

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4336**

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 the title and section 1 (MCL 13.101).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** TITLE
- 2** An act to provide for the audit and examination of this state
- 3** and state funds; to provide for the audit and examination of the



1 books and accounts of all branches, departments, offices, boards,
 2 commissions, agencies, authorities, and institutions of this state;
 3 to prescribe powers and duties of certain state officers and
 4 employees; to provide for access to ~~certain~~ records; to provide for
 5 the subpoena of witnesses and production of documents and records;
 6 to prescribe penalties; and to provide for the administration of
 7 this act.

8 Sec. 1. (1) ~~The~~ **As provided for in section 53 of article IV of**
 9 **the state constitution of 1963, the** auditor general shall conduct
 10 audits and examinations of all branches, departments, offices,
 11 boards, commissions, agencies, authorities, and institutions of
 12 this state.

13 (2) ~~In~~ **Notwithstanding any other provision of law to the**
 14 **contrary except as provided in subsection (9) or where the auditor**
 15 **general's access is expressly and specifically limited by law, in**
 16 connection with the audits and examinations described in this act,
 17 the auditor general may **access and** examine, or cause to be **accessed**
 18 **and** examined, the books, accounts, documents, records,
 19 **electronically stored information, performance activities, and**
 20 financial affairs, **including, but not limited to, confidential**
 21 **information, of each branch, department, office, board, commission,**
 22 agency, authority, and institution of this state. **All of the**
 23 **following apply to confidential information obtained under this**
 24 **section:**

25 (a) The auditor general is subject to the same duty of
 26 confidentiality imposed by law on the entity providing the
 27 confidential information.

28 (b) The auditor general is subject to any civil or criminal
 29 penalties imposed by law for unlawfully disclosing that



1 confidential information.

2 (c) Notwithstanding any other provision of law to the
3 contrary, state officers and employees of all branches,
4 departments, offices, boards, commissions, agencies, authorities,
5 and institutions of this state are not subject to civil or criminal
6 penalties imposed by state law for providing information requested
7 by the auditor general.

8 (3) Upon demand of the auditor general, deputy auditor
9 general, or any ~~person~~**individual** appointed by the auditor general
10 to make the audits and examinations provided in this act, the
11 officers and employees of all branches, departments, offices,
12 boards, commissions, agencies, authorities, and institutions of
13 this state shall produce **or provide** for **access and** examination all
14 books, accounts, documents, ~~and records~~, **and electronically stored**
15 **information, including, but not limited to, confidential**
16 **information**, of their respective branch, department, office, board,
17 commission, agency, authority, and institution and truthfully
18 answer all questions relating to their books, accounts, documents,
19 ~~and records~~, **and electronically stored information, including, but**
20 **not limited to, confidential information**, of their respective
21 activities and affairs.

22 (4) State officers and employees shall not restrict the
23 auditor general's access to information requested on the basis that
24 the information is sought for the purpose of performing an audit of
25 another state program or agency.

26 (5) ~~(4)~~—In connection with audits and examinations described
27 in this act, the auditor general, deputy auditor general, or any
28 ~~person~~**individual** appointed to make audits and examinations may
29 issue subpoenas, direct the service of the subpoena by any police



1 officer, and compel the attendance and testimony of witnesses; may
2 administer oaths and examine any ~~person~~**individual** as may be
3 necessary; and may compel the production of books, accounts,
4 papers, documents, and ~~records~~, **and electronically stored**
5 **information, including, but not limited to, confidential**
6 **information.** The orders and subpoenas issued by the auditor
7 general, deputy auditor general, or any ~~person~~**individual** appointed
8 with the duty of making the examinations provided in this
9 subsection may be enforced upon application to any circuit court as
10 provided by law.

11 (6) ~~(5)~~The auditor general may employ and compensate
12 auditors, examiners, and assistants as he or she considers
13 necessary. In addition, the auditors, examiners, and assistants
14 ~~shall~~**must** be paid their necessary traveling expenses while
15 engaging in the duties provided under this act. Compensation and
16 expenses ~~shall~~**must** be paid out of the funds appropriated for that
17 purpose. The auditor general and the deputy auditor general ~~shall~~
18 **must** receive their actual traveling expenses incurred while
19 engaging in the duties provided under this act, which ~~shall~~**must** be
20 paid out of the funds appropriated for that purpose.

21 (7) ~~(6)~~Any ~~person~~**individual** who gives or offers to any
22 examiner, accountant, clerk, or other employee of the auditor
23 general, any money, gift, emolument, or thing of value for the
24 purpose of influencing the action of the examiner or other
25 employee, in any matter relating to the examination of any public
26 account authorized by this act, or for the purpose of preventing or
27 delaying the examination of any public account, or for the purpose
28 of influencing the action of the examiner or other employee, in
29 framing, changing, withholding, or delaying any report of any



1 examination of any public account, is guilty of a misdemeanor ~~7~~
 2 punishable by **imprisonment for not less than 30 days or more than 6**
 3 **months or** a fine of not **less than \$200.00 or** more than \$1,000.00,
 4 ~~nor less than \$200.00, or imprisonment for not more than 6 months~~
 5 ~~and not less than 30 days, or both.~~

6 (8) ~~(7)~~ Any ~~person~~ **individual** appointed by the auditor general
 7 to make the examinations provided for under this act, or any
 8 officer, clerk, or other employee of the auditor general, who
 9 receives or solicits any money, gift, emolument, or anything of
 10 value for the purpose of being influenced in the matter of the
 11 examination of any public account authorized by this act, or for
 12 the purpose of being influenced to prevent or delay the examination
 13 of any public account, is guilty of a misdemeanor ~~7~~ punishable by
 14 **imprisonment for not less than 30 days or more than 6 months or** a
 15 fine of not **less than \$200.00 or** more than \$1,000.00, ~~and not less~~
 16 ~~than \$200.00, or imprisonment for not more than 6 months and not~~
 17 ~~less than 30 days, or both.~~

18 (9) This act does not authorize the auditor general to access
 19 or examine records or information subject to the attorney-client
 20 privilege or executive privilege, or subject to a court order
 21 prohibiting disclosure of the content of the record or information.

22 (10) All working papers and records of the auditor general in
 23 connection with audits and examinations are exempt from public
 24 disclosure under the freedom of information act, 1976 PA 442, MCL
 25 15.231 to 15.246.

26 (11) ~~(8)~~ As used in this act:

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



1 (b) "Auditor general" means the individual appointed auditor
2 general under section 53 of article IV of the state constitution of
3 1963.

4 (c) **"Confidential information" means information that is**
5 **subject to a legal duty to not disclose its contents.**

6 (d) ~~(e)~~—"Examination" means an inquiry, compilation, or review
7 within the scope of the auditor general's authority under section
8 53 of article IV of the state constitution of 1963.

