

SENATE, No. 813

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1996

By Senators LYNCH and McGREEVEY

1 AN ACT concerning the State Commission of Investigation, amending
2 and supplementing P.L.1968, c.266 and amending P.L.1979, c.254.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. Section 9 of P.L.1979, c.254(C.52:9M-12.1) is amended to read
8 as follows:

9 9. a. No person may be required to appear at a hearing or to
10 testify at a hearing unless there has been personally served upon him
11 prior to the time when he is required to appear, a copy of P.L.1968,
12 c.266 as amended and supplemented, and a general statement of the
13 subject of the investigation. A copy of the resolution, statute, order or
14 other provision of law authorizing the investigation shall be furnished
15 by the commission upon request therefor by the person summoned.

16 b. A witness summoned to a hearing shall have the right to be
17 accompanied by counsel, who shall be permitted to advise the witness
18 of his rights, subject to reasonable limitations to prevent obstruction
19 of or interference with the orderly conduct of the hearing. Counsel for
20 any witness who testifies at a public or private hearing may submit
21 proposed questions to be asked of the witness relevant to the matters
22 upon which the witness has been questioned and the commission shall
23 ask the witness such of the questions as it may deem appropriate to its
24 inquiry.

25 c. A complete and accurate record shall be kept of each public
26 hearing and a witness shall be entitled to receive a copy of his
27 testimony at such hearing at his own expense. Where testimony which
28 a witness has given at a private hearing becomes relevant in a criminal
29 proceeding in which the witness is a defendant, or in any subsequent
30 hearing in which the witness is summoned to testify, the witness shall
31 be entitled to a copy of such testimony, at his own expense, provided
32 the same is available, and provided further that the furnishing of such
33 copy will not prejudice the public safety or security.

34 d. A witness who testifies at any hearing shall have the right at the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 conclusion of his examination to file a brief sworn statement relevant
2 to his testimony for incorporation in the record.

3 e. The commission shall notify any person whose name the
4 commission believes will be mentioned at a public hearing. Any
5 person whose name is mentioned or will be mentioned or who is
6 specifically identified and who believes that testimony or other
7 evidence given at a public hearing or comment made by any member
8 of the commission or its counsel at such a hearing tends to defame him
9 or otherwise adversely affect his reputation shall have the right, either
10 in private or in public or both at a reasonably convenient time to be set
11 by the commission, to appear personally before the commission, and
12 testify in his own behalf as to matters relevant to the testimony or
13 other evidence complained of, or in the alternative, to file a statement
14 of facts under oath relating solely to matters relevant to the testimony
15 or other evidence complained of, which statement shall be
16 incorporated in the record.

17 f. Nothing in this section shall be construed to prevent the
18 commission from granting to witnesses appearing before it, or to
19 persons who claim to be adversely affected by testimony or other
20 evidence adduced before it, such further rights and privileges as it may
21 determine.

22 (cf: P.L.1979, c.254, s.9)

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24 2. Section 20 of P.L.1968, c.266 is amended to read as follows:

25 20. This act shall take effect immediately and remain in effect until
26 [July 1, 1996] July 1, 2002.

27 (cf: P.L.1994, c.191, s.3)

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29 3. (New section) At least seven days prior to the issuance of a
30 report disclosing any possible criminal wrongdoing, the State
31 Commission of Investigation shall give written notice to the Attorney
32 General of the commission's intention to issue that report and afford
33 the Attorney General an opportunity to be heard with respect to any
34 objections the Attorney General has to the issuance of the report. At
35 the request of the Attorney General, the commission may delay the
36 issuance of a report containing evidence of possible criminal
37 wrongdoing for a period of up to 120 days.

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39 4. (New section) a. Whenever a proposed State Commission of
40 Investigation report is critical of a person's conduct, a copy of the
41 proposed report or the relevant portions thereof shall be sent to that
42 person prior to the release of the report. Upon receipt, the person
43 criticized shall have 15 days to submit a written response of a
44 reasonable length which the commission shall include in the report
45 together with any relevant evidence submitted by that person.

46 b. Any report issued by the commission shall include any relevant

1 evidence of a a reasonable length concerning a person criticized in the
2 report which is of an exculpatory nature or which tends to exonerate
3 the criticized person.

4 c. A report issued by the commission shall include, upon request
5 of the Attorney General, a statement indicating the results of any
6 criminal prosecution or disciplinary action related to the report.

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8 5. (New section) In June of 2000, a special committee shall be
9 established to review the activities of the State Commission of
10 Investigation for the purpose of determining whether the statutory
11 authorization for the commission's operation will be renewed. The
12 special committee shall consist of seven members: three members to
13 be appointed by the Governor, no more than two of whom shall be of
14 the same political party; two members to be appointed by the President
15 of the Senate, no more than one of whom shall be of the same political
16 party and two members to be appointed by the Speaker of the General
17 Assembly, no more than one of whom shall be of the same political
18 party. This committee shall submit its report to the Governor and the
19 Legislature no later than January 1, 2001.

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21 6. This act shall take effect immediately.

22 23 24 STATEMENT

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26 The present statutory authorization for the State Commission of
27 Investigation is scheduled to expire on July 1 of this year. The report
28 recently issued by the S.C.I. Review Committee recommends that the
29 S.C.I. statutory authorization be extended until July 1, 2002. This bill
30 would implement that recommendation.

31 This bill would also require the S.C.I., whenever the S.C.I. intends
32 to issue a report disclosing possible criminal wrongdoing, to notify the
33 Attorney General and to afford the Attorney General the opportunity
34 to raise any objections to issuance of the report. Under the bill, the
35 Attorney General could also request that the S.C.I. delay the issuance
36 of a report for a period of up to 120 days.

37 Other provisions of the bill would:

38 1. Provide that the S.C.I. not issue any report until any person
39 adversely mentioned in the report has an opportunity to submit a
40 written response.

41 2. Require that the S.C.I. include in its reports any evidence of an
42 exculpatory nature.

43 3. Permit any person who testifies at a private hearing to submit
44 proposed questions to the S.C.I.

45 4. Require that the S.C.I. reports include, at the request of the
46 Attorney General, a statement indicating the results of any criminal

1 investigation or disciplinary action arising from that report.

2 5. Provide for the establishment of a committee to review the
3 status of the S.C.I. in the year 2000.

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8 Proposes amendments to statutes governing the SCI.