

Senate Bill No. 868

Passed the Senate September 8, 1999

Secretary of the Senate

Passed the Assembly September 7, 1999

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 3513, 11552, and 19815 of the Government Code, and to amend Sections 830.2, 6051, 6126, and 6128 of, and to add Sections 6126.3, 6126.4, 6126.5, 6126.6, 6127.1, 6127.3, and 6127.4 to, and to repeal Section 6127 of, the Penal Code, relating to the office of the Inspector General, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 868, C. Wright. Office of the Inspector General.

(1) Existing law provides for the independent office of the Inspector General and provides that the Inspector General shall be appointed by the Governor, subject to Senate approval of that appointment. The Inspector General is responsible for reviewing departmental policy and procedures for conducting investigations and audits of investigatory practices and other audits and investigations of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, or the Board of Corrections, as requested by either the Secretary of the Youth and Adult Correctional Agency or a Member of the Legislature.

This bill would revise provisions relating to the Inspector General involving the responsibilities of the office of the Inspector General, the certification program for investigators under the Inspector General, and access by the Inspector General to, and examination or reproduction by the Inspector General of, documents or records contained on any medium by the above agencies. This bill would provide that the Inspector General, in connection with any audit or investigation, may administer oaths, certify to all official acts, and issue subpoenas, as specified. The bill would specify at length the parameters of this subpoena power. The bill would provide that the misuse of any information obtained as a result of an investigation or audit by any employee of the



Inspector General may be considered grounds for disciplinary action. This bill would also provide that any person or officer who fails or refuses to permit the authorized access and examination or reproduction of documents or records by the Inspector General is guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law provides for the investigation and devisement of remedies for unfair practices involving state employees, as defined, and provides for the management of the nonmerit aspects of the state's personnel system relating to state employees, as defined.

This bill would specifically include employees of the office of the Inspector General within this definition of state employee for the purposes of the above provisions.

(3) Existing law provides that effective January 1, 1988, an annual salary of \$85,402 shall be paid to specified directors and commissioners of departments of the State of California.

This bill would make this salary provision applicable, in addition, to the Inspector General.

(4) Existing law provides that specified persons are peace officers whose authority extends to any place in the state provided that the primary duty of the peace officers is the enforcement of the law, as specified.

This bill would revise that provision to provide, in addition, that a peace officer, as specified above, includes deputies of the Inspector General, as specified, and any employee under the authority of the Inspector General as designated by the Inspector General, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, or the Board of Corrections.

(5) Existing law requires the Inspector General to conduct a management review audit of any warden in the Department of Corrections, or superintendent in the



Department of the Youth Authority who has held the position for more than 4 years.

This bill would require the Inspector General to conduct a management review audit following confirmation of a new warden or the appointment of a new superintendent, unless the Inspector General determines that the audit is not warranted at that time.

(6) This bill would prohibit the Inspector General from destroying certain papers and memoranda used in connection with an audit, as specified, for a period of not less than 3 years. This bill would, except as provided, make specified documents, papers and other records subject to public disclosure pursuant to existing law regarding public records.

(7) This bill would make it an offense punishable as a misdemeanor for the Inspector General or any employee or former employee thereof, or any person or business, as specified, including employees or former employees thereof, that is contracting or has contracted with the Inspector General, to divulge, except in a manner expressly permitted, records or other information, as specified, that are restricted by law from release to the public.

(8) The bill would provide that the Inspector General shall have access to, and be able to reproduce, specified records, and to examine bank records, money or other property, for an audit or investigation. Any officer or person who fails or refuses to permit access and reproduction, as specified, would be guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

(9) This bill would provide that it is a misdemeanor for the Inspector General or any employee thereof to release information, except as provided, that is prohibited from being disclosed. By creating a new crime, this bill would impose a state-mandated local program.

(10) Existing law provides that the Inspector General is a department head for purposes of obtaining depositions and may require employees to be interviewed on a confidential basis. This bill would repeal



existing law in this respect and recast and reorganize those provisions.

(11) The Public Employees' Retirement Law provides for benefits and contribution rates for peace officer members that are higher than those provided for state miscellaneous members. The state's employer contributions to the Public Employees' Retirement Fund are continuously appropriated from the General Fund and other funds in the State Treasury.

Because this bill would provide that any employee under the authority of the Inspector General as designated by the Inspector General is a peace officer, thereby including these employees within the category of peace officer members, it would make an appropriation from the General Fund and other funds in the State Treasury by increasing the state's contributions to the Public Employees' Retirement Fund for these new state peace officer members.

(12) This bill would incorporate additional changes in Section 830.2 of the Penal Code proposed by AB 1502, to be operative if AB 1502 and this bill become effective on or before January 1, 2000, and this bill is enacted last.

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.



(b) “Recognized employee organization” means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) “State employee” means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the State Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, supervisory employees, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller’s office engaged in technical or analytical duties in support of the state’s personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(d) “Mediation” means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) “Managerial employee” means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) “Confidential employee” means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential



information contributing significantly to the development of management positions.

(g) “Supervisory employee” means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

(h) “Board” means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(i) “Maintenance of membership” means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of that employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the Controller’s office.

(j) “State employer,” or “employer,” for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.



(k) “Fair share fee” means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

SEC. 2. Section 11552 of the Government Code is amended to read:

11552. Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:

- (a) Commissioner of Financial Institutions.
- (b) Commissioner of Corporations.
- (c) Insurance Commissioner.
- (d) Director of Transportation.
- (e) Real Estate Commissioner.
- (f) Director of Social Services.
- (g) Director of Water Resources.
- (h) Director of Corrections.
- (i) Director of General Services.
- (j) Director of Motor Vehicles.
- (k) Director of the Youth Authority.
- (l) Executive Officer of the Franchise Tax Board.
- (m) Director of Employment Development.
- (n) Director of Alcoholic Beverage Control.
- (o) Director of Housing and Community Development.
- (p) Director of Alcohol and Drug Abuse.
- (q) Director of the Office of Statewide Health Planning and Development.
- (r) Director of the Department of Personnel Administration.
- (s) Chairperson and Member of the Board of Equalization.
- (t) Secretary of the Trade and Commerce Agency.



- (u) State Director of Health Services.
- (v) Director of Mental Health.
- (w) Director of Developmental Services.
- (x) State Public Defender.
- (y) Director of the California State Lottery.
- (z) Director of Fish and Game.
- (aa) Director of Parks and Recreation.
- (ab) Director of Rehabilitation.
- (ac) Director of Veterans Affairs.
- (ad) Director of Consumer Affairs.
- (ae) Director of Forestry and Fire Protection.
- (af) The Inspector General pursuant to Section 6125 of the Penal Code.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 3. Section 19815 of the Government Code is amended to read:

19815. As used in this part:

(a) “Department” means the Department of Personnel Administration.

(b) “Director” means the Director of the Department of Personnel Administration.

(c) “Division” means the Division of Labor Relations.

(d) “Employee” or “state employee,” except where otherwise indicated, means employees subject to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), supervisory employees as defined in subdivision (g) of Section 3513, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service



within the Department of Industrial Relations, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than audit staff, intermittent athletic inspectors who are employees of the State Athletic Commission, professional employees in the Personnel/Payroll Services Division of the Controller's office and all employees of the executive branch of government who are not elected to office.

SEC. 4. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of the peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the



transportation of those persons, and the coordination of those activities with other criminal justice agencies.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

(j) The Inspector General, pursuant to Section 6125, and the Chief Deputy Inspector General In Charge, the Senior Deputy Inspector General, the Deputy Inspector General, and those employees of the Inspector General as designated by the Inspector General, are peace



officers, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, or the Board of Corrections.

SEC. 4.5. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) (1) Any member of the Law Enforcement and Investigations Unit of the Department of Corrections, provided that the primary duties of the peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of those persons, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections, provided that the primary



duties shall be criminal investigations of Department of Corrections personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace



officers shall be the enforcement of the law as prescribed in that section.

(j) The Inspector General, pursuant to Section 6125, and the Chief Deputy Inspector General In Charge, the Senior Deputy Inspector General, the Deputy Inspector General, and those employees of the Inspector General as designated by the Inspector General, are peace officers, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, or the Board of Corrections.

SEC. 5. Section 6051 of the Penal Code is amended to read:

6051. The Inspector General shall conduct a management review audit of any warden in the Department of Corrections or superintendent in the Department of the Youth Authority who has held his or her position for more than four years. The Inspector General shall conduct a management review audit following the confirmation of a new warden or the appointment of a new superintendent unless the Inspector General determines that the audit is not warranted at that time. The management review audit shall include, but not be limited to, issues relating to personnel, training, investigations, and financial matters. The audit report shall be submitted to the secretary of the agency, and the respective director for evaluation and for any response deemed necessary. Any Member of the Legislature may request and shall be provided with a copy of any audit report. A report that involves potential criminal investigations or prosecution shall be considered confidential.

SEC. 6. Section 6126 of the Penal Code is amended to read:

6126. (a) The Inspector General shall be responsible for reviewing departmental policy and procedures for conducting audits of investigatory practices and other



audits, as well as conducting investigations of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Youth and Adult Correctional Agency, as requested by either the Secretary of the Youth and Adult Correctional Agency or a Member of the Legislature, pursuant to the approval of the Inspector General under policies to be developed by the Inspector General. The Inspector General may, under policies developed by the Inspector General, initiate an investigation or an audit on his or her own accord.

(b) Upon completion of an investigation or audit, the Inspector General shall provide a response to the requester.

(c) The Inspector General shall, during the course of an investigatory audit, identify areas of full and partial compliance, or noncompliance, with departmental investigatory policies and procedures, specify deficiencies in the completion and documentation of investigatory processes, and recommend corrective actions, including, but not limited to, additional training with respect to investigative policies, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate.

SEC. 7. Section 6126.3 is added to the Penal Code, to read:

6126.3. The Inspector General shall not destroy any papers or memoranda used to support a completed audit within three years after a report is released. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall be filed at any of the regularly maintained offices of the Inspector General, except that none of the following items, or papers of which these items are a part, shall be released



to the public by the Inspector General or his or her employees and shall not be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1981) of Part 4 of the Code of Civil Procedure in any manner:

(a) Personal papers and correspondence of any person receiving assistance from the Inspector General when that person requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the Inspector General.

(b) Papers, correspondence, memoranda, or any information pertaining to any audit or investigation not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit or investigation that has been completed, if the papers, correspondence, or memoranda are not used in support of any report resulting from the audit or investigation.

SEC. 8. Section 6126.4 is added to the Penal Code, to read:

6126.4. It is a misdemeanor for the Inspector General or any employee or former employee of the Inspector General to divulge or make known in any manner not expressly permitted by law to any person not employed by the Inspector General any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition is also applicable to any person or business entity that is contracting with or has contracted with the Inspector General and to the employees and former employees of that person or business entity or the employees of any state agency or public entity that has assisted the Inspector General in the course of any audit or investigation or that has been furnished a draft copy of any report for comment or review.

SEC. 9. Section 6126.5 is added to the Penal Code, to read:



6126.5. (a) Notwithstanding any other provision of law, the Inspector General during regular business hours or at any other time determined necessary by the Inspector General, shall have access to and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, documents, and other records, and to examine the bank accounts, money, or other property, of any entity defined in Section 6126 for any audit or investigation. Any officer or employee of any such agency or entity having these records or property in his or her possession or under his or her control shall permit access to, and examination and reproduction thereof consistent with the provisions of this section, upon the request of the Inspector General or his or her authorized representative.

(b) For the purposes of access, examination, and reproduction as provided in subdivision (a), an authorized representative of the Inspector General is an employee or officer of the agency or public entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the agency or public entity. For the purpose of conducting any audit or investigation, the Inspector General or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for the confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a).

(c) Any officer or person who fails or refuses to permit access, examination, and reproduction, as required by this section, is guilty of a misdemeanor.

(d) The Inspector General may require any employee of those entities specified in Section 6126 to be interviewed on a confidential basis. Any employee



requested to be interviewed shall comply and shall have time afforded by the appointing authority for the purpose of an interview with the Inspector General or his or her designee. Any record created by an interview shall be deemed confidential for use by the Inspector General and the Secretary of the Youth and Adult Correctional Agency only. It is not the purpose of these communications to address disciplinary action or grievance procedures that may routinely occur. If it appears that the facts of the case could lead to punitive action, the Inspector General shall be subject to the provisions of the Public Safety Officers Procedural Bill of Rights Act (Section 3300 of the Government Code et seq.) as if the Inspector General were the employer.

SEC. 9.5. Section 6126.6 is added to the Penal Code, to read:

6126.6. It is a misdemeanor for the Inspector General or any employee of the Inspector General to release any information received pursuant to this chapter except as provided by this chapter, or that is otherwise prohibited by law from being disclosed.

SEC. 10. Section 6127 of the Penal Code is repealed.

SEC. 10.5. Section 6127.1 is added to the Penal Code, to read:

6127.1. The Inspector General shall be deemed to be a department head for the purpose of Section 11189 of the Government Code in connection with any investigation or audit conducted pursuant to this chapter. The Inspector General shall have authority to hire or retain counsel to provide confidential advice during audits and investigations. If the Attorney General has a conflict of interest in representing the Inspector General in any litigation, the Inspector General shall have authority to hire or retain counsel to represent the Inspector General.

SEC. 11. Section 6127.3 is added to the Penal Code, to read:

6127.3. (a) In connection with an audit or investigation pursuant to this chapter, the Inspector General, or his or her designee, may do any of the following:



- (1) Administer oaths.
- (2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents in any medium, or for the making of oral or written sworn statements, in any investigative interview conducted as part of an audit or investigation.

(b) Any subpoena issued under this chapter extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the Inspector General, or his or her designee. The person serving this process may receive compensation as is allowed by the Inspector General, or his or her designee, not to exceed the fees prescribed by law for similar service.

SEC. 12. Section 6127.4 is added to the Penal Code, to read:

6127.4. (a) The superior court in the county in which any investigative interview is held under the direction of the Inspector General or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of papers, books, accounts, and documents, as required by any subpoena issued by the Inspector General or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the Inspector General or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth all of the following:

(1) That due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) That the person has been subpoenaed in the manner prescribed in this chapter.



(3) That the person has failed and refused to attend or produce the papers required by subpoena before the Inspector General or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the investigative interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the Inspector General or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

SEC. 13. Section 6128 of the Penal Code is amended to read:

6128. (a) The office of the Inspector General may receive communications from any individual, including those employed by any department, board, or authority who believes he or she may have information that may describe a variance from departmental investigatory policies and procedures. The identity of the person providing the information as well as the information provided shall be held as confidential by the Inspector General and may be disclosed, in confidence, only to the secretary, the Governor, the appropriate director or chair, or a law enforcement agency in the furtherance of their duties. It is not the purpose of these communications to redress any single disciplinary action or grievance that may routinely occur.

(b) In order to properly respond to any allegation of improper governmental activity, the Inspector General shall establish a toll-free public telephone number for the purpose of identifying any alleged wrongdoing by an



employee of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, or the Youth and Adult Correctional Agency. This telephone number shall be posted by the above-named departments, and their respective subdivisions, in clear view of all employees and the public. When appropriate, the Inspector General shall initiate an investigation or audit of any alleged wrongdoing. However, any request to conduct an investigation shall be in writing. The request shall be confidential and is not subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) The identity of the person providing the information that initiated the investigation shall not be disclosed without the person's written permission, except to a law enforcement agency in the furtherance of its duties.

SEC. 14. Section 4.5 of this bill incorporates amendments to Section 830.2 of the Penal Code proposed by both this bill and AB 1502. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 830.2 of the Penal Code, and (3) this bill is enacted after AB 1502, in which case Section 4 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 1999

Governor

