice and  
5 consent of the Senate.

6 (d) The term of the Inspector General is five years.

7 (e) At the end of a term, an Inspector General shall be eligible for reappointment by the  
8 Governor, subject to confirmation as required by the provisions of subsection (c) of this section.  
9 The Inspector General may continue to serve until a successor is appointed if he or she is not  
10 reappointed.

11 (f) If a vacancy occurs in the position, an interim Inspector General may be appointed as  
12 successor to serve until a successor is appointed.

13 (g) The Inspector General may be removed by the Governor during his or her term only  
14 for:

15 (1) Malfeasance or gross misfeasance in office;

16 (2) Persistent failure to perform the duties of the office; or

17 (3) Conduct prejudicial to the proper administration of justice.

18 (h) The Inspector General shall be appointed without regard to political affiliation and shall  
19 be professionally qualified through experience or education in at least two of the following areas:

20 (1) The practice of law;

21 (2) Auditing;

22 (3) Government operations;

23 (4) Financial analysis;

24 (5) Management analysis;

25 (6) Public administration; or

26 (7) Fraud investigation.

27 (i) The Inspector General shall be paid an annual salary not to exceed \$95,000.

28 (j) The Inspector General:

29 (1) Shall perform inspections, evaluations, and reviews, and provide quality control for all  
30 investigations within the department, and supervise all personnel of the Office of the Inspector  
31 General;

32 (2) Shall investigate fraud, waste, abuse of departmental funds, and behavior in the  
33 department that threatens public safety or demonstrates negligence, incompetence, misfeasance,  
34 or malfeasance;

35 (3) Shall cooperate with and coordinate investigative efforts with law enforcement, and  
36 where a preliminary investigation establishes a sufficient basis to warrant referral, shall refer such  
37 matters to the appropriate prosecuting attorney or the appropriate federal law-enforcement  
38 agency; and

39 (4) May subpoena any person or evidence, administer oaths, take and certify affidavits,  
40 and take depositions and other testimony for the purpose of investigating fraud, waste, abuse of  
41 departmental funds, or behavior in the department that threatens public safety or demonstrates  
42 negligence, incompetence, or malfeasance.

43 (A) If a person fails to comply with a lawful order or subpoena issued under this subsection,  
44 on petition of the Inspector General or a designated Assistant Inspector General, a court of  
45 competent jurisdiction may compel:

46 (i) Compliance with the order or subpoena; or

47 (ii) Testimony or the production of evidence.

48 (k) If the Office of the Inspector General is unable to investigate a complaint or allegation  
49 because of a conflict of interest, the Office of the Inspector General shall refer the complaint or  
50 allegation to the Attorney General for referral to another investigative entity.

51 (l) Neither the Governor, the secretary, nor any other person, may impede, interfere, or  
52 inhibit the Inspector General from initiating, conducting, or completing any investigation,  
53 inspection, evaluation, review, or other activity regarding oversight of any investigation conducted  
54 by the Office of the Inspector General.

55 (m) The position of the Inspector General shall be governed by the classified-exempt  
56 service provisions in §29-6-4 of this code: *Provided*, That, any employees of the Office of the  
57 Inspector General shall be governed by the classified service provisions of §29-6-1 *et seq.* of this  
58 code and rules promulgated thereunder.

59 (n) The Inspector General may employ such professional personnel, investigators, and  
60 other personnel, including certified law-enforcement officers, necessary for the proper  
61 administration of the office.

62 (o) The Inspector General may delegate duties to other employees or obtain services  
63 through contract, but the Inspector General is responsible for all official tasks so delegated.

64 (p) The Inspector General shall propose legislative and procedural rules in accordance  
65 with the provisions of chapter 29A of this code in order to implement provisions of this section and  
66 to carry out the duties prescribed therein. The Inspector General may promulgate emergency  
67 rules pursuant to §29A-3-15 of this code to effectuate the purposes of this section.

68           (q) Reports of investigations are confidential and shall be provided under seal to the  
69 Governor, the secretary, and the Joint Committee on Government and Finance on a quarterly  
70 basis.

71           (r) Reports and documents relating to active investigations involving possible criminal  
72 conduct are confidential and are not subject to the provisions of 29B-1-1 *et seq.*

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2023.

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*Governor*