

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4259

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~~ **AS PROVIDED FOR IN SECTION 53 OF ARTICLE IV OF**
2 **THE STATE CONSTITUTION OF 1963, THE** auditor general shall conduct
3 audits and examinations of all branches, departments, offices,
4 boards, commissions, agencies, authorities, and institutions of
5 this state.
6 (2) ~~In~~ **NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE**

1 CONTRARY EXCEPT AS PROVIDED IN SUBSECTION (10) OR WHERE THE AUDITOR
2 GENERAL'S ACCESS IS EXPRESSLY LIMITED BY LAW, IN connection with
3 the audits and examinations described in this act, the auditor
4 general may ACCESS AND examine, or cause to be ACCESSED AND
5 examined, the books, accounts, documents, records, ELECTRONICALLY
6 STORED INFORMATION, performance activities, and financial affairs,
7 INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL INFORMATION, of each
8 branch, department, office, board, commission, agency, authority,
9 and institution of this state. ALL OF THE FOLLOWING APPLY TO
10 CONFIDENTIAL INFORMATION OBTAINED UNDER THIS SUBSECTION:

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

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

17 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
18 CONTRARY, STATE OFFICERS AND EMPLOYEES OF ALL BRANCHES,
19 DEPARTMENTS, OFFICES, BOARDS, COMMISSIONS, AGENCIES, AUTHORITIES,
20 AND INSTITUTIONS OF THIS STATE ARE NOT SUBJECT TO CIVIL OR CRIMINAL
21 PENALTIES IMPOSED BY STATE LAW FOR PROVIDING INFORMATION REQUESTED
22 BY THE AUDITOR GENERAL.

23 (3) Upon demand of the auditor general, deputy auditor
24 general, or any ~~person~~ INDIVIDUAL appointed by the auditor general
25 to make the audits and examinations provided in this act, the
26 officers and employees of all branches, departments, offices,
27 boards, commissions, agencies, authorities, and institutions of

1 this state shall produce OR PROVIDE for UNRESTRICTED ACCESS AND
2 examination all books, accounts, documents, ~~and~~ records, AND
3 ELECTRONICALLY STORED INFORMATION, INCLUDING, BUT NOT LIMITED TO,
4 CONFIDENTIAL INFORMATION, of their respective branch, department,
5 office, board, commission, agency, authority, and institution and
6 truthfully answer all questions relating to their books, accounts,
7 documents, ~~and~~ records, AND ELECTRONICALLY STORED INFORMATION,
8 INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL INFORMATION, of their
9 respective activities and affairs.

10 (4) THE ENTITY PROVIDING THE INFORMATION TO THE AUDITOR
11 GENERAL UNDER THIS ACT IS RESPONSIBLE FOR PAYING ALL COSTS TO
12 PRODUCE THE INFORMATION.

13 (5) STATE OFFICERS AND EMPLOYEES SHALL NOT RESTRICT THE
14 AUDITOR GENERAL'S ACCESS TO INFORMATION REQUESTED REGARDLESS OF
15 WHETHER THE INFORMATION IS SOUGHT FOR THE PURPOSE OF PERFORMING AN
16 AUDIT OF ANOTHER STATE PROGRAM OR AGENCY.

17 (6) ~~(4)~~—In connection with audits and examinations described
18 in this act, the auditor general, deputy auditor general, or any
19 ~~person~~ INDIVIDUAL appointed to make audits and examinations may
20 issue subpoenas, direct the service of the subpoena by any police
21 officer, and compel the attendance and testimony of witnesses; may
22 administer oaths and examine any ~~person~~ INDIVIDUAL as may be
23 necessary; and may compel the production of books, accounts,
24 papers, documents, ~~and~~ records, AND ELECTRONICALLY STORED
25 INFORMATION, INCLUDING, BUT NOT LIMITED TO, CONFIDENTIAL
26 INFORMATION. The orders and subpoenas issued by the auditor
27 general, deputy auditor general, or any ~~person~~ INDIVIDUAL appointed

1 with the duty of making the examinations provided in this
2 subsection may be enforced upon application to any circuit court as
3 provided by law.

4 (7) ~~(5)~~—The auditor general may employ and compensate
5 auditors, examiners, and assistants as he or she considers
6 necessary. In addition, the auditors, examiners, and assistants
7 shall be paid their necessary traveling expenses while engaging in
8 the duties provided under this act. Compensation and expenses shall
9 be paid out of the funds appropriated for that purpose. The auditor
10 general and the deputy auditor general shall receive their actual
11 traveling expenses incurred while engaging in the duties provided
12 under this act, which shall be paid out of the funds appropriated
13 for that purpose.

14 (8) ~~(6)~~—Any ~~person~~ **INDIVIDUAL** who gives or offers to any
15 examiner, accountant, clerk, or other employee of the auditor
16 general, any money, gift, emolument, or thing of value for the
17 purpose of influencing the action of the examiner or other
18 employee, in any matter relating to the examination of any public
19 account authorized by this act, or for the purpose of preventing or
20 delaying the examination of any public account, or for the purpose
21 of influencing the action of the examiner or other employee, in
22 framing, changing, withholding, or delaying any report of any
23 examination of any public account, is guilty of a misdemeanor ~~7~~
24 punishable by **IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 6**
25 **MONTHS, OR** a fine of not **LESS THAN \$200.00 OR** more than \$1,000.00,
26 ~~not less than \$200.00, or imprisonment for not more than 6 months~~
27 ~~and not less than 30 days, or both.~~

1 (9) ~~(7)~~Any ~~person~~**INDIVIDUAL** appointed by the auditor general
2 to make the examinations provided for under this act, or any
3 officer, clerk, or other employee of the auditor general, who
4 receives or solicits any money, gift, emolument, or anything of
5 value for the purpose of being influenced in the matter of the
6 examination of any public account authorized by this act, or for
7 the purpose of being influenced to prevent or delay the examination
8 of any public account, is guilty of a misdemeanor ~~,—punishable by~~
9 **IMPRISONMENT FOR NOT LESS THAN 30 DAYS OR MORE THAN 6 MONTHS, OR a**
10 **fine of not LESS THAN \$200.00 OR more than \$1,000.00, and not less**
11 ~~than \$200.00, or imprisonment for not more than 6 months and not~~
12 ~~less than 30 days, or both.~~

13 (10) **THIS ACT DOES NOT AUTHORIZE THE AUDITOR GENERAL TO ACCESS**
14 **OR EXAMINE RECORDS OR INFORMATION SUBJECT TO THE ATTORNEY-CLIENT**
15 **PRIVILEGE.**

16 (11) **ALL WORKING PAPERS AND MEMORANDUMS OF THE AUDITOR GENERAL**
17 **ARE EXEMPT FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION**
18 **ACT, 1976 PA 442, MCL 15.231 TO 15.246.**

19 (12) ~~(8)~~As used in this act:

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

23 (b) "Auditor general" means the individual appointed auditor
24 general under section 53 of article IV of the state constitution of
25 1963.

26 (c) **"CONFIDENTIAL INFORMATION" MEANS INFORMATION THAT IS**
27 **SUBJECT TO A LEGAL DUTY TO NOT DISCLOSE ITS CONTENTS.**

1 (D) ~~(e)~~ "Examination" means an inquiry, compilation, or review
2 within the scope of the auditor general's authority under section
3 53 of article IV of the state constitution of 1963.