



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 4432 (as passed by the House)  
Sponsor: Representative Joseph Graves  
House Committee: Oversight  
Senate Committee: Government Operations

Date Completed: 12-4-18

**CONTENT**

**The bill would amend Public Act 118 of 1931, which provides for the administration of oaths and subpoena of witnesses by legislative committees, to do the following:**

- **Allow each house of the Legislature, by resolution of that house, to authorize committees and commissions of or appointed by that house to administer oaths, subpoena witnesses, or to examine the books and records of any person or entity involved in a matter properly before that committee or commission.**
- **Prescribe the method of service for a legislative subpoena.**
- **Allow an individual served with a subpoena to be accompanied by counsel if personal appearance were required.**
- **Specify that the provision of records and files to a committee or commission would not constitute public disclosure of those records or files.**

Generally, a committee or commission of or appointed by the Legislature, by resolution of the Legislature, may be authorized to administer oaths, subpoena witnesses, or to examine the books and records of any person or entity involved in a matter properly before that committee or commission. The bill also would allow each house of the Legislature, by resolution of that house, to authorize committees and commissions of or appointed by that house to have those same powers.

The service of a legislative subpoena would have to be made at least seven days before the date fixed in the subpoena for production of records unless a shorter period was authorized by a majority vote of all of the members of the committee or commission. The subpoena also would have to be served with a copy of the resolution or statute establishing the committee or commission and a general statement of the subject matter of the committee's or commission's investigation or inquiry.

A person served with a subpoena could choose to be accompanied by counsel if personal appearance were required and would have to be served notice to that effect.

The provision of records and files to a committee or commission would not constitute public disclosure of the records or files. In the course of inspecting and using any records or files, the committee or commission could not disregard their confidential nature and could meet in a closed session under Section 8h of the Open Meetings Act (which allows a public body to meet in closed session to consider material exempt from discussion or disclosure under State or Federal statute). In a closed session, only members and clerks of the committee or

commission, legal counsel for the minority and majority parties, and individuals necessary for the production of any record or file could be present.

(Under the Act, an individual who neglects or refuses to obey a subpoena of an authorized committee, who refuses to be sworn or to testify, who fails on demand to produce papers, books, or documents related to a matter under investigation, or a witness or attorney who is guilty of contempt while in attendance at a hearing of an authorized committee may be punished for contempt of the Legislature.)

MCL 4.101

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill could have an indeterminate negative fiscal impact on local units of government due to possible increased administrative costs associated with complying with the requirement to provide information subject to subpoena, and investigative authority that could be granted to a committee or commission authorized by the Legislature. The potential costs would depend on the information of files and records that would have to be submitted to the authorized committee or commission.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.