SPONSOR: Rep. Osienski & Sen. Hansen
Reps. K. Johnson, Morrison, Hilovsky, Lambert; Sens. Sturgeon, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 6

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE AUDITOR OF ACCOUNTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2910, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2910. Subpoena power.

(a) In connection with other powers of the Auditor of Accounts, the Auditor shall have the power to ~~administer oaths and compel the attendance of witnesses and the production of documents by the filing of a praecipe for a subpoena with the Prothonotary of any county of this State.~~ subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of books, papers, records, or other evidence needed for the performance of the Auditor's duties or exercise of the Auditor's powers.

(b) A subpoena issued under this section ~~shall be~~ is effective throughout this State.

(c) Service of such a subpoena ~~shall~~ may be made by the Auditor, the Auditor's deputy, or other staff designated by the Auditor for purpose of serving a subpoena as follows: ~~by any sheriff of this State by serving the person to whom it is addressed personally or by leaving it at such person's usual place of abode with a person of suitable age and discretion residing therein.~~

(1) Where the person served is an individual person, by one of the following:

a. Serving the person to whom it is addressed personally.

b. Leaving it at the person's usual place of abode with an individual of suitable age and discretion residing therein.

c. Sending it by certified mail to the last known address of the person to whom the subpoena is addressed.

(2) Where the person served is a corporate or other entity, by one of the following:

a. Serving the registered agent personally or by certified mail.

b. Serving any individual authorized to accept service on behalf of the entity personally at that individual's usual place of business, the place of business of the entity, or by certified mail.

(d) ~~Failure to obey a subpoena shall be punishable under the Rules of the Superior Court.~~ If a properly served recipient of a subpoena fails or refuses to respond, the Superior Court may, upon application by the Auditor, issue an order requiring the recipient of the subpoena to appear before the Auditor in response to the subpoena. Failure to obey such an order may be punished by the court as a contempt thereof.

SYNOPSIS

This Act allows the Auditor of Accounts to issue subpoenas directly, removing a requirement that the Auditor first file a praecipe with the Superior Court prothonotary. It also allows the Auditor to effect service of such a subpoena, and to apply for a court order if a recipient fails to respond to a subpoena. Failure to comply with such a court order may be punished as contempt of court.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.