

Legislative Analysis



AMENDMENTS TO AUDITOR GENERAL STATUTE

Phone: (517) 373-8080
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House Bill 4259 as introduced
Sponsor: Rep. Joseph Graves
Committee: Oversight
Complete to 3-14-17

Analysis available at
<http://www.legislature.mi.gov>

REVISED SUMMARY:

The bill would amend Public Act 1 of 2003, which specifies in statute the powers and duties of the auditor general. Section 1 of that act says,

"...the auditor general may examine, or cause to be examined, the books, accounts, documents, records, performance activities, and financial affairs of each branch, department, office, board, commission, agency, authority, and institution of this state."

The bill would specify in statute that this applies to access to and the examination of *confidential information* of each branch, department, office, board, commission, agency, authority, and institution of the state. Also the bill would add "*electronically stored information*" to the list of the kinds of information the auditor general can examine (in addition to books, accounts, documents, records, performance activities, and financial affairs). Further, the bill adds the term "*access*" to the current "*examine*."

Representatives of the auditor general say that these updates to statute affirm and reinforce that the office's constitutional authority to access information includes access to confidential information and electronically stored information, and revise language to reflect the use of information technology systems.

Under a new provision added by the bill, both of the following would apply to confidential information obtained:

- The auditor general is subject to the same duty of confidentiality imposed by law on the entity providing confidential information.
- The auditor general is subject to any civil or criminal penalties imposed by [other laws] for willfully and intentionally disclosing confidential information.

The bill would also add to the beginning of Section 1: "notwithstanding any other provision of law to the contrary, except as provided in Subsection (8). . ." Subsection (8) would be newly added to the bill and specifies that the act does not authorize the auditor general to access or examine records or information subject to the attorney-client privilege or any other privilege recognized by the constitution, statute, court rule, or rules adopted by the Senate or House of Representatives.

The bill also would rewrite several sections of the act dealing with misdemeanor penalties without making a substantive change.

BACKGROUND:***Constitutional provisions on Auditor General***

Article IV, Section 53 of the State Constitution provides for the legislature to appoint an auditor general, who must be a licensed certified public accountant. The auditor general is charged with conducting post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of the state. In addition, the auditor general is required to perform performance post audits of these entities.

FISCAL IMPACT:

The bill does not appear to have significant direct fiscal impact.

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