

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2024 Legislative Session

Legislative Day No. 8

Bill No. 48 -2024

Introduced by: Liz Walsh

SHORT TITLE: Inspector General – Companion Legislation and Code Revisions

AN ACT supporting the creation of the Office of the Inspector General; amending the process for whistleblower complaints; repealing certain duties of the County Auditor; amending the composition of the Howard County Ethics Commission; and generally relating to supporting the Office of the Inspector General.

Introduced and read first time _____, 2024. Ordered posted and hearing scheduled.

By order _____
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2024.

By order _____
Michelle Harrod, Administrator

This Bill was read the third time on _____, 2024 and Passed __, Passed with amendments _____, Failed _____.

By order _____
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2024 at ___ a.m./p.m.

By order _____
Michelle Harrod, Administrator

Approved by the County Executive _____, 2024

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard County
2 Code is amended as follows:

3
4 *By adding:*

5 *Title 6 – County Executive and the Executive Branch.*

6 *Subtitle 3. – Boards and Commissions.*

7 *Sec. 6.351. – Inspector General Advisory Board.*

8

9 *By amending:*

10 *Title 1 – Human Resources.*

11

12 *Subtitle 7. – Disclosure Protections.*

13 *Sec. 1.700. Whistleblower protection .*

14 *Title 22. General Provisions.*

15 *Subtitle 2. Howard County Public Ethics Law*

16 *Sec. 22.203. Administration.*

17 *By repealing:*

18 *Title 5 – County Council*

19 *Subtitle 4. – County Auditor*

20

21 **HOWARD COUNTY CODE**

22

23 **Title 1 – Human Resources**

24

25 **Subtitle 7. – Disclosure Protection.**

26

27 **Sec. 1.700. Whistleblower protection.**

28 (a) *Authority to Report.* Unless the disclosure is specifically prohibited by law, an employee of
29 Howard County, acting in good faith and on reasonable belief, may disclose to the [[County
30 Auditor]] OFFICE OF THE INSPECTOR GENERAL:

31 (1) A violation of a law, rule, or regulation by a County officer, employee, or contractor
32 while conducting County business or using County property;

1 (2) A gross waste of County funds;

2 (3) A gross abuse of authority by a County official or employee; or

3 (4) A specific and substantial danger to public health or safety due to an act or omission of
4 a County official, employee, or contractor.

5 (b) *Prohibited Acts.*

6 (1) A supervisor, appointing authority, or head of an office or department may not threaten
7 or in fact take or refuse to take any personnel action as a reprisal against an employee
8 to restrain, influence, or prevent an employee from making a disclosure under
9 subsection (a) of this section.

10 (2) (i) For purposes of this paragraph, "retaliate" means to take an adverse employment
11 action against an employee of the County including, but not limited to, threats of
12 retaliation, discharge, discrimination in compensation, or discrimination in conditions
13 of employment.

14 (ii) A supervisor, appointing authority, or head of an office or department may not
15 retaliate against an employee because the employee makes a disclosure under
16 subsection (a) of this section.

17 (c) *Complaints.*

18 (1) An employee who seeks relief for a violation of subsection (b) of this section may file
19 a complaint with the Human Resources Administrator or, if the subject of the
20 complaint is the Administrator, the Chief Administrative Officer.

21 (2) The Human Resources Administrator or the Chief Administrative Officer shall
22 investigate the complaint and the Chief Administrative Officer shall report the findings
23 to the INSPECTOR GENERAL, THE Howard County Council, [[the County Auditor,]] and
24 the County Executive.

25 (d) *Confidentiality.* To the extent allowed by law, the identity of a person who makes a
26 disclosure under this section shall be kept confidential.

27 (e) *Penalties.* Violation of subsection (b) of this section is grounds for dismissal under the
28 personnel rules of Howard County.

1
2 **Title 5 – County Council**
3 **Subtitle 4. – County Auditor**
4

5 **[[Sec. 5.401. Audits.**

6 (a) *Scope of Section.* This section applies to special audits, as prescribed in the first sentence of
7 section 213 of the County Charter, involving the alleged misuse of County funds that the
8 Council may order of the accounts of any department, office, or agency receiving funds
9 from the County Government.

10 (b) *Notice.* Prior to the start of a review of any credible alleged misuse of County funds, the
11 County Auditor shall outline the scope of the review or audit for the County Council.
12 Specifically, the County Auditor shall:

13 Work with the Council Administrator to communicate the alleged misuse of County funds
14 with the County Council and inform the Council of the following parameters for the review
15 or audit:

- 16 i. Allegations to be reviewed or audited and any known facts;
17 ii. Rationale for the review or audit;
18 iii. The administering of oaths;
19 iv. Audit standards to govern the review or audit and how the review or audit would
20 meet the standards;
21 v. Timeline of the review or audit;
22 vi. A list of witnesses that will be interviewed;
23 vii. A list of records or other materials being sought by the County Auditor in
24 connection with the review or audit; and
25 viii. Any other information the Council may require.

26 (c) *Report.* Upon the completion of any preliminary special audit report, as prescribed in the
27 first sentence of section 213 of the County Charter involving the alleged misuse of County

1 funds, the County Auditor shall work with the Council Administrator to communicate the
2 preliminary draft and findings to the County Council.

- 3 (d) *Confidentiality.* The County Council shall keep confidential any communications between
4 the County Council and the County Auditor pertaining to any special audit or any alleged
5 misuse of County funds, including information relating to any allegation, complaint, or
6 record of the review or audit, except as otherwise provided by State or Federal law.]]

7
8 **Title 6 – County Executive and the Executive Branch**

9 **Subtitle 3. – Boards and Commissions**

10
11 **SEC. 6.351. – INSPECTOR GENERAL ADVISORY BOARD**

12 THERE IS AN INSPECTOR GENERAL ADVISORY BOARD. ITS MEMBERSHIP, DUTIES, AND
13 RESPONSIBILITIES ARE SET FORTH IN SECTION 22.1200 OF THIS CODE.

14
15 **Title 22. General Provisions**

16 **Subtitle 2. Howard County Public Ethics Law**

17
18 **Sec. 22.203. Administration.**

- 19 (a) There is a Howard County Ethics Commission that consists of:
20 (1) five members, appointed by the County Executive with the concurrence of the County
21 Council[.]; AND
22 (2) THE INSPECTOR GENERAL, OR THE INSPECTOR GENERAL’S DESIGNEE.
- 23 (b) In addition to the qualifications set forth for board and commission members generally in
24 title 6, subtitle 3 of this Code, members of the Ethics Commission APPOINTED BY THE
25 COUNTY EXECUTIVE shall not:
26 (1) Serve more than two consecutive terms;
27 (2) Hold or be a candidate for any elected or appointed Office of the United States, the
28 State, any political subdivision or incorporated municipality of the State, or of any
29 political party;
30 (3) Be an employee of the County or of any political party; and

- 1 (4) Be otherwise required to file a lobbying registration pursuant this subtitle.
- 2 (c) THE INSPECTOR GENERAL, OR THE INSPECTOR GENERAL'S DESIGNEE, SHALL SERVE AS CHAIR
3 OF THE COMMISSION. IF THE INSPECTOR GENERAL POSITION IS VACANT:
- 4 (1) The Commission shall elect a chairman from among its members.
- 5 (2) The term of the chairman is one year.
- 6 (3) The chairman may be reelected.
- 7 (d) A majority vote of the Commission shall consist of ~~[[three]]~~ FOUR or more votes. A quorum
8 consists of ~~[[three]]~~ FOUR members present.
- 9 (e) (1) The ~~[[County Solicitor]]~~ OFFICE OF THE INSPECTOR GENERAL shall assist the commission
10 in carrying out the Commission's duties;
- 11 (2) If a conflict of interest under section 22.204 of this subtitle or other conflict prohibits
12 the ~~[[County Solicitor]]~~ INSPECTOR GENERAL from assisting the Commission in a
13 matter, the COUNTY SOLICITOR SHALL ASSIST THE COMMISSION. IF A CONFLICT OF
14 INTEREST UNDER SECTION 22.204 OF THIS SUBTITLE OR OTHER CONFLICT PROHIBITS THE
15 COUNTY SOLICITOR FROM ASSISTING THE COMMISSION, THE County shall provide
16 sufficient funds for the Commission to hire independent counsel for the duration of the
17 conflict.
- 18 (f) The ~~[[County Solicitor]]~~ INSPECTOR GENERAL shall designate an Executive Secretary who
19 shall attend all meetings.
- 20 (g) The Commission is the advisory body responsible for interpreting this subtitle and advising
21 persons subject to this subtitle regarding its application.
- 22 (h) The Commission shall hear and decide, with the advice of the County Solicitor or other
23 legal counsel if appropriate, all complaints filed regarding alleged violations of this subtitle
24 by any person.
- 25 (i) The Commission shall keep on file the minutes of its proceedings in accordance with State
26 of Maryland's Open Meetings Act. The Commission, or an office designated by the
27 Commission, shall retain as a public record all forms submitted by any person under this
28 subtitle for the longer of:

- 1 (1) Four years after receipt; or
- 2 (2) If the person is an elected official, the entirety of the person's term.
- 3 (j) The Commission shall conduct a public information and education program regarding the
4 purpose and implementation of this subtitle.
- 5 (k) On or before October 1 of each year, the Commission shall:
- 6 (1) Certify to the state ethics commission that the County is in compliance with the
7 requirements of the General Provisions Article, title 5, subtitle 8 of the Annotated Code
8 of Maryland for Elected Local Officials; and
- 9 (2) Submit to the local governing body a report on the administration of the Public Ethics
10 laws by the Commission in compliance with the requirements of the General
11 Provisions Article, title 5, subtitle 8 of the Annotated Code of Maryland.
- 12 (l) The Commission shall:
- 13 (1) Determine if changes to this subtitle are required to be in compliance with the
14 requirements of the General Provisions Article, title 5, subtitle 8, of the Annotated
15 Code of Maryland; and
- 16 (2) Forward any recommended changes and amendments to the County Council for
17 enactment.
- 18 (m) The Commission shall:
- 19 (1) Determine if changes to this subtitle are required to be in compliance with the
20 requirements of the State Government Article, title 15, subtitle 8, of the Annotated
21 Code of Maryland; and
- 22 (2) Forward any recommended changes and amendments to the County Council for
23 enactment.
- 24 (n) (1) Any person subject to this subtitle may request an advisory opinion from the
25 Commission concerning the application of this subtitle.

- 1 (2) The Commission shall respond promptly to a request for an advisory opinion and shall
2 provide interpretations of this subtitle based on the facts provided or reasonably
3 available to the Commission within 60 days of the request.
- 4 (3) In accordance with all applicable State and County laws regarding public records, the
5 Commission shall publish or otherwise make available to the public copies of the
6 advisory opinions, with the identities of the subjects deleted.
- 7 (4) The Commission may adopt additional policies and procedures related to the advisory
8 opinion request process.
- 9 (n) (1) Any person may file a complaint with the Commission alleging a violation of any of the
10 provisions of this subtitle.
- 11 (2) A complaint shall be in writing and under oath; and
- 12 (3) The Commission may refer a complaint to the OFFICE OF THE INSPECTOR GENERAL,
13 County Solicitor, or other legal counsel if appropriate, for investigation and review. IF
14 THE COMMISSION REFERS A COMPLAINT TO THE OFFICE OF THE INSPECTOR GENERAL FOR
15 INVESTIGATION AND REVIEW, THE INSPECTOR GENERAL OR THE INSPECTOR GENERAL'S
16 DESIGNEE THAT SERVES ON THE COMMISSION MAY NOT BE INVOLVED IN THAT
17 INVESTIGATION OR REVIEW OF THE COMPLAINT. THE OFFICE OF THE INSPECTOR GENERAL
18 SHALL INCORPORATE FIREWALLS TO ENSURE COMPLIANCE WITH DUE PROCESS DURING
19 SUCH INVESTIGATIONS.
- 20 (4) The Commission may reject without further proceedings any complaint which it deems
21 to be plainly frivolous or which, assuming the facts alleged were true, does not state a
22 violation of this subtitle.
- 23 (5) The Commission may dismiss a complaint if, after receiving an investigative report,
24 the Commission determines that there are insufficient facts upon which to base a
25 determination of a violation.
- 26 (6) If there is a reasonable basis for believing a violation has occurred, the subject of the
27 complaint shall be given an opportunity for a hearing conducted in accordance with the
28 applicable County Rules of Procedure.

- 1 (7) A final determination of a violation resulting from the hearing shall include findings of
2 fact and conclusions of law.
- 3 (8) Upon finding a violation, the Commission may take any enforcement action provided
4 for in section 22.208 of this subtitle.
- 5 (9) (i) After a complaint is filed and until a final finding of a violation by the Commission,
6 all actions regarding a complaint are confidential.
- 7 (ii) A finding of a violation is public information.
- 8 (10) The Commission may adopt additional policies and procedures related to complaints,
9 complaint hearings, the use of independent investigators and staff, the use of witness
10 and document subpoenas, and cure and settlement agreements.
- 11 (o) The Commission may grant exemptions to or modifications of the conflict of interest and
12 financial disclosure provisions of this subtitle to officials or employees serving as members
13 of County boards and commissions, when the Commission finds that the exemption or
14 modification would not be contrary to the purposes of this subtitle, and the application of
15 this subtitle would:
- 16 (1) Constitute an unreasonable invasion of privacy; and
- 17 (2) Significantly reduce the availability of qualified persons for public service.
- 18 (p) The Commission may:
- 19 (1) Assess a late fee of \$2.00 per day up to a maximum of \$250.00 for a failure to timely
20 file a financial disclosure statement required under section 22.206 of this subtitle; and
- 21 (2) Assess a late fee of \$10.00 per day up to a maximum of \$250.00 for a failure to file a
22 timely lobbyist registration or lobbyist report required under section 22.207 of this
23 subtitle.
- 24 (q) (1) The Executive Secretary or a designee, on behalf of the Commission, may issue
25 subpoenas:
- 26 (i) For the attendance of witnesses to testify; or

1 (ii) To produce documents and other evidence relevant and necessary to the
2 administration and enforcement of this subtitle.

3 (2) A subpoena shall be served by hand-delivering or mailing by certified mail a copy
4 either to the person named or to an agent authorized by appointment or by law to
5 receive service for the person named.

6 (3) A subpoena may be judicially enforced.

7

8

9 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that this Act
10 shall become effective 61 days after its enactment.

11