AUDITS AND EXAMINATIONS

Act 1 of 2003

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.

History: 2003, Act 1, Imd. Eff. Apr. 3, 2003 ;-- Am. 2019, Act 156, Imd. Eff. Dec. 20, 2019

The People of the State of Michigan enact:

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13.101 Auditor general; duties; powers; confidentiality; access to information; employment and compensation; influencing action of examiner as misdemeanor; attorney-client privilege; executive privilege disclosure of information; definitions.

Sec. 1.

(1) As provided for in section 53 of article IV of the state constitution of 1963, the auditor general shall conduct audits and examinations of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions of this state.

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

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

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

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

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

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

(5) In connection with audits and examinations described in this act, the auditor general, deputy auditor general, or any individual appointed to make audits and examinations may issue subpoenas, direct the service of the subpoena by any police officer, and compel the attendance and testimony of witnesses; may administer oaths and examine any individual as may be necessary; and may compel the production of books, accounts, papers, documents, records, and electronically stored information, including, but not limited to, confidential information. The orders and subpoenas issued by the auditor general, deputy auditor general, or any individual appointed with the duty of making the examinations provided in this subsection may be enforced upon application to any circuit court as provided by law.

(6) The auditor general may employ and compensate auditors, examiners, and assistants as he or she considers

necessary. In addition, the auditors, examiners, and assistants must be paid their necessary traveling expenses while engaging in the duties provided under this act. Compensation and expenses must be paid out of the funds appropriated for that purpose. The auditor general and the deputy auditor general must receive their actual traveling expenses incurred while engaging in the duties provided under this act, which must be paid out of the funds appropriated for that purpose.

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

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

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

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

(11) As used in this act:

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

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

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

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

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