HOUSE . . . . . No. 9

So much of the recommendations of the Office of the Inspector General (House, No. 8) as relates to the powers of said office. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the Office of the Inspector General.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 10 of chapter 12A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following:-

The inspector general may also refer audit or investigative findings to the state ethics commission, or to any other federal, state or local agency, that has an interest in said findings.

SECTION 2. Chapter 12A of the General Laws, as so appearing, is hereby amended by striking out section 15 and inserting in place thereof the following:

Section 15. Whenever the inspector general has reason to believe that a person has information with respect to any matter which is within the inspector general's jurisdiction to investigate, he may require by summons the attendance and testimony under oath of said person.

Such summons shall be served by the inspector general or anyone duly authorized by him, in the same manner as a summons for a witness in a civil case issued on behalf of the commonwealth, and all provisions of law relative to such summons issued in such case shall apply to a summons issued under this section.

A witness required by summons to attend and testify under oath and produce books and records shall be given not less than 48 hours' notice of the time and place of the taking of testimony, unless such notice shall unduly interfere with the conduct of the investigation.

Such witness, at the time of service of said summons, shall be notified of the matter under investigation concerning which such witness will be required to testify and shall be given a copy of the rules of procedures adopted by the inspector general, shall be notified that his testimony

21 will be taken at a private session, and whether the witness is a subject of an investigation. A
22 subject of an investigation is a person whose conduct is within the scope of the investigation.
23 The failure to furnish such witness with any notice or information required to be given by this
24 section shall cause the said summons to be invalid.

25 In addition, the witness shall be notified that he has a right to consult with and to have an
26 attorney present at the time the testimony is taken and that he has a constitutional right not to
27 furnish or produce evidence which may tend to incriminate him.

28 A person summonsed to attend and testify under oath shall appear and testify under oath
29 before the inspector general or an employee of the office who is an attorney admitted to practice
30 in the commonwealth. The attorney general or his designee may also attend.

31 The terms of any such summons must be reasonable, and the information sought from the
32 summonsed witness must be reasonably related to the subject matter under investigation. No
33 such summons may be issued for purposes of harassment or for any illegitimate or improper
34 purpose. All constitutional and statutory rights and privileges which exist with respect to any
35 summons issued by a court, including the privilege against self-incrimination, shall have the
36 same force and effect with respect to any such summons issued by the inspector general.

37 A summonsed person may object to the summons served upon him in advance of the
38 return date of the summons by a complaint in the nature of a motion to quash filed in the superior
39 court department of the trial court in Suffolk county. The filing of a complaint in the nature of a
40 motion to quash shall stay all pending summons until further order of the superior court. Any
41 justice of the superior court may, upon application by the inspector general, issue an order to
42 compel the attendance of witnesses summonsed as aforesaid and the giving of testimony under
43 oath in furtherance of any audit or investigation under this chapter in the same manner and to the
44 same extent as before the superior court. Failure to obey any order of the court with respect to
45 said summons may be punished by said court as contempt.

46 Any summons issued pursuant to this section shall not be made public by the inspector
47 general or any persons subject to his direction or person designated to hear testimony under this
48 section, and testimony given shall be governed by the same provisions with reference to secrecy
49 which govern grand jury proceedings. Whoever violates the provisions of this paragraph shall be
50 punished by imprisonment for not more than six months in a jail or house of correction or by a
51 fine of not more than $1000. The previous sentence notwithstanding, disclosure of such
52 testimony may be made to such members of the staff of the office of inspector general as is
53 deemed necessary by the inspector general to assist him in the performance of his duties and
54 responsibilities under this chapter and such members of the staff may be present at the taking of
55 such testimony. The inspector general may also disclose such testimony to the attorney general,
56 the United States Attorney or a district attorney of competent jurisdiction in connection with a
57 referral or criminal proceeding.