

# HOUSE BILL NO. 4669

May 25, 2023, Introduced by Reps. Rigas, Outman, Johnsen, Beson, Kunse, Wozniak and DeBoyer and referred to the Committee on Government Operations.

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 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), as amended by 2019 PA 156.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 1. (1) As provided for in section 53 of article IV of the

1 state constitution of 1963, the auditor general shall conduct  
2 audits and examinations of all branches, departments, offices,  
3 boards, commissions, agencies, authorities, and institutions of  
4 this state.

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

16 (a) The auditor general is subject to the same duty of  
17 confidentiality imposed by law on the entity providing the  
18 confidential information.

19 (b) The auditor general is subject to any civil or criminal  
20 penalties imposed by law for unlawfully disclosing that  
21 confidential information.

22 (c) Notwithstanding any other provision of law to the  
23 contrary, state officers and employees of all branches,  
24 departments, offices, boards, commissions, agencies, authorities,  
25 and institutions of this state are not subject to civil or criminal  
26 penalties imposed by state law for providing information requested  
27 by the auditor general.

28 (3) Upon demand of the auditor general, deputy auditor  
29 general, or any individual appointed by the auditor general to make

1 the audits and examinations provided in this act, the officers and  
2 employees of all branches, departments, offices, boards,  
3 commissions, agencies, authorities, and institutions of this state  
4 shall produce or provide for access and examination all books,  
5 accounts, documents, records, and electronically stored  
6 information, including, but not limited to, confidential  
7 information, of their respective branch, department, office, board,  
8 commission, agency, authority, and institution and truthfully  
9 answer all questions relating to their books, accounts, documents,  
10 records, and electronically stored information, including, but not  
11 limited to, confidential information, of their respective  
12 activities and affairs.

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

17 (5) In connection with audits and examinations described in  
18 this act, the auditor general, deputy auditor general, or any  
19 individual appointed to make audits and examinations may issue  
20 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 individual as may be necessary;  
23 and may compel the production of books, accounts, papers,  
24 documents, records, and electronically stored information,  
25 including, but not limited to, confidential information. The orders  
26 and subpoenas issued by the auditor general, deputy auditor  
27 general, or any individual appointed with the duty of making the  
28 examinations provided in this subsection may be enforced upon  
29 application to any circuit court as provided by law.

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

11           (7) Any individual who gives or offers to any examiner,  
12 accountant, clerk, or other employee of the auditor general, any  
13 money, gift, emolument, or thing of value for the purpose of  
14 influencing the action of the examiner or other employee, in any  
15 matter relating to the examination of any public account authorized  
16 by this act, or for the purpose of preventing or delaying the  
17 examination of any public account, or for the purpose of  
18 influencing the action of the examiner or other employee, in  
19 framing, changing, withholding, or delaying any report of any  
20 examination of any public account, is guilty of a misdemeanor  
21 punishable by imprisonment for not less than 30 days or more than 6  
22 months or a fine of not less than \$200.00 or more than \$1,000.00,  
23 or both.

24           (8) Any individual appointed by the auditor general to make  
25 the examinations provided for under this act, or any officer,  
26 clerk, or other employee of the auditor general, who receives or  
27 solicits any money, gift, emolument, or anything of value for the  
28 purpose of being influenced in the matter of the examination of any  
29 public account authorized by this act, or for the purpose of being

1 influenced to prevent or delay the examination of any public  
2 account, is guilty of a misdemeanor punishable by imprisonment for  
3 not less than 30 days or more than 6 months or a fine of not less  
4 than \$200.00 or more than \$1,000.00, or both.

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

9 (10) All working papers and records of the auditor general in  
10 connection with audits and examinations are exempt from public  
11 disclosure under the freedom of information act, 1976 PA 442, MCL  
12 15.231 to 15.246.

13 **(11) By not later than January 31, 2025, and by not later than**  
14 **January 31 of each odd-numbered year after, the auditor general**  
15 **shall deliver a report to the senate majority leader, speaker of**  
16 **the house of representatives, senate minority leader, and minority**  
17 **leader of the house of representatives that contains a factual**  
18 **summary of each audit with 1 or more negative material findings**  
19 **that was conducted during the immediately preceding 2 years.**

20 (12) ~~(11)~~As used in this act:

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

24 (b) "Auditor general" means the individual appointed auditor  
25 general under section 53 of article IV of the state constitution of  
26 1963.

27 (c) "Confidential information" means information that is  
28 subject to a legal duty to not disclose its contents.

29 (d) "Examination" means an inquiry, compilation, or review

1 within the scope of the auditor general's authority under section  
2 53 of article IV of the state constitution of 1963.