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February 23, 2021

TO: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

FROM: Office of the Attorney General

RE: SB 922 – Office of Legislative Audits – Acceptance and Investigation of Allegations of Fraud, Waste, and Abuse – **Support with Amendments**

We are writing to express the Office of the Attorney General's support for Senate Bill 922, provided that the bill is amended as below. The bill's original provisions, aimed at fostering a greater sharing of information regarding criminal investigations, were overly broad and could blur the lines between the functions of the Office of Legislative Audits and those of law enforcement and prosecutorial agencies.

The Office of Legislative Audits does extraordinary work in combatting fraud and they are our valued partners; however, their role is inherently distinct from that of law enforcement or prosecutors. Criminal investigators and legislative auditors are both vested with powers and responsibilities that are carefully calibrated to their specific roles and often incompatible with others. Any change in the relationship between these roles must be carefully crafted with the input of all parties to ensure that unintended consequences are minimized, a process which has not yet occurred but can proceed under the bill as amended below.

In supporting the bill as amended below, we look forward to working with the Office of Legislative Audits in the months to come to enhance our collaboration with that office in ways that safeguard the integrity of ongoing criminal investigations. We also note our support for the provisions of the bill concerning the formal establishment of a fraud hotline. Hotlines are often effective in facilitating the reporting of fraud, waste, and abuse, and are a vital tool in focusing the efforts of fraud investigators.

Amendments:

- (1) On page 1, strike beginning with “authorizing” in line 4 down through “circumstances;” in line 8;
- (2) On page 1 line 13, after “Office” insert “of Legislative Audits”;
- (3) On page 1 line 16, strike the comma and substitute “and”;
- (4) Strike beginning with the comma on page 1 line 17 down through “inquiries” on page 1 line 18 and substitute “; requiring the Office, in coordination with the Office of the Attorney General and the Office of the State Prosecutor, to evaluate and develop certain statutory and regulatory language: requiring the Office to report its findings to a certain committee of the General Assembly on or before a certain date”;
- (5) On page 1 line 27, strike “2–1223 and”;
- (6) On pages 2 through 4, strike in their entirety the lines beginning with line 20 on page 2 through line 10 on page 4, inclusive;
- (7) On page 5, in line 18, after “**ABUSE;**” insert “**AND**”;
- (8) On page 5 line 22, strike the semicolon and substitute a period;
- (9) On page 5 strike in their entirety lines 23 through 29, inclusive;
- (10) On page 5 after line 29, insert: and

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Office of Legislative Audits shall, in consultation with the Office of the Attorney General and the Office of the State Prosecutor, evaluate and develop appropriate statutory or regulatory language to:

- (1) enhance the authority, duties, and powers of the Office of Legislative Audits related to investigations of acts or allegations of fraud, waste, or abuse conducted under its authority under § 2–1220 of the State Government Article;
- (2) coordinate and cooperate with appropriate prosecutorial entities to maximize the effectiveness of investigations of acts or allegations of fraud, waste, or abuse conducted by the Office of Legislative Audits; and
- (3) require State agencies to report any instance of possible criminal or unethical behavior in the obligation, expenditure, receipt, or use of State resources at the agency to the Office of Legislative Audits, unless otherwise prohibited by law.

(b) On or before December 1, 2021, the Office of Legislative Audits shall, in accordance with § 2-1257 of the State Government Article, report on the findings under subsection (a) of this section to the Joint Audit and Evaluation Committee.

(11) On page 5 line 30, strike “2.” and substitute “3.”.

cc: Members of the Education, Health, and Environmental Affairs Committee