



Legislation Text

File #: 18-0199, Version: 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

**City of Baltimore
Council Bill
(Charter Amendment)**

Introduced by: Councilmember Dorsey

A Resolution Entitled

A Resolution of the Mayor and City Council concerning
Charter Amendment - Office of the Inspector General

For the purpose of creating an independent Office of the Inspector General headed by an Inspector General; establishing the process for appointing and terminating the Inspector General; establishing the powers and duties of the Office of the Inspector General; appointing the Inspector General to serve as the Executive Director of the Board of Ethics; granting the Inspector General the authority to cancel or suspend certain contracts with the concurrence of the City Solicitor; setting a minimum guaranteed funding level for the Office of the Inspector General; setting a minimum guaranteed compensation level for the Inspector General; granting the Inspector General the power to issue subpoenas; requiring the Office of the Inspector General to issue an annual public report; requiring City employees and officials to forward certain types of complaints to the Office of the Inspector General; requiring the Office of the Inspector General to keep the identities of complainants confidential to the extent allowed by law; establishing procedures to transition the existing Office of the Inspector General in the Law Department into the newly created independent Office of the Inspector General; generally relating to the Office of the Inspector General; and submitting this amendment to the qualified voters of the City for adoption or rejection.

By proposing to add

Article VII - Executive Departments
Section(s) 135 to 142, to be under the new subtitle,
“Office of the Inspector General”
Baltimore City Charter
(1996 Edition)

Section 1. Be it resolved by the Mayor and City Council of Baltimore, That the City Charter is proposed to be amended to read as follows:

Baltimore City Charter

Article VII. Executive Departments

Office of the Inspector General

§ 135. Office of the Inspector General: Office established.

There is an Office of the Inspector General, the head of which is the Inspector General.

§ 136. Office of the Inspector General: Inspector General.

(a) *Appointment.*

(1) The Inspector General is appointed by an advisory board comprising the following or their respective designees:

- (i) the Mayor;
- (ii) the City Solicitor, who serves as the Chair of the advisory board and may assign staff to the advisory board from the Law Department;
- (iii) the Comptroller;
- (iv) the City Council President;
- (v) the State's Attorney for Baltimore City;
- (vi) a member of the Baltimore City House or Senate delegation to the Maryland General Assembly, selected by the Baltimore City House and Senate delegations to the Maryland General Assembly;
- (vii) the Dean of the University of Maryland School of Law;
- (viii) the Dean of the University of Baltimore School of Law; and
- (ix) a member of the City Council selected by majority vote of the Council.

(2) A quorum of the advisory board consists of 5 members.

(3) An affirmative vote of at least 5 members shall be necessary to appoint an Inspector General.

(b) *Qualifications.*

- (1) The Inspector General shall be appointed without regard to political affiliation and must have experience in accounting, financial analysis, law, management analysis, public administration, or investigations.
- (2) The Inspector General shall hold at the time of appointment, or be required to obtain within 7 months after appointment, certification as a Certified Inspector General.

(c) *Term.*

The Inspector General shall serve a term of 6 years commencing from the date of appointment.

(d) *Removal.*

Before the expiration of a 6 year term, the Inspector General may only be removed with an affirmative vote of at least 5 members of the advisory board, after a finding that the Inspector General has:

- (1) failed to perform the duties outlined in §137 of this article;
- (2) been convicted of a criminal act, other than a nuisance crime eligible for expungement under Maryland Criminal Procedure Article §10-105(a)(9);
- (3) in the advisory board's sole determination, committed misconduct or malfeasance in office that undermines the credibility of the Inspector General and hinders their ability to perform their duties; or
- (4) in the advisory board's sole determination, demonstrated a pattern of incompetence and lack of fitness for the position.

(e) *Performance review.*

The advisory board shall meet at least once annually to review the performance of the Inspector General.

(f) *Acting Inspector General.*

- (1) Whenever a vacancy occurs for the Inspector General, or whenever the Inspector General is incapacitated or otherwise unavailable for duty for any cause, the highest ranking employee of the Office of the Inspector General shall be the Acting Inspector General until the vacancy is filled or the Inspector General is again available for duty.
- (2) The Chair of the advisory board shall:
 - (i) issue a progress report to the City Council describing the status of the efforts to fill the vacancy, or the Inspector General's incapacity or unavailability, 180 days from the date any vacancy occurs, or the date that the Inspector General is incapacitated or otherwise unavailable for duty for any cause; and
 - (ii) issue an additional progress report every 60 days thereafter until the vacancy is filled or the Inspector General returns to duty.

§ 137. Office of the Inspector General: Powers and duties of Office.

(a) *Head of Office.*

The Inspector General shall supervise and direct the Office of the Inspector General.

(b) *Responsibilities of the Office.*

The Office of the Inspector General is responsible for:

- (1) promoting efficiency, accountability, and integrity in City Government;
- (2) investigating complaints of fraud, waste, and abuse in City Government; and
- (3) promoting ethical, fiscal, and legal accountability.

(c) *Jurisdiction of Office.*

The Office of the Inspector General may investigate allegations that involve City government and potential violations of laws or regulations by any:

- (1) City elected official;
- (2) City employee;
- (3) member of a board or commission established or governed by the City Charter, City Code, or an executive order issued by the Mayor;
- (4) City contractor or person negotiating a contract with the City;
- (5) person seeking certification to provide goods or services to the City; or
- (6) external recipient of City funds, benefits, or services.

(d) *Inspections, investigations, and evaluations.*

The Office of the Inspector General may conduct independent reviews of government operations, including inspections, investigations, and evaluations of:

- (1) any activities, records, or individuals involved with City contracts and procurements; or
- (2) any other official act or function of any governmental entity under the jurisdiction of the Office.

(e) *Annual report.*

- (1) The Office of the Inspector General shall prepare and publish an annual report of the Office's activities.
- (2) The annual report may include recommendations regarding program weakness, contracting irregularities, or other institutional problems discovered by the Office.
- (3) The annual report shall be:
 - (i) submitted to all of the members of the Office of the Inspector General's advisory board; and
 - (ii) after any redactions required by law, posted on the Office of the Inspector General's website.

(f) *Public reports of investigations.*

The Inspector General may publish for public viewing a report of any investigation, inspection, or evaluation, except that any sensitive or confidential information must be redacted as required by law.

(g) *Ethics Board.*

The Inspector General shall serve as the Executive Director of the Board of Ethics established under § 106(a) of this Article and modified under § 110 of this Article, and shall use the Office of the Inspector General's staff and resources to support the Board of Ethics and fulfill the Executive Director's responsibilities.

(h) *Referrals and joint investigations.*

If, in the course of any inspection, investigation, or evaluation conducted by the Office, the Inspector General determines that there is reason to believe that a criminal act occurred, the Inspector General may:

- (1) refer the matter to the appropriate prosecutorial authority;
- (2) open a joint investigation with the appropriate prosecutorial Authority; or
- (3) notify the City Solicitor and take further action in concurrence with the City Solicitor.

(i) *Authority to cancel or suspend contracts.*

The Inspector General may, with the concurrence of the City Solicitor, cancel or suspend a contract entered into after the effective date of this section if the Inspector General finds that:

- (1) the contract is not being performed; or
- (2) a contractor on the contract has provided false statements to a City official.

(j) *Public awareness.*

- (1) The Inspector General shall take appropriate steps to build public awareness of the Office of the Inspector General and of all procedures established by the Inspector General for receiving complaints.
- (2) The Inspector General shall provide information to City employees about the identification and prevention of fraud, waste, and abuse of office in City government.

(k) *Policy recommendations.*

The Inspector General may, on any matter of policy or practice, make recommendations to the Mayor or to the head of any City department or agency, if the Inspector General believes that the implementation of the recommendation would assist in the promotion of efficiency, accountability, and integrity in City government.

(l) *Policies and procedures.*

The Inspector General shall establish policies and procedures that guide the functions and processes conducted by the Office of the Inspector General.

§ 138. Office of the Inspector General: Funding.

(a) *In general.*

The Board of Estimates shall annually include in the Ordinance of Estimates submitted to the City Council an amount sufficient to fund the Office of the Inspector General at not less than 10 times the salary of the Mayor.

(b) *Inspector General's salary included.*

- (1) The Inspector General's compensation shall be at least equal to 80% of the Mayor's compensation.
- (2) The Inspector General's compensation may be included in the funding provided under subsection(a) of this section and need not be appropriated in addition to that funding in the Ordinance of Estimates.

§ 139. Office of the Inspector General: Access to persons and records; Subpoena power.

(a) *Access to persons.*

The Inspector General shall have access to any head of any City entity under the jurisdiction of the Office of the Inspector General when necessary for any purpose pertaining to the Inspector General's powers and duties.

(b) *access to records.*

As allowed by law, the Inspector General shall have access to all records of any City entity under its jurisdiction. Officers and employees of City entities shall promptly provide to the Inspector General any information, document, report, record, account, or other material requested by the Inspector General, and the Inspector General is not required to obtain a subpoena for any records request made to any City entity.

(c) *Subpoena power.*

- (1) As part of an investigation into any matter under the jurisdiction of the Office of the Inspector General, the Inspector General may issue a subpoena independent of any further approval from the Mayor and City Council of Baltimore, requiring any person to give testimony, or produce any document, report, record, account, or other material.
- (2) A subpoena issued under this subsection may be judicially enforced by the City Solicitor in any court of competent jurisdiction.

§ 140. Office of the Inspector General: Duties of employees and officers under jurisdiction of the Office.

Any officer or employee under the jurisdiction of the Office of the Inspector General who receives a complaint of fraud, waste, or abuse shall immediately refer the complaint to the Office of the Inspector General.

§ 141. Office of the Inspector General: Confidentiality.

The Office of the Inspector General may not disclose to any person outside of the Office the identity of any complainant without the consent of the complainant, except when disclosure is required by law.

§ 142. Office of the Inspector General: Transition procedure.

(a) *Incumbent Inspector General.*

The individual holding the position of Inspector General of the City of Baltimore in the Law Department on November 6, 2018 will assume the position of Inspector General created by § 135 of this Article on the date that § 135 goes into effect.

(b) *Initial term .*

The 6 year term of the Inspector General assuming office under subsection (a) of this section runs from

the date of her or his appointment to the position of Inspector General of the City of Baltimore in the Law Department.

(c) *Funding.*

- (1) The funding requirements of § 138 of this Article will apply to the Ordinance of Estimates adopted after November 6, 2018 and each subsequent Ordinance of Estimates.
- (2) In the period between the effective date of § 135 of this Article and the adoption of a new Ordinance of Estimates, the Office of the Inspector General created by § 135 may operate using the funds previously appropriated for the Office of the Inspector General in the Law Department.

Section 2. And be it further resolved, That this proposed amendment to the City Charter be submitted to the legal and qualified voters of Baltimore City, for adoption or rejection, in accordance with Article XI-A, § 5 of the Maryland Constitution, in the form specified by the City Solicitor.