

Emergency Bill No. 1-00
Concerning: Inspector General
- Extension
Revised: 4-4-00 Draft No. 4
Introduced: February 1, 2000
Enacted: April 4, 2000
Executive: April 14, 2000
Effective: April 14, 2000
Sunset Date: None
Ch. 5, Laws of Mont. Co. 2000

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Leggett, Silverman, Ewing, Krahnke, and Andrews

AN EMERGENCY ACT to:

- (1) make the office of the Inspector General permanent;
- (2) revise the term that the Inspector General serves;
- (3) require certain persons to submit certain information to the Inspector General, and give the Inspector General power to subpoena certain persons or information; and
- (4) generally revise the functions and authority of the Inspector General.

By renumbering and amending
Montgomery County Code
Chapter 2, Administration
Section 2-64A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>

The County Council for Montgomery County, Maryland, approves the following Act:

1 **Sec. 1. Section 2-64A is renumbered and amended as follows:**

2 **Division 13. [Inspector General] Reserved**

3 * * *

4 **Article XIII. Inspector General.**

5 **[2-64A] 2-151. Inspector General.**

6 (a) **Goals.** The goals of the Inspector General are to:

7 (1) review the effectiveness and efficiency of programs and
8 operations of County government and independent County
9 agencies;

10 (2) prevent and detect fraud, waste, [and] and abuse[[, and
11 mismanagement]] in government activities; and

12 (3) propose ways to increase the legal, fiscal, and ethical
13 accountability of County government departments and County-
14 funded agencies.

15 (b) **Appointment.** The County Council must appoint an Inspector
16 General for a term of 4 years, as provided in subsection (c). [The]
17 Unless the Council reappoints [[an]] the incumbent, the Council must
18 select the Inspector General from a list of at least 3 qualified persons
19 submitted by an Inspector General nominating panel, consisting of 3
20 County residents designated by the Council by resolution. If the
21 Council does not select one of the persons submitted by the
22 nominating panel, the panel must submit another list of at least 3 other
23 qualified persons. The members of the nominating panel must not be
24 employed by the County or any independent County agency during
25 their service on the panel.

- 26 (c) **Term.** The term of each Inspector General begins on July 1 of the
27 [second] third year after an Executive and Council are elected, and
28 ends on June 30 of the [second] third year after the next Executive and
29 Council are elected. An Inspector General must not serve more than
30 two full 4-year terms, not including any time served as Inspector
31 General to complete an unexpired term. The Council must appoint an
32 Inspector General to complete a term if the Inspector General resigns,
33 dies, or is removed from office. If the term of the Inspector General
34 expires or the position is otherwise vacant, the senior professional staff
35 member, if any, in the Office of the Inspector General serves as acting
36 Inspector General until an Inspector General is appointed [and
37 confirmed].
- 38 (d) **Qualifications.** The Inspector General must be professionally
39 qualified, by experience or education, in auditing, government
40 operations, or financial management, and must be selected solely on
41 the basis of professional ability and personal integrity, without regard
42 to political affiliation.
- 43 (e) **Removal.** The Council may remove the Inspector General by
44 resolution adopted by the affirmative vote of six Councilmembers for
45 neglect of duty, malfeasance, conviction of a felony, or other good
46 cause. Before the Council adopts a resolution of removal, the Council
47 or its designee must hold a public hearing if the Inspector General
48 requests a hearing within 10 days after receiving notice of proposed
49 removal from the Council.
- 50 (f) **Budget.** By 4 months after the Inspector General is [confirmed]
51 appointed, the Inspector General must submit to the Executive and

52 Council a projected budget for the Office of the Inspector General for
 53 the entire 4-year term. In the resolution approving the operating budget
 54 for the next fiscal year, the Council must also recommend a projected
 55 budget for the Office of the Inspector General for the 3 following
 56 fiscal years. The Council must specify in any later budget resolution
 57 how the Office budget for that fiscal year differs from the projected
 58 budget the Council previously recommended.

59 (g) **Staff; Legal Counsel.**

60 (1) The Inspector General may, subject to appropriation and all
 61 applicable merit system laws and regulations, appoint as term
 62 employees the staff of the Office of the Inspector General. The
 63 term of each employee should end when the next Inspector
 64 General takes office unless the Inspector General specifies a
 65 shorter term when appointing the employee. The Inspector
 66 General may also, subject to appropriation, retain project staff
 67 or other consultants by contract. The Inspector General may,
 68 with the agreement of the head of any other government
 69 department or agency, temporarily detail an employee of that
 70 department or agency to the Office of the Inspector General.

71 (2) The County Attorney must provide legal services to the
 72 Inspector General, and may employ special legal counsel for the
 73 Inspector General under Section 213 of the Charter. If the
 74 Inspector General asks the County Attorney in writing to
 75 employ a special legal counsel and the County Attorney does
 76 not do so within 30 days after receiving the Inspector General's

77 request, the County Attorney must inform the County Council
78 why a special counsel was not employed.

79 (h) **Powers and Duties.** The Inspector General must attempt to identify
80 actions that would enhance the productivity, effectiveness, or
81 efficiency of programs and operations of County government and
82 independent County agencies. In developing recommendations, the
83 Inspector General may:

- 84 (1) conduct investigations, budgetary analyses, and financial,
85 management, or performance audits and similar reviews; and
86 (2) seek assistance from any other government agency or private
87 party, or undertake any project jointly with any other
88 government agency or private body.

89 In each project of the Office, the Inspector General should uphold the
90 objective of complying with applicable generally accepted government
91 auditing standards.

92 (i) **Work plan.** The Inspector General must direct the activities of the
93 Office of the Inspector General, subject to a work plan for the
94 Inspector General's 4-year term, which the Inspector General must
95 adopt within 6 months after being appointed. The Inspector General
96 may amend the plan during a term. The Inspector General must
97 consider recommendations and may seek suggestions for the work
98 plan from the Executive, the County Council, the head of each
99 independent County agency, employees of County government and
100 independent County agencies, employee organizations, and individual
101 citizens. The Inspector General must release the work plan to the
102 public but may treat any item or suggestion for an item as confidential

103 when advance public or agency knowledge of that item or suggestion
104 would frustrate or substantially impede the work of the Office.

105 (j) **Coordination.** The Inspector General should consult with the
106 Director of the Office of Legislative Oversight to assure that the work
107 of the Inspector General complements but does not duplicate the work
108 assigned by the Council to the Office of Legislative Oversight, as well
109 as audits and other evaluations conducted by other departments and
110 agencies. The Inspector General may review any audit or program
111 evaluation performed by any County department or agency, and may
112 seek comments from the same or any other department or agency.
113 [[When appropriate, the Inspector General should comply with
114 generally accepted government auditing standards.]]

115 (k) **Reports.**

116 (1) [[Beginning in 1998, the]] The Inspector General must submit by
117 October 1 each year an annual report to the Council and the
118 Executive on the activities of the Office and its major findings
119 and recommendations during the previous fiscal year.

120 (2) When the Inspector General completes a workplan item, the
121 Inspector General must submit a written report on that item to
122 the County Council, the Executive, and the chief operating
123 officer of each affected department or agency. The report must
124 describe the purpose of the project, the research methods used,
125 and the Inspector General's findings and recommendations.
126 Each affected department or agency must be given a reasonable
127 opportunity to respond to the Inspector General's final draft of
128 each report. After giving the Executive and the Council a

129 reasonable opportunity to review the report, the Inspector
130 General must release the report to the public, subject to the state
131 public information act. The public report must include the
132 agency's response. The Inspector General may keep any report
133 prepared under this paragraph, and any information received in
134 connection with that report, confidential until the report is
135 released to the public.

136 (l) **Access to information.**

137 (1) [Each] The Inspector General is legally entitled to, and each
138 department or office in County government and each
139 independent County agency must promptly give the Inspector
140 General, any document or other information concerning its
141 operations, budget, or programs that the Inspector General
142 requests. The Inspector General must comply with any
143 restrictions on public disclosure of the document or information
144 that are required by federal or state law. The Inspector General
145 must immediately notify the Chief Administrative Officer, the
146 County Attorney, and the President of the Council if any
147 department, office, or agency does not provide any document
148 or information within a reasonable time after the Inspector
149 General requests it. The Chief Administrative Officer (for
150 departments and offices in the Executive branch of County
151 government), the County Attorney (for independent County
152 agencies), and the Council President (for offices in the legislative
153 branch of County government) must then take appropriate
154 action (including legal action if necessary) to require the

155 department, office, or agency to provide the requested
 156 document or information.

157 (2) If the Inspector General does not receive all necessary
 158 information under paragraph (1), the Inspector General may
 159 issue a subpoena to require any person to appear under oath as
 160 a witness or produce any record or other material in connection
 161 with an audit or investigation under this Section. The Inspector
 162 General may enforce any subpoena issued under this Section in
 163 any court with jurisdiction.

164 (3) The Inspector General may administer an oath or affirmation or
 165 take an affidavit from any person as necessary to perform the
 166 Inspector General's duties.

167 (4) Each employee of a County department or agency should report
 168 any fraud, waste, or abuse, [[or other mismanagement]] to the
 169 Office of the Inspector General. After receiving a report or
 170 other information from any person, the Inspector General must
 171 not disclose that person's identity without the person's consent
 172 unless that disclosure is necessary to complete an audit or
 173 investigation.

174 (m) **Compliance.** Each of the following acts is a Class A violation:

- 175 (1) withholding or refusing to respond to a valid request for
 176 documents or information under this Section;
- 177 (2) giving false or misleading information in connection with any
 178 audit, study, or investigation under this Section;
- 179 (3) retaliating or threatening to retaliate against any person for filing
 180 a complaint with the Inspector General, furnishing information,

181 or cooperating in any audit, study, or investigation under this
182 Section.

183 (n) **Definition.** As used in this Section, “independent County agency”
184 means:

185 (1) the County Board of Education and the County school system;

186 (2) The Maryland- National Capital Park and Planning Commission;

187 (3) the Washington Suburban Sanitary Commission;

188 (4) Montgomery College;

189 (5) the Housing Opportunities Commission;

190 (6) the County Revenue Authority; and

191 (7) any other government agency (except a municipal government or
192 a state-created special taxing district) for which the County
193 Council appropriates or approves funding, sets tax rates, makes
194 levies, or approves programs or budgets.

195 **Sec. 2. Section 2 of Chapter 26 of the Laws of Montgomery County**
196 **1997 is repealed:**

197 [Sec. 2. **Expiration Date.** The position of Inspector General, and the
198 Office of the Inspector General, are terminated on June 30, 2000.]

199 **Sec. 3. Term.** The term of the Inspector General serving when this Act
200 takes effect ends on June 30, 2001.

201 **Sec. 4. Emergency Effective Date.**

202 The Council declares that an emergency exists and that this legislation is
203 necessary for the immediate protection of the public health and safety. This act
204 takes effect on the date on which it becomes law.

205 *Approved:*

206 /S/ 4/6/00

Michael L. Subin, President, County Council Date

207 *Approved:*

208 /S/ 4/14/00

Douglas M. Duncan, County Executive Date

209 *This is a correct copy of Council action.*

210 /S/ 4/17/00

Mary A. Edgar, CMC, Clerk of the Council Date