

HOUSE BILL No. 4259

February 21, 2017, Introduced by Rep. Graves and referred to the Committee on Oversight.

A bill to amend 2003 PA 1, entitled

"An act to provide for the audit and examination of this state and state funds; to provide for the audit and examination of the books and accounts of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state; to prescribe powers and duties of certain state officers and employees; to provide for access to certain records; to provide for the subpoena of witnesses and production of documents and records; to prescribe penalties; and to provide for the administration of this act,"

by amending section 1 (MCL 13.101).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) The auditor general shall conduct audits and
2 examinations of all branches, departments, offices, boards,
3 commissions, agencies, authorities, and institutions of this state.

4 (2) ~~In~~ **NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE**
5 **CONTRARY EXCEPT AS PROVIDED IN SUBSECTION (8),** IN connection with

1 the audits and examinations described in this act, the auditor
2 general may **ACCESS AND** examine, or cause to be **ACCESSED AND**
3 examined, the books, accounts, documents, records, **ELECTRONICALLY**
4 **STORED INFORMATION**, performance activities, and financial affairs,
5 **INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL INFORMATION**, of each
6 branch, department, office, board, commission, agency, authority,
7 and institution of this state. **BOTH OF THE FOLLOWING APPLY TO**
8 **CONFIDENTIAL INFORMATION OBTAINED UNDER THIS SUBSECTION:**

9 (A) THE AUDITOR GENERAL IS SUBJECT TO THE SAME DUTY OF
10 CONFIDENTIALITY IMPOSED BY LAW ON THE ENTITY PROVIDING THE
11 CONFIDENTIAL INFORMATION.

12 (B) THE AUDITOR GENERAL IS SUBJECT TO ANY CIVIL OR CRIMINAL
13 PENALTIES IMPOSED BY LAW FOR WILLFULLY AND INTENTIONALLY DISCLOSING
14 THAT CONFIDENTIAL INFORMATION.

15 (3) Upon demand of the auditor general, deputy auditor
16 general, or any ~~person~~ **INDIVIDUAL** appointed by the auditor general
17 to make the audits and examinations provided in this act, the
18 officers and employees of all branches, departments, offices,
19 boards, commissions, agencies, authorities, and institutions of
20 this state shall produce **OR PROVIDE** for **UNRESTRICTED ACCESS AND**
21 examination all books, accounts, documents, ~~and~~ records, **AND**
22 **ELECTRONICALLY STORED INFORMATION, INCLUDING, BUT NOT LIMITED TO,**
23 **CONFIDENTIAL INFORMATION**, of their respective branch, department,
24 office, board, commission, agency, authority, and institution and
25 truthfully answer all questions relating to their books, accounts,
26 documents, ~~and~~ records, **AND ELECTRONICALLY STORED INFORMATION,**
27 **INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL INFORMATION**, of their

1 respective activities and affairs.

2 (4) In connection with audits and examinations described in
3 this act, the auditor general, deputy auditor general, or any
4 ~~person~~**INDIVIDUAL** appointed to make audits and examinations may
5 issue subpoenas, direct the service of the subpoena by any police
6 officer, and compel the attendance and testimony of witnesses; may
7 administer oaths and examine any ~~person~~**INDIVIDUAL** as may be
8 necessary; and may compel the production of books, accounts,
9 papers, documents, ~~and records,~~ **AND ELECTRONICALLY STORED**
10 **INFORMATION, INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL**
11 **INFORMATION.** The orders and subpoenas issued by the auditor
12 general, deputy auditor general, or any ~~person~~**INDIVIDUAL** appointed
13 with the duty of making the examinations provided in this
14 subsection may be enforced upon application to any circuit court as
15 provided by law.

16 (5) The auditor general may employ and compensate auditors,
17 examiners, and assistants as he or she considers necessary. In
18 addition, the auditors, examiners, and assistants shall be paid
19 their necessary traveling expenses while engaging in the duties
20 provided under this act. Compensation and expenses shall be paid
21 out of the funds appropriated for that purpose. The auditor general
22 and the deputy auditor general shall receive their actual traveling
23 expenses incurred while engaging in the duties provided under this
24 act, which shall be paid out of the funds appropriated for that
25 purpose.

26 (6) Any ~~person~~**INDIVIDUAL** who gives or offers to any examiner,
27 accountant, clerk, or other employee of the auditor general, any

1 money, gift, emolument, or thing of value for the purpose of
2 influencing the action of the examiner or other employee, in any
3 matter relating to the examination of any public account authorized
4 by this act, or for the purpose of preventing or delaying the
5 examination of any public account, or for the purpose of
6 influencing the action of the examiner or other employee, in
7 framing, changing, withholding, or delaying any report of any
8 examination of any public account, is guilty of a misdemeanor ~~7~~
9 punishable by **IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 6**
10 **MONTHS, OR** a fine of not **LESS THAN \$200.00 OR** more than \$1,000.00,
11 ~~nor less than \$200.00, or imprisonment for not more than 6 months~~
12 ~~and not less than 30 days, or both.~~

13 (7) Any ~~person~~ **INDIVIDUAL** appointed by the auditor general to
14 make the examinations provided for under this act, or any officer,
15 clerk, or other employee of the auditor general, who receives or
16 solicits any money, gift, emolument, or anything of value for the
17 purpose of being influenced in the matter of the examination of any
18 public account authorized by this act, or for the purpose of being
19 influenced to prevent or delay the examination of any public
20 account, is guilty of a misdemeanor ~~7~~ punishable by **IMPRISONMENT**
21 **FOR NOT LESS THAN 30 DAYS OR MORE THAN 6 MONTHS, OR** a fine of not
22 **LESS THAN \$200.00 OR** more than \$1,000.00, ~~and not less than~~
23 ~~\$200.00, or imprisonment for not more than 6 months and not less~~
24 ~~than 30 days, or both.~~

25 (8) **THIS ACT DOES NOT AUTHORIZE THE AUDITOR GENERAL TO ACCESS**
26 **OR EXAMINE RECORDS OR INFORMATION SUBJECT TO THE ATTORNEY-CLIENT**
27 **PRIVILEGE OR ANY OTHER PRIVILEGE RECOGNIZED BY THE CONSTITUTION,**

1 **STATUTE, COURT RULE, OR RULES ADOPTED BY A HOUSE OF THE**
2 **LEGISLATURE.**

3 **(9)** ~~(8)~~—As used in this act:

4 (a) "Audit" means a post audit of financial transactions and
5 accounts or performance audit as described in section 53 of article
6 IV of the state constitution of 1963.

7 (b) "Auditor general" means the individual appointed auditor
8 general under section 53 of article IV of the state constitution of
9 1963.

10 (c) "Examination" means an inquiry, compilation, or review
11 within the scope of the auditor general's authority under section
12 53 of article IV of the state constitution of 1963.