

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 164

SENATE BILL 1177

AN ACT

AMENDING SECTIONS 41-1278, 41-1279, 41-1279.03, 41-1279.04 AND 41-1279.05,
ARIZONA REVISED STATUTES; RELATING TO THE AUDITOR GENERAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1278, Arizona Revised Statutes, is amended to
3 read:

4 41-1278. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Committee" means the joint legislative audit committee.

7 2. "Investigation" means an inquiry into specified acts or allegations
8 of impropriety, malfeasance or nonfeasance in the obligation, expenditure,
9 receipt or use of public funds of this state or into specified financial
10 transactions or practices which may involve such impropriety, malfeasance or
11 nonfeasance.

12 3. "Performance audit" means an audit which determines with regard to
13 the purpose, functions and duties of the audited agency all of the following:

14 (a) Whether the audited agency is managing or utilizing its resources,
15 including public funds of this state, personnel, property, equipment and
16 space, in an economical and efficient manner.

17 (b) Causes of inefficiencies or uneconomical practices, including
18 inadequacies in management information systems, internal and administrative
19 procedures, organizational structure, use of resources, allocation of
20 personnel, purchasing policies and equipment.

21 (c) Whether the desired results are being achieved.

22 (d) Whether objectives established by the legislature or other
23 authorizing body are being met.

24 4. "Special audit" means an audit of limited scope.

25 5. "SPECIAL RESEARCH REQUEST" MEANS RESEARCH AND ANALYSIS OF ISSUES
26 OR QUESTIONS THAT ARE DESIGNATED AS A SPECIAL RESEARCH REQUEST BY THE
27 COMMITTEE, BUT DOES NOT INCLUDE A PERFORMANCE AUDIT, FINANCIAL AUDIT,
28 COMPLIANCE AUDIT, PROCEDURAL REVIEW, SPECIAL AUDIT, INVESTIGATION OR
29 EVALUATION REQUIRED BY LAW.

30 ~~5.~~ 6. "State agency" means all departments, agencies, boards,
31 commissions, institutions and instrumentalities of this state.

32 Sec. 2. Section 41-1279, Arizona Revised Statutes, is amended to read:

33 41-1279. Joint legislative audit committee; composition;
34 meetings; powers and duties

35 A. The joint legislative audit committee is established consisting of
36 five members of the senate appointed by the president of the senate, one of
37 whom shall be a member of the senate appropriations committee, and five
38 members of the house of representatives appointed by the speaker of the house
39 of representatives, one of whom shall be a member of the house of
40 representatives appropriations committee. Selection of members shall be
41 based on their understanding and interest in legislative audit oversight
42 functions. Not more than three appointees of each house shall be of the same
43 political party. The president and the speaker shall designate one of their
44 appointed members as chairman of their respective delegation. The chairman

1 of the audit committee shall serve for the term of each legislature. The
2 chairmanship of the audit committee shall alternate between the chairman of
3 the senate delegation and the chairman of the house of representatives
4 delegation beginning with the chairman of the senate delegation. The
5 president of the senate and the speaker of the house of representatives shall
6 also serve as ex officio members of the committee.

7 B. The committee shall meet at least quarterly and on call of the
8 chairman. Members of the committee are eligible for reimbursement by their
9 respective houses in the same manner as a member of the legislature who
10 attends a meeting of a standing committee.

11 C. The committee shall:

12 1. Oversee all audit functions of the legislature and state agencies
13 including sunset, performance, special and financial audits, SPECIAL RESEARCH
14 REQUESTS and the preparation and introduction of legislation resulting from
15 audit report findings.

16 2. Appoint an auditor general subject to approval by a concurrent
17 resolution of the legislature and direct the auditor general to perform all
18 sunset, performance, special and financial audits and investigations.

19 3. Have the power of legislative subpoena in accordance with article
20 4 of this chapter.

21 4. Require state agencies to comply with findings and directions of
22 the committee regarding sunset, performance, special and financial audits.

23 5. Perform all functions required by chapter 27 of this title relating
24 to the sunset review of state agencies.

25 Sec. 3. Section 41-1279.03, Arizona Revised Statutes, is amended to
26 read:

27 41-1279.03. Powers and duties

28 A. The auditor general shall:

29 1. Prepare an audit plan for approval by the committee and report to
30 the committee the results of each audit and investigation and other reviews
31 conducted by the auditor general.

32 2. Conduct or cause to be conducted at least biennial financial and
33 compliance audits of financial transactions and accounts kept by or for all
34 state agencies subject to the single audit act of 1984 (P.L. 98-502). The
35 audits shall be conducted in accordance with generally accepted governmental
36 auditing standards and accordingly shall include tests of the accounting
37 records and other auditing procedures as may be considered necessary in the
38 circumstances. The audits shall include the issuance of suitable reports as
39 required by the single audit act of 1984 (P.L. 98-502) so the legislature,
40 federal government and others will be informed as to the adequacy of
41 financial statements of the state in compliance with generally accepted
42 governmental accounting principles and to determine whether the state has
43 complied with laws and regulations that may have a material effect on the
44 financial statements and on major federal assistance programs.

1 3. Perform procedural reviews for all state agencies at times
2 determined by the auditor general. These reviews may include evaluation of
3 administrative and accounting internal controls and reports on such reviews.

4 4. Perform SPECIAL RESEARCH REQUESTS, special audits and related
5 assignments as designated by the committee and conduct performance audits,
6 special audits, SPECIAL RESEARCH REQUESTS and investigations of any state
7 agency, whether created by the constitution or otherwise, as may be requested
8 by the committee.

9 5. Annually on or before the fourth Monday of December prepare a
10 written report to the governor and to the committee which contains a summary
11 of activities for the previous fiscal year.

12 6. In the tenth year and in each third year thereafter in which a
13 transportation excise tax is in effect in a county as provided in section
14 42-6104, 42-6106 or 42-6107 conduct a performance audit that:

15 (a) Reviews past expenditures and future planned expenditures of the
16 transportation excise tax REVENUES and determines the impact of the
17 expenditures in solving transportation problems within the county and, for
18 a transportation excise tax in effect in a county as provided in section
19 42-6107, determines whether the expenditures of the transportation excise tax
20 REVENUES comply with section 28-6392, subsection B.

21 (b) Reviews projects completed to date and projects to be completed
22 during the remaining years in which a transportation excise tax is in effect.
23 Within six months after each review period the auditor general shall present
24 a report to the speaker of the house of representatives and the president of
25 the senate detailing findings and making recommendations. If the parameters
26 of the performance audit are set by the citizens transportation oversight
27 committee, the auditor general shall also present the report to the citizens
28 transportation oversight committee.

29 (c) Reviews, determines, reports and makes recommendations to the
30 speaker of the house of representatives and the president of the senate
31 whether the distribution of highway user revenues complies with title 28,
32 chapter 18, article 2. If the parameters of the performance audit are set
33 by the citizens transportation oversight committee, the auditor general shall
34 also present the report to the citizens transportation oversight committee.

35 7. If requested by the committee, conduct performance audits of
36 counties and incorporated cities and towns receiving highway user revenue
37 fund monies pursuant to title 28, chapter 18, article 2 to determine if the
38 monies are being spent as provided in section 28-6533, subsection B.

39 8. Perform special audits designated pursuant to law if the auditor
40 general determines that there are adequate monies appropriated for the
41 auditor general to complete the audit. If the auditor general determines the
42 appropriated monies are inadequate, the auditor general shall notify the
43 committee.

1 constitution or otherwise, or such documents and property of a contractor
2 relating to a contract with this state pursuant to the provisions of section
3 35-214. It is the duty of any officer or employee of any such agency or
4 political subdivision, having such records under his THE OFFICER'S OR
5 EMPLOYEE'S control, to permit access to, and examination thereof, upon OF
6 THE RECORDS ON the request of the auditor general or his THE AUDITOR
7 GENERAL'S authorized representative.

8 B. For the purpose of complying with section 41-1279.03, subsection
9 A, paragraph 4, the auditor general OR THE AUDITOR GENERAL'S AUTHORIZED
10 REPRESENTATIVE, in the performance of his official duties, may attend
11 executive sessions of the governing body of any state agency.

12 C. For the purpose of auditing the department of revenue, the auditor
13 general and his THE AUDITOR GENERAL'S authorized representatives have access
14 to state tax returns, except that a report of the auditor general shall not
15 violate the confidentiality of state tax laws.

16 D. Any officer or person who knowingly fails or refuses to permit such
17 access and examination is guilty of a class 2 misdemeanor.

18 Sec. 5. Section 41-1279.05, Arizona Revised Statutes, is amended to
19 read:

20 41-1279.05. Confidential records of auditor general;
21 exemptions; divulgence of restricted information;
22 violation; classification

23 A. Working papers and other audit files maintained by the auditor
24 general are not public records and are exempt from title 39, chapter 1. The
25 information contained in such working papers and audit files prepared
26 pursuant to a specific audit is not subject to disclosure, except to the
27 attorney general or AND to any county attorney in connection with an
28 investigation made or action taken in the course of their official duties.

29 B. IF THE COMMITTEE APPROVES A SPECIAL RESEARCH REQUEST, ON REQUEST
30 FOR DISCLOSURE BY THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF
31 REPRESENTATIVES, THE AUDITOR GENERAL SHALL DISCLOSE INFORMATION CONTAINED IN
32 THE SPECIAL RESEARCH REQUEST WORKING PAPERS AND AUDIT FILES TO THE PRESIDENT
33 OF THE SENATE OR THE PRESIDENT'S DESIGNEE, THE SPEAKER OF THE HOUSE OF
34 REPRESENTATIVES OR THE SPEAKER'S DESIGNEE AND THE CHAIRMAN OF THE JOINT
35 LEGISLATIVE AUDIT COMMITTEE FOR THE PURPOSE OF OVERSEEING THE SPECIAL
36 RESEARCH REQUEST. INFORMATION CONTAINED IN THE SPECIAL RESEARCH REQUEST
37 WORKING PAPERS AND AUDIT FILES IS NOT A PUBLIC RECORD, IS EXEMPT FROM TITLE
38 39, CHAPTER 1 AND IS NOT SUBJECT TO DISCLOSURE EXCEPT AS PROVIDED IN THIS
39 SECTION. A PERSON SHALL NOT FURTHER DISCLOSE THE INFORMATION THAT IS
40 OBTAINED FROM THE AUDITOR GENERAL.

1 B. C. If the auditor general, or any member of his THE AUDITOR
2 GENERAL'S staff or, ANY other employee OR ANY PERSON WHO HAS OBTAINED
3 INFORMATION PURSUANT TO SUBSECTION B knowingly divulges or makes known in any
4 manner not permitted by law any particulars of any record, document, or
5 information the disclosure of which is restricted by law, he THE PERSON is
6 guilty of a class 5 felony.

7 Sec. 6. Emergency

8 This act is an emergency measure that is necessary to preserve the
9 public peace, health or safety and is operative immediately as provided by
10 law.

APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.



ON RECONSIDERATION

Passed the House April 29, 2002,

by the following vote: 44 Ayes,

12 Nays, 4 Not Voting
with emergency

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate _____, 20____,

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

30 day of April, 2002,

at 11:27 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 6th day of

May, 2002,

at 3:28 o'clock P M.

[Signature]
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this 7 day of May, 2002

at 3:13 o'clock P M.

[Signature]
Secretary of State

S.B. 1177

~~FAILED~~
Passed the House April 23, 2002,

by the following vote: 28 Ayes,

25 Nays, 7 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 18, 2002,

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature] *with Emergency*
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1177

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~