

52:9M-8

LEGISLATIVE HISTORY CHECKLIST  
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(SCI-amendments)

NJSA: 52:9M-8

LAWS OF: 1996 CHAPTER: 44

BILL NO: S813

SPONSOR(S): DiFrancesco and others

DATE INTRODUCED: February 22, 1996

COMMITTEE: ASSEMBLY: State Government  
SENATE: Judiciary; Budget

AMENDED DURING PASSAGE: No Senate Committee substitute  
S813/1217 adopted

DATE OF PASSAGE: ASSEMBLY: June 27, 1996  
SENATE: June 20, 1996

DATE OF APPROVAL: June 28, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes 6-3-96 & 6-13-96

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:  
REPORTS: No

HEARINGS: Yes

974.90 New Jersey. SCI Review Committee.  
I62 Meetings held 6-27-95, 5-22-95, 6-15-95, 10-3-95,  
1995 Trenton, 1995.

DO NOT REMOVE

DEPARTMENT

ADY

KBP:pp

P.L. 1996, CHAPTER 44, *approved June 28, 1996*  
Senate Committee Substitute for  
Senate Nos. 813 and 1217

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

3

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

6

7 1. Section 8 of P.L. 1968, c.266 (C.52:9M-8) is amended to read  
8 as follows:

9 8. **[Whenever the commission or any employee of the commission**  
10 **obtains any information or evidence of a reasonable possibility of**  
11 **criminal wrongdoing, or it shall appear to the commission that there**  
12 **is cause for the prosecution for a crime, or for the removal of a public**  
13 **officer for misconduct, the information or evidence of such crime or**  
14 **misconduct shall be called to the attention of the Attorney General as**  
15 **soon as practicable by the commission, unless the commission shall,**  
16 **by majority vote, determine that special circumstances exist which**  
17 **require the delay in transmittal of the information or evidence.**  
18 **However, if the commission or any employee of the commission**  
19 **obtains any information or evidence indicating a reasonable possibility**  
20 **of an unauthorized disclosure of information or a violation of any**  
21 **provision of this act, such information or evidence shall be**  
22 **immediately brought by the commission to the attention of the**  
23 **Attorney General.]**

24 a. Except as provided in subsection c. of this section, whenever  
25 the commission or any employee of the commission obtains any  
26 information or evidence of a reasonable possibility of criminal  
27 wrongdoing, the commission shall immediately refer such information  
28 or evidence to the Attorney General.

29 b. Except as provided in subsection c. of this section, whenever  
30 the commission or any employee of the commission obtains  
31 information or evidence of cause for the removal or discipline of a  
32 public official or public employee, the commission shall, as soon as  
33 practicable, refer such information or evidence to the Attorney General  
34 unless the commission shall, by majority vote, determine that special  
35 circumstances exist which require the delay in transmittal of the  
36 information or evidence.

37 c. Whenever the commission or any employee of the commission  
38 obtains any information or evidence of criminal wrongdoing or  
39 misconduct on the part of the Attorney General, the commission shall

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 immediately refer such information or evidence to the Governor, the  
2 Senate President and the Speaker of the General Assembly for further  
3 direction to the commission pursuant to section 3 of P.L. 1968, c.226  
4 (C. 52:9M-3) or for any other action authorized by the laws of this  
5 State or of the United States.

6 d. Whenever the commission or any employee of the commission  
7 obtains any information or evidence indicating a reasonable possibility  
8 of an unauthorized disclosure of information or a violation of any  
9 provision of P.L. 1968, c.226 (C.52:9M-1 et seq.), the commission  
10 shall immediately refer such information to the Attorney General.

11 (cf: P.L.1979, c. 254, s. 10)

12  
13 2. Section 10 of P.L. 1968, c.266 (C. 52:9M-10) is amended to  
14 read as follows:

15 10. The commission shall make an annual report to the  
16 Governor and Legislature which shall include its recommendations.  
17 The commission shall, consistent with the provisions of sections 7 and  
18 8 of P.L. c. (C. ) (now pending before the Legislature as  
19 sections 7 and 8 of this bill), make such further interim reports to the  
20 Governor and Legislature, or either thereof, as it shall deem advisable,  
21 or as shall be required by the Governor or by concurrent resolution of  
22 the Legislature.

23 (cf: P.L.1968, c. 266, s. 10)

24  
25 3. Section 11 of P.L. 1968, c. 266 (C.52:9M-11) is amended to  
26 read as follows:

27 11. By such means and to such extent as it shall deem appropriate,  
28 the commission shall, consistent with the provisions of sections 7 and  
29 8 of P.L. c. (C. ) (now pending before the Legislature as  
30 sections 7 and 8 of this bill) keep the public informed as to the  
31 operations of organized crime, problems of criminal law enforcement  
32 in the State and other activities of the commission.

33 (cf: P.L.1968, c. 266, s. 11)

34  
35 4. Section 9 of P.L.1979, c.254 (C.52:9M-12.1) is amended to  
36 read as follows:

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

44 b. A witness summoned to a hearing shall have the right to be  
45 accompanied by counsel, who shall be permitted to advise the witness  
46 of his rights, subject to reasonable limitations to prevent obstruction

1 of or interference with the orderly conduct of the hearing. Counsel for  
2 any witness who testifies at a public or private hearing may submit  
3 proposed questions to be asked of the witness relevant to the matters  
4 upon which the witness has been questioned and the commission shall  
5 ask the witness such of the questions as it may deem appropriate to its  
6 inquiry.

7 c. A complete and accurate record shall be kept of each public  
8 hearing and a witness shall be entitled to receive a copy of his  
9 testimony at such hearing at his own expense. Where testimony which  
10 a witness has given at a private hearing becomes relevant in a criminal  
11 proceeding in which the witness is a defendant, or in any subsequent  
12 hearing in which the witness is summoned to testify, the witness shall  
13 be entitled to a copy of such testimony, at his own expense, provided  
14 the same is available, and provided further that the furnishing of such  
15 copy will not prejudice the public safety or security.

16 d. A witness who testifies at any hearing shall have the right at the  
17 conclusion of his examination to file a brief sworn statement relevant  
18 to his testimony for incorporation in the record.

19 e. The commission shall make a good faith effort to notify any  
20 person whose name the commission believes will be mentioned in a  
21 potentially adverse context at a public hearing. Any person whose  
22 name is mentioned or will be mentioned or who is specifically  
23 identified and who believes that testimony or other evidence given at  
24 a public hearing or comment made by any member of the commission  
25 or its counsel at such a hearing tends to defame him or otherwise  
26 adversely affect his reputation shall have the right, either in private or  
27 in public or both at a reasonably convenient time to be set by the  
28 commission, to appear personally before the commission, and testify  
29 in his own behalf as to matters relevant to the testimony or other  
30 evidence complained of, or in the alternative, to file a statement of  
31 facts under oath relating solely to matters relevant to the testimony or  
32 other evidence complained of, which statement shall be incorporated  
33 in the record.

34 f. Nothing in this section shall be construed to prevent the  
35 commission from granting to witnesses appearing before it, or to  
36 persons who claim to be adversely affected by testimony or other  
37 evidence adduced before it, such further rights and privileges as it may  
38 determine.

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

40

41 5. Section 15 of PL. 1968, c. 266 (C.52:9M-15) is amended to  
42 read as follows:

43 15. a. Any person conducting or participating in any examination  
44 or investigation who shall disclose or any person who, coming into  
45 possession of or knowledge of the substance of any examination or  
46 investigation, shall disclose, or any person who shall cause, encourage

1 or induce a person, including any witness or informant, to disclose,  
2 other than as authorized or required by law, to any person other than  
3 the commission or an officer having the power to appoint one or more  
4 of the commissioners the name of any witness examined, or any  
5 information obtained or given upon such examination or investigation,  
6 except as directed by the Governor or commission, or any person  
7 other than a member or employee of the commission or any person  
8 entitled to assert a legal privilege who, coming into possession of or  
9 knowledge of the substance of any pending examination or  
10 investigation who fails to advise the Attorney General and the  
11 commission of such possession or knowledge and to deliver to the  
12 Attorney General and the commission any documents or materials  
13 containing such information, shall be guilty of a misdemeanor until  
14 September 1, 1979 when such person shall be guilty of a crime of the  
15 third degree. Any member or employee of the commission who shall  
16 violate this section shall be dismissed from his office or discharged  
17 from his employment.

18 b. Any statement made by a member of the commission or an  
19 employee thereof relevant to any proceedings before or investigative  
20 activities of the commission shall be absolutely privileged and such  
21 privilege shall be a complete defense to any action for libel or slander;  
22 provided, however, that nothing in this subsection shall be deemed to  
23 grant immunity for any statement made with knowledge of its falsity  
24 or with reckless disregard as to whether it was true or false.

25 c. Nothing contained in this section shall in any way prevent the  
26 commission from furnishing information or making reports, as required  
27 by this act, or from furnishing information to the Legislature, or to a  
28 standing reference committee thereof, pursuant to a resolution duly  
29 adopted by a standing reference committee or pursuant to a duly  
30 authorized subpoena or subpoena duces tecum, provided, however, that  
31 nothing herein shall be deemed to preclude the commission from  
32 seeking from a court of competent jurisdiction a protective order to  
33 avoid compliance with such subpoena or duces tecum.

34 (cf: PL. 1979, c.254, s.14)

35

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

37 20. This act shall take effect immediately and remain in effect until  
38 July 1, 1996 July 1, 2002.

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

40

41 7. (New section) At least seven days prior to the issuance of a  
42 report disclosing any information or evidence of a reasonable  
43 possibility of criminal wrongdoing, the State Commission of  
44 Investigation shall give written notice to the Attorney General of the  
45 commission's intention to issue that report and afford the Attorney  
46 General an opportunity to be heard with respect to any objections the

1 Attorney General has to the issuance of the report. At the request of  
2 the Attorney General, the commission may delay the issuance of a  
3 report containing evidence of a reasonable possibility of criminal  
4 wrongdoing for a period of up to 120 days.

5

6 8. (New section) a. Whenever a proposed State Commission of  
7 Investigation report is critical of a person's conduct, a copy of the  
8 relevant portions of the proposed report thereof shall be sent to that  
9 person prior to the release of the report. Upon receipt, the person  
10 criticized shall have 15 days to submit a written response of a  
11 reasonable length which the commission shall include in the report  
12 together with any relevant evidence submitted by that person.

13 b. Any report issued by the commission shall include any relevant  
14 evidence of a reasonable length concerning a person criticized in the  
15 report which is of an exculpatory nature or which tends to exonerate  
16 the criticized person.

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

20

21 9. (New section) In June of 2000, a special committee shall be  
22 established to review the activities of the State Commission of  
23 Investigation for the purpose of determining whether the statutory  
24 authorization for the commission's operation will be renewed. The  
25 special committee shall consist of seven members: three members to  
26 be appointed by the Governor, no more than two of whom shall be of  
27 the same political party; two members to be appointed by the President  
28 of the Senate, no more than one of whom shall be of the same political  
29 party and two members to be appointed by the Speaker of the General  
30 Assembly, no more than one of whom shall be of the same political  
31 party. This committee shall submit its report to the Governor and the  
32 Legislature no later than January 1, 2001.

33

34 10. This act shall take effect immediately.

35

36

37

38

39 \_\_\_\_\_  
Proposes amendments to statutes governing the SCI.

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, Nos. 813 and 1217

STATE OF NEW JERSEY

ADOPTED JUNE 3, 1996

Sponsored by Senators DiFRANCESCO, LYNCH,  
GORMLEY, CAFIERO, BENNETT, KOSCO, MARTIN,  
MATHEUSSEN, GIRGENTI, O'CONNOR, ZANE and  
McGREEVEY

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

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 8 of P.L. 1968, c.266 (C.52:9M-8) is amended to read  
8 as follows:

9 8. **[Whenever the commission or any employee of the commission  
10 obtains any information or evidence of a reasonable possibility of  
11 criminal wrongdoing, or it shall appear to the commission that there  
12 is cause for the prosecution for a crime, or for the removal of a public  
13 officer for misconduct, the information or evidence of such crime or  
14 misconduct shall be called to the attention of the Attorney General as  
15 soon as practicable by the commission, unless the commission shall,  
16 by majority vote, determine that special circumstances exist which  
17 require the delay in transmittal of the information or evidence.  
18 However, if the commission or any employee of the commission  
19 obtains any information or evidence indicating a reasonable possibility  
20 of an unauthorized disclosure of information or a violation of any  
21 provision of this act, such information or evidence shall be  
22 immediately brought by the commission to the attention of the  
23 Attorney General.]**

24 a. Except as provided in subsection c. of this section, whenever  
25 the commission or any employee of the commission obtains any  
26 information or evidence of a reasonable possibility of criminal  
27 wrongdoing, the commission shall immediately refer such information  
28 or evidence to the Attorney General.

29 b. Except as provided in subsection c. of this section, whenever

**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 the commission or any employee of the commission obtains  
2 information or evidence of cause for the removal or discipline of a  
3 public official or public employee, the commission shall, as soon as  
4 practicable, refer such information or evidence to the Attorney General  
5 unless the commission shall, by majority vote, determine that special  
6 circumstances exist which require the delay in transmittal of the  
7 information or evidence.

8 c. Whenever the commission or any employee of the commission  
9 obtains any information or evidence of criminal wrongdoing or  
10 misconduct on the part of the Attorney General, the commission shall  
11 immediately refer such information or evidence to the Governor, the  
12 Senate President and the Speaker of the General Assembly for further  
13 direction to the commission pursuant to section 3 of P.L. 1968, c.226  
14 (C. 52:9M-3) or for any other action authorized by the laws of this  
15 State or of the United States.

16 d. Whenever the commission or any employee of the commission  
17 obtains any information or evidence indicating a reasonable possibility  
18 of an unauthorized disclosure of information or a violation of any  
19 provision of P.L. 1968, c.226 (C.52:9M-1 et seq.), the commission  
20 shall immediately refer such information to the Attorney General.  
21 (cf: P.L.1979, c. 254, s. 10)

22  
23 2. Section 10 of P.L. 1968, c.266 (C. 52:9M-10) is amended to  
24 read as follows:

25 10. The commission shall make an annual report to the  
26 Governor and Legislature which shall include its recommendations.  
27 The commission shall, consistent with the provisions of sections 7 and  
28 8 of P.L. c. (C. ) (now pending before the Legislature as  
29 sections 7 and 8 of this bill), make such further interim reports to the  
30 Governor and Legislature, or either thereof, as it shall deem advisable,  
31 or as shall be required by the Governor or by concurrent resolution of  
32 the Legislature.

33 (cf: P.L.1968, c. 266, s. 10)

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35 3. Section 11 of P.L. 1968, c. 266 (C.52:9M-11) is amended to  
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37 11. By such means and to such extent as it shall deem appropriate,  
38 the commission shall, consistent with the provisions of sections 7 and  
39 8 of P.L. c. (C. ) (now pending before the Legislature as  
40 sections 7 and 8 of this bill) keep the public informed as to the  
41 operations of organized crime, problems of criminal law enforcement  
42 in the State and other activities of the commission.

43 (cf: P.L.1968, c. 266, s. 11)

44  
45 4. Section 9 of P.L.1979, c.254 (C.52:9M-12.1) is amended to  
46 read as follows:



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

8       b. A witness summoned to a hearing shall have the right to be  
9 accompanied by counsel, who shall be permitted to advise the witness  
10 of his rights, subject to reasonable limitations to prevent obstruction  
11 of or interference with the orderly conduct of the hearing. Counsel for  
12 any witness who testifies at a public or private hearing may submit  
13 proposed questions to be asked of the witness relevant to the matters  
14 upon which the witness has been questioned and the commission shall  
15 ask the witness such of the questions as it may deem appropriate to its  
16 inquiry.

17       c. A complete and accurate record shall be kept of each public  
18 hearing and a witness shall be entitled to receive a copy of his  
19 testimony at such hearing at his own expense. Where testimony which  
20 a witness has given at a private hearing becomes relevant in a criminal  
21 proceeding in which the witness is a defendant, or in any subsequent  
22 hearing in which the witness is summoned to testify, the witness shall  
23 be entitled to a copy of such testimony, at his own expense, provided  
24 the same is available, and provided further that the furnishing of such  
25 copy will not prejudice the public safety or security.

26       d. A witness who testifies at any hearing shall have the right at the  
27 conclusion of his examination to file a brief sworn statement relevant  
28 to his testimony for incorporation in the record.

29       e. The commission shall make a good faith effort to notify any  
30 person whose name the commission believes will be mentioned in a  
31 potentially adverse context at a public hearing. Any person whose  
32 name is mentioned or will be mentioned or who is specifically  
33 identified and who believes that testimony or other evidence given at  
34 a public hearing or comment made by any member of the commission  
35 or its counsel at such a hearing tends to defame him or otherwise  
36 adversely affect his reputation shall have the right, either in private or  
37 in public or both at a reasonably convenient time to be set by the  
38 commission, to appear personally before the commission, and testify  
39 in his own behalf as to matters relevant to the testimony or other  
40 evidence complained of, or in the alternative, to file a statement of  
41 facts under oath relating solely to matters relevant to the testimony or  
42 other evidence complained of, which statement shall be incorporated  
43 in the record.

44       f. Nothing in this section shall be construed to prevent the  
45 commission from granting to witnesses appearing before it, or to  
46 persons who claim to be adversely affected by testimony or other

1 evidence adduced before it, such further rights and privileges as it may  
2 determine.

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

4

5 5. Section 15 of PL. 1968, c. 266 (C.52:9M-15) is amended to  
6 read as follows:

7 15. a. Any person conducting or participating in any examination  
8 or investigation who shall disclose or any person who, coming into  
9 possession of or knowledge of the substance of any examination or  
10 investigation, shall disclose, or any person who shall cause, encourage  
11 or induce a person, including any witness or informant, to disclose,  
12 other than as authorized or required by law, to any person other than  
13 the commission or an officer having the power to appoint one or more  
14 of the commissioners the name of any witness examined, or any  
15 information obtained or given upon such examination or investigation,  
16 except as directed by the Governor or commission, or any person  
17 other than a member or employee of the commission or any person  
18 entitled to assert a legal privilege who, coming into possession of or  
19 knowledge of the substance of any pending examination or  
20 investigation who fails to advise the Attorney General and the  
21 commission of such possession or knowledge and to deliver to the  
22 Attorney General and the commission any documents or materials  
23 containing such information, shall be guilty of a misdemeanor until  
24 September 1, 1979 when such person shall be guilty of a crime of the  
25 third degree. Any member or employee of the commission who shall  
26 violate this section shall be dismissed from his office or discharged  
27 from his employment.

28 b. Any statement made by a member of the commission or an  
29 employee thereof relevant to any proceedings before or investigative  
30 activities of the commission shall be absolutely privileged and such  
31 privilege shall be a complete defense to any action for libel or slander;  
32 provided, however, that nothing in this subsection shall be deemed to  
33 grant immunity for any statement made with knowledge of its falsity  
34 or with reckless disregard as to whether it was true or false.

35 c. Nothing contained in this section shall in any way prevent the  
36 commission from furnishing information or making reports, as required  
37 by this act, or from furnishing information to the Legislature, or to a  
38 standing reference committee thereof, pursuant to a resolution duly  
39 adopted by a standing reference committee or pursuant to a duly  
40 authorized subpoena or subpoena duces tecum, provided, however, that  
41 nothing herein shall be deemed to preclude the commission from  
42 seeking from a court of competent jurisdiction a protective order to  
43 avoid compliance with such subpoena or duces tecum.

44 (cf: PL. 1979, c.254, s.14)

45

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

1       20. This act shall take effect immediately and remain in effect until  
2 **【July 1, 1996】** July 1, 2002.  
3 (cf: P.L. 1994, c.191, s.3)

4  
5       7. (New section) At least seven days prior to the issuance of a  
6 report disclosing any information or evidence of a reasonable  
7 possibility of criminal wrongdoing, the State Commission of  
8 Investigation shall give written notice to the Attorney General of the  
9 commission's intention to issue that report and afford the Attorney  
10 General an opportunity to be heard with respect to any objections the  
11 Attorney General has to the issuance of the report. At the request of  
12 the Attorney General, the commission may delay the issuance of a  
13 report containing evidence of a reasonable possibility of criminal  
14 wrongdoing for a period of up to 120 days.

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16       8. (New section) a. Whenever a proposed State Commission of  
17 Investigation report is critical of a person's conduct, a copy of the  
18 relevant portions of the proposed report thereof shall be sent to that  
19 person prior to the release of the report. Upon receipt, the person  
20 criticized shall have 15 days to submit a written response of a  
21 reasonable length which the commission shall include in the report  
22 together with any relevant evidence submitted by that person.

23       b. Any report issued by the commission shall include any relevant  
24 evidence of a a reasonable length concerning a person criticized in the  
25 report which is of an exculpatory nature or which tends to exonerate  
26 the criticized person.

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

30  
31       9. (New section) In June of 2000, a special committee shall be  
32 established to review the activities of the State Commission of  
33 Investigation for the purpose of determining whether the statutory  
34 authorization for the commission's operation will be renewed. The  
35 special committee shall consist of seven members: three members to  
36 be appointed by the Governor, no more than two of whom shall be of  
37 the same political party; two members to be appointed by the President  
38 of the Senate, no more than one of whom shall be of the same political  
39 party and two members to be appointed by the Speaker of the General  
40 Assembly, no more than one of whom shall be of the same political  
41 party. This committee shall submit its report to the Governor and the  
42 Legislature no later than January 1, 2001.

43  
44       10. This act shall take effect immediately.

SENATE, No. 1217

STATE OF NEW JERSEY

INTRODUCED MAY 16, 1996

By Senator DiFRANCESCO

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

3

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

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7 1. Section 8 of P.L.1968, c.266 (C.52:9M-8) is amended to read  
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9 8. Whenever the commission or any employee of the commission  
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12 is cause for the prosecution for a crime, or for the removal or  
13 discipline of a public officer or public employee for misconduct, the  
14 Commission shall immediately bring the information or evidence of  
15 such crime or misconduct shall be called to the attention of the  
16 Attorney General as soon as practicable by the commission, unless the  
17 commission shall, by majority vote, determine that [special  
18 circumstances exist which require the delay in transmittal of the  
19 information or evidence] there is probable cause to believe that there  
20 is criminal wrongdoing of misconduct on the part of the Attorney  
21 General, in which case the information or evidence shall immediately  
22 be referred to the Governor, the Senate President and the Speaker of  
23 the General Assembly for further direction to the Commission pursuant  
24 to section 52:9M-3 or other action authorized by the laws of this State  
25 of the United States. [However, if] If the commission or any  
26 employee of the commission obtains any information or evidence  
27 indicating a reasonable possibility of an unauthorized disclosure of  
28 information or a violation of any provision of this act, such  
29 information or evidence shall be immediately brought by the  
30 commission to the attention of the Attorney General.

31 (cf: P.L.1979, c.254, s.10)

32

33 2. Section 9 of P.L.1968, c.266 (C.52:9M-9) is amended to read as  
34 follows:

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

Matter underlined thus is new matter.

1 9. a. The commission shall be authorized to appoint and employ  
2 and at pleasure remove an executive director, counsel, investigators,  
3 accountants, and such other persons as it may deem necessary, without  
4 regard to civil service; and to determine their duties and fix their  
5 salaries or compensation within the amounts appropriated therefor.  
6 Investigators and accountants appointed by the commission shall be  
7 and have all the powers of peace officers.

8 b. No person shall serve as executive director of the commission  
9 for more than 12 years. The provisions of this subsection shall not  
10 apply to any person serving as executive director on the effective date  
11 of P.L. c. (now pending before the Legislature as this bill).  
12 (cf: P.L.1968, c.266, s.9)

13  
14 3. Section 10 of P.L.1968, c.266 (C.52:9M-10) is amended to read  
15 as follows:

16 10. The commission shall make an annual report to the Governor  
17 and Legislature which shall include its recommendations. The  
18 commission shall, consistent with the provisions of sections 7 and 8 of  
19 P.L. c. (C. ) (now pending before the Legislature as sections  
20 7 and 8 of this bill), make such further interim reports to the Governor  
21 and Legislature, or either thereof, as it shall deem advisable, or as shall  
22 be required by the Governor or by concurrent resolution of the  
23 Legislature.  
24 (cf: P.L.1968, c.266, s.10)

25  
26 4. Section 11 of P.L.1968, c.266 (C.52:9M-11) is amended to read  
27 as follows:

28 11. By such means and to such extent as it shall deem appropriate,  
29 the commission shall, consistent with the provisions of sections 7 and  
30 8 of P.L. c. (C. ) (now pending before the Legislature as  
31 sections 7 and 8 of this bill) keep the public informed as to the  
32 operations of organized crime, problems of criminal law enforcement  
33 in the State and other activities of the commission.  
34 (cf: P.L.1968, c.266, s.11)

35  
36 5. Section 15 of P.L.1968, c.266 (C.52:9M-15) is amended to read  
37 as follows:

38 15. a. Any person conducting or participating in any examination  
39 or investigation who shall disclose or any person who, coming into  
40 possession of or knowledge of the substance of any examination or  
41 investigation, shall disclose, or any person who shall cause, encourage  
42 or induce a person, including any witness or informant, to disclose,  
43 other than as authorized or required by law, to any person other than  
44 the commission or an officer having the power to appoint one or more  
45 of the commissioners the name of any witness examined, or any  
46 information obtained or given upon such examination or investigation,

1 except as directed by the Governor or commission, or any person  
2 other than a member or employee of the commission or any person  
3 entitled to assert a legal privilege who, coming into possession of or  
4 knowledge of the substance of any pending examination or  
5 investigation who fails to advise the Attorney General and the  
6 commission of such possession or knowledge and to deliver to the  
7 Attorney General and the commission any documents or materials  
8 containing such information, shall be guilty of a misdemeanor until  
9 September 1, 1979 when such person shall be guilty of a crime of the  
10 third degree. Any member or employee of the commission who shall  
11 violate this section shall be dismissed from his office or discharged  
12 from his employment.

13 b. Any statement made by a member of the commission or an  
14 employee thereof relevant to any proceedings before or investigative  
15 activities of the commission shall be absolutely privileged and such  
16 privilege shall be a complete defense to any action for libel or slander;  
17 provided, however, that nothing in this subsection shall be deemed to  
18 grant immunity for any grossly negligent action or for any action taken  
19 in bad faith.

20 c. Nothing contained in this section shall in any way prevent the  
21 commission from furnishing information or making reports, as required  
22 by this act, or from furnishing information to the Legislature, or to a  
23 standing reference committee thereof, pursuant to a resolution duly  
24 adopted by a standing reference committee or pursuant to a duly  
25 authorized subpoena or subpoena duces tecum, provided, however, that  
26 nothing herein shall be deemed to preclude the commission from  
27 seeking from a court of competent jurisdiction a protective order to  
28 avoid compliance with such subpoena or duces tecum.

29 (cf: P.L.1979, c.254, s.14)

30

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

32 20. This act shall take effect immediately and remain in effect until  
33 **July 1, 1996** July 1, 2002.

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

35

36 7. (New section) a. The State Commission of Investigation shall  
37 not conduct a public hearing pursuant to the provisions of section 12  
38 of P.L.1968, c.266 (C.52:9M-12) unless the commission determines  
39 that no other method of proceeding would satisfy the public interest.

40 b. Whenever a referral has been made to the Attorney General  
41 pursuant to the provisions of section 8 of P.L.1968, c.266  
42 (C.53:9M-8), the commission shall not hold a public hearing in  
43 connection with that investigation unless the Attorney General  
44 approves of the public hearing or the Attorney General notifies the  
45 commission that any prosecution resulting from that investigation have  
46 been initiated or that the Attorney General has determined not to seek

1 any prosecution in connection with that investigation.

2

3 8. (New section) a. Whenever a referral has been made by the State  
4 Commission of Investigation to the Attorney General pursuant to the  
5 provisions of section 8 of P.L.1968, c.266 (C.52:9M-8), the  
6 commission shall not issue a report concerning that investigation  
7 unless the Attorney General approves of the release of the report or  
8 until the Attorney General notifies the commission that any  
9 prosecution resulting from that investigation has been initiated or that  
10 the Attorney General has determined not to seek any prosecution in  
11 connection with that investigation.

12 b. The purpose of any report issued by the commission shall be to  
13 inform the public of systemic problems in governmental operations and  
14 shall not include specifics which identify any individual unless such  
15 identifying facts are necessary for a meaningful and credible  
16 explanation of the subject described in the report.

17 c. Whenever a proposed commission report is critical of a person's  
18 conduct, a copy of the proposed report shall be sent to that person  
19 prior to the release of the report. Upon receipt of the report, the  
20 person criticized shall have 15 days to submit a written response which  
21 the commission shall include in the report together with any evidence  
22 submitted by that person.

23 d. Any report issued by the commission shall include any evidence  
24 concerning a person criticized in the report which is of an exculpatory  
25 nature or which tends to exonerate the criticized person.

26 e. A report issued by the commission shall include, upon request of  
27 the Attorney General, a statement indicating the results of any criminal  
28 prosecution or disciplinary action related to the report.

29

30 9. (New section) In June of the year 2000, a special committee shall  
31 be established to review the activities of the State Commission of  
32 Investigation for the purpose of determining whether the statutory  
33 authorization for the commission's operation should be renewed. The  
34 special committee shall consist of seven members: three members to  
35 be appointed by the Governor, no more than two of whom shall be of  
36 the same political party; two members to be appointed by the President  
37 of the Senate, no more than one of whom shall be of the same political  
38 party and two members to be appointed by the Speaker of the General  
39 Assembly, no more than one of whom shall be of the same political  
40 party. This committee shall submit its report to the Governor and the  
41 Legislature no later than January 1, 2001.

42

43 10. This act shall take effect immediately.

## STATEMENT

1  
2  
3 In February of this year, the Review Committee on the State  
4 Committee of Investigation issued its report. In that report, the  
5 Review Committee recommended that the present statutory  
6 authorization for the SCI which is scheduled to expire on July 1, of  
7 this year be extended until July 1, 2002. This bill would implement  
8 this recommendation.

9 Other recommendations contained in the Review Committee's  
10 report involved the procedures to be followed whenever, during the  
11 course of an investigation, the SCI obtains evidence of criminal  
12 wrongdoing. Under present law, the SCI is required to report  
13 evidence of either criminal wrongdoing or noncriminal misconduct on  
14 the part of a public office to the Attorney General as soon as  
15 practicable. The Review Committee's report recommends that  
16 whenever evidence of criminal wrongdoing or misconduct is  
17 discovered by the SCI that the SCI immediately refer that evidence to  
18 the Attorney General.

19 The report further recommends that when the SCI refers such  
20 evidence to the Attorney General that the SCI be required to delay  
21 any public hearing or the release of any report until the Attorney  
22 General has notified the S.C.I. that any prosecution resulting from that  
23 investigation has been initiated or that the Attorney General has  
24 determined not to seek any prosecutions. This bill would implement  
25 these recommendations and require the S.C.I. to immediately notify  
26 the Attorney General of any possible criminal wrongdoing and of any  
27 noncriminal misconduct on the part of a public officer or employee  
28 which could lead to that persons's removal or discipline. The only  
29 exception would be if the wrongdoing or misconduct involved the  
30 Attorney General in which case the information would be forwarded  
31 to the Governor, the Senate President and the Speaker of the General  
32 Assembly. The bill would also implement the Review Committee's  
33 recommendations with regard to delaying of the issuance of any report  
34 by the S.C.I. until the Attorney General has made a determination with  
35 regard to possible prosecutions.

36 In addition, the bill would implement the following  
37 recommendations also contained in the Review Committee's report:

38 1. Limit the time a person could serve as executive director of the  
39 S.C.I to 12 years.

40 2. Provide that the S.C.I. not issue any report to the public until  
41 any person adversely mentioned in the report has an opportunity to  
42 submit a written response.

43 3. Require that the S.C.I. include in its reports any evidence of an  
44 exculpatory nature.

45 4. Provide that S.C.I. reports not include information identifying  
46 individuals unless such information is necessary for a meaningful



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.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
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)

23

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)

28

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.

38

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.

7  
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.

20

21 6. This act shall take effect immediately.

22

23

24

#### STATEMENT

25

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.
- 4
- 5
- 6 \_\_\_\_\_
- 7
- 8 Proposes amendments to statutes governing the SCI.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, Nos. 813 and 1217**

**STATE OF NEW JERSEY**

DATED: JUNE 27, 1996

The Assembly State Government Committee reports favorably Senate Committee Substitute for Senate, Nos.813 and 1217.

This substitute bill modifies the statutes governing the operations of the State Commission of Investigation (S.C.I.). The commission conducts investigations in connection with the effective enforcement of State laws, with particular reference to organized crime and racketeering and the conduct of public officers and employees and of officers and employees of public corporations and authorities. In addition, the commission performs investigations at the direction of the Legislature or the Governor, and recommends legislative or regulatory changes.

The statutory authorization for the S.C.I. expires on July 1, 1996. This bill extends the S.C.I.'s authorization to July 1, 2002.

The bill requires the S.C.I. to immediately notify the Attorney General if it acquires evidence or information on possible criminal wrongdoing. Also, S.C.I. must notify the Attorney General if it intends to issue a report disclosing possible criminal wrongdoing so that the Attorney General has the opportunity to raise any objections to issuance of the report. The Attorney General could also request that the S.C.I. delay the issuance of a report for a period of up to 120 days.

The bill modifies present law to deny immunity from civil liability to commissioners and employees of the S.C.I. for any statement made with knowledge that the statement is false or with reckless regard as to whether it is true or false.

Other provisions contained in the bill would require the S.C.I. to provide an opportunity to any person adversely mentioned in a report to submit a written response and include in its reports any evidence of an exculpatory nature; and establish a committee to review the status of the S.C.I. in the year 2000.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, Nos. 813 and 1217**

**STATE OF NEW JERSEY**

DATED: JUNE 3, 1996

The Senate Judiciary Committee reports favorably a committee substitute for Senate Bill No. 813 and Senate Bill No. 1217. Senate Committee Substitute for S813 and S1217 would modify the statutes governing the operations of the State Commission of Investigation. The following is a brief summary of the provisions of the committee substitute.

**STATUTORY AUTHORIZATION**

The present statutory authorization for the S.C.I. is scheduled to expire on July 1, 1996. SCS for S-813 and S-1217 would extend the S.C.I.'s present statutory authorization until July 1, 2002.

**NOTICE TO THE ATTORNEY GENERAL**

Under present law, the S.C.I. is required to report evidence of either criminal wrongdoing or noncriminal misconduct on the part of a public official to the Attorney General as soon as practicable unless the S.C.I., by majority vote, determines that special circumstances exist which require the delay in the transmittal of such information or evidence. The committee substitute would retain the present notice requirement with regard to noncriminal matters which could lead to the removal or discipline of a public official or employee. With regard to evidence or information of possible criminal wrongdoing, the committee substitute would require the S.C.I. to immediately notify the Attorney General. The only exemption to these notice requirements would be when the evidence of criminal wrongdoing or misconduct would involve the Attorney General, in which case, the S.C.I. would notify the Governor and the presiding officer of each house of the Legislature.

The committee substitute would also require the S.C.I., whenever the S.C.I. intends to issue a report disclosing possible criminal wrongdoing, to notify the Attorney General and to afford the Attorney General the opportunity to raise any objections to issuance of the report. Under the committee substitute, the Attorney General could

also request that the S.C.I. delay the issuance of a report for a period of up to 120 days.

### **CIVIL IMMUNITY**

Under present law, statements made by commissioners and employees of the S.C.I. in connection with S.C.I. investigations are absolutely privileged and this privilege acts as a complete defense in civil actions for slander or libel. The committee substitute would modify present law and provide that commissioners and employees of the S.C.I. would not have immunity for any statement made with knowledge of its falsity or with reckless regard as to whether it was true or false.

### **OTHER PROVISIONS**

Other provisions contained in the committee substitute would:

1. Provide that the S.C.I. not issue any report until any person adversely mentioned in the report has an opportunity to submit a written response.
2. Require that the S.C.I. include in its reports any evidence of an exculpatory nature.
3. Require that the S.C.I. reports include, at the request of the Attorney General, a statement indicating the results of any criminal investigation or disciplinary action arising from that report.
4. Permit any person who testifies at a private hearing to submit proposed questions to the S.C.I. (Presently only persons who appear at public hearings may suggest questions.)
5. Provide for the establishment of a committee to review the status of the S.C.I. in the year 2000.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 813 and 1217**

# **STATE OF NEW JERSEY**

DATED: JUNE 13, 1996

The Senate Budget and Appropriations Committee reports favorably Senate Bill Nos. 813 and 1217 SCS of 1996.

Senate Bill No. 813/S1217 SCS modifies the statutes governing the operations of the State Commission of Investigation (S.C.I.). The commission conducts investigations in connection with the effective enforcement of State laws, with particular reference to organized crime and racketeering and the conduct of public officers and employees and of officers and employees of public corporations and authorities. In addition, the commission performs investigations at the direction of the Legislature or the Governor, and recommends legislative or regulatory changes.

The statutory authorization for the S.C.I. expires on July 1, 1996. This bill extends the S.C.I.'s authorization to July 1, 2002.

The bill requires the S.C.I. to immediately notify the Attorney General if it acquires evidence or information on possible criminal wrongdoing. Also, S.C.I. must notify the Attorney General if it intends to issue a report disclosing possible criminal wrongdoing so that the Attorney General has the opportunity to raise any objections to issuance of the report. The Attorney General could also request that the S.C.I. delay the issuance of a report for a period of up to 120 days.

The bill modifies present law to deny immunity from civil liability to commissioners and employees of the S.C.I. for any statement made with knowledge that the statement is false or with reckless regard as to whether it is true or false.

Other provisions contained in the bill would require the S.C.I. to provide an opportunity to any person adversely mentioned in a report to submit a written response and include in its reports any evidence of an exculpatory nature; and establish a committee to review the status of the S.C.I. in the year 2000.

#### FISCAL IMPACT

This bill does not contain an appropriation. However, if the S.C.I. does not expire on July 1, 1996, funding will need to be appropriated for its operations in the Fiscal Year 1997 appropriations act. The



Governor's Fiscal Year 1997 budget recommends an appropriation of \$2 million in General Fund revenues for the operations of the S.C.I.. The S.C.I. received \$2 million in appropriations in both Fiscal Year 1995 and 1996. Annual appropriations from the General Fund will continue to be necessary until Fiscal Year 2002.