

HOUSE BILL NO. 5901

March 15, 2022, Introduced by Rep. Outman 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. **Beginning March 1, 2023 and every 3 years after, the**
5 **auditor general shall also conduct audits and examinations of both**
6 **of the following:**

7 (a) **All economic development projects conducted by the**
8 **Michigan economic development corporation or the Michigan strategic**
9 **fund created under the Michigan strategic fund act, 1984 PA 270,**
10 **MCL 125.2001 to 125.2094.**

11 (b) **All economic development projects conducted by this state**
12 **that cost more than \$750,000.00.**

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

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

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

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

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

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

25 (5) In connection with audits and examinations described in
26 this act, the auditor general, deputy auditor general, or any
27 individual appointed to make audits and examinations may issue
28 subpoenas, direct the service of the subpoena by any police
29 officer, and compel the attendance and testimony of witnesses; may

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

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

19 (7) Any individual who gives or offers to any examiner,
20 accountant, clerk, or other employee of the auditor general, any
21 money, gift, emolument, or thing of value for the purpose of
22 influencing the action of the examiner or other employee, in any
23 matter relating to the examination of any public account authorized
24 by this act, or for the purpose of preventing or delaying the
25 examination of any public account, or for the purpose of
26 influencing the action of the examiner or other employee, in
27 framing, changing, withholding, or delaying any report of any
28 examination of any public account, is guilty of a misdemeanor
29 punishable by imprisonment for not less than 30 days or more than 6

1 months or a fine of not less than \$200.00 or more than \$1,000.00,
2 or both.

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

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

17 (10) All working papers and records of the auditor general in
18 connection with audits and examinations are exempt from public
19 disclosure under the freedom of information act, 1976 PA 442, MCL
20 15.231 to 15.246.

21 (11) As used in this act:

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

25 (b) "Auditor general" means the individual appointed auditor
26 general under section 53 of article IV of the state constitution of
27 1963.

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

1 (d) "Economic development project" means that term as defined
2 in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL
3 125.2004.

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