

REFERENCE TITLE: auditor general; audits; county elections

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2703**

Introduced by  
Representatives Bolick: Biasiucci, Blackman, Carter, Diaz, Hoffman,  
Kavanagh, Nguyen, Parker, Payne

### **AN ACT**

AMENDING SECTION 41-1278, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 25; AMENDING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 3, SECTION 11; AMENDING SECTION 41-1279.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 7, ARTICLE 10.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1279.08; REPEALING SECTION 41-1279.08, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; 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. "ELECTION INTEGRITY AUDIT" MEANS AN AUDIT OF LIMITED SCOPE FOR  
8 THE PURPOSE OF ENSURING THE ACCURACY AND RELIABILITY OF SPECIFIC ELECTIONS  
9 PROCESSES, INCLUDING REVIEW OF PREELECTION AND POSTELECTION ACTIVITIES.

10 ~~2.~~ 3. "Investigation" means an inquiry into specified acts or  
11 allegations of impropriety, malfeasance or nonfeasance in the obligation,  
12 expenditure, receipt or use of public ~~funds~~ MONIES of this state or into  
13 specified financial transactions or practices ~~which~~ THAT may involve such  
14 impropriety, malfeasance or nonfeasance.

15 ~~3.~~ 4. "Performance audit" means an audit ~~which~~ THAT determines  
16 with regard to the purpose, functions and duties of the audited agency all  
17 of the following:

18 (a) Whether the audited agency is managing or ~~utilizing~~ USING its  
19 resources, including public ~~funds~~ MONIES of this state, personnel,  
20 property, equipment and space, in an economical and efficient manner.

21 (b) Causes of inefficiencies or uneconomical practices, including  
22 inadequacies in management information systems, internal and  
23 administrative procedures, organizational structure, use of resources,  
24 allocation of personnel, purchasing policies and equipment.

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

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

28 ~~4.~~ 5. "Special audit" means an audit of limited scope.

29 ~~5.~~ 6. "Special research request" means research and analysis of  
30 issues or questions that are designated as a special research request by  
31 the committee, but does not include a performance audit, financial audit,  
32 compliance audit, procedural review, special audit, investigation or  
33 evaluation required by law.

34 ~~6.~~ 7. "State agency" means all departments, agencies, boards,  
35 commissions, institutions and instrumentalities of this state.

36 Sec. 2. Repeal

37 Section 41-1279.03, Arizona Revised Statutes, as amended by Laws  
38 2021, chapter 405, section 25, is repealed.

39 Sec. 3. Section 41-1279.03, Arizona Revised Statutes, as amended by  
40 Laws 2019, chapter 3, section 11, is amended to read:

41 41-1279.03. Powers and duties

42 A. The auditor general shall:

43 1. Prepare an audit plan for approval by the committee and report  
44 to the committee the results of each audit and investigation and other  
45 reviews conducted by the auditor general.

1           2. Conduct or cause to be conducted ~~at least biennial~~ ANNUAL  
2 financial and compliance audits of financial transactions and accounts  
3 kept by or for all state agencies subject to the FEDERAL single audit ~~act~~  
4 ~~of 1984 (P.L. 98-502)~~ REQUIREMENTS. The audits shall be conducted in  
5 accordance with generally accepted governmental auditing standards and  
6 accordingly shall include tests of the accounting records and other  
7 auditing procedures as may be considered necessary in the circumstances.  
8 The audits shall include the issuance of suitable reports as required by  
9 the FEDERAL single audit ~~act of 1984 (P.L. 98-502)~~ REQUIREMENTS so that  
10 the legislature, the federal government and others will be informed as to  
11 the adequacy of financial statements of ~~the~~ THIS state in compliance with  
12 generally accepted ~~governmental~~ accounting principles and to determine  
13 whether this state has complied with laws and regulations that may have a  
14 material effect on the financial statements and on major federal  
15 assistance programs.

16           3. Perform procedural reviews for all state agencies at times  
17 determined by the auditor general. These reviews may include evaluation  
18 of administrative and accounting internal controls and reports on these  
19 reviews.

20           4. Perform special research requests, special audits and related  
21 assignments as designated by the committee and conduct performance audits,  
22 special audits, special research requests and investigations of any state  
23 agency, whether created by the constitution or otherwise, as may be  
24 requested by the committee.

25           5. Annually on or before the fourth Monday of December, prepare a  
26 written report to the governor and to the committee that contains a  
27 summary of activities for the previous fiscal year.

28           6. In the tenth year and in each fifth year thereafter in which a  
29 transportation excise tax is in effect in a county as provided in section  
30 42-6106 or 42-6107, conduct a performance audit that:

31           (a) Reviews past expenditures and future planned expenditures of  
32 the transportation excise revenues and determines the impact of the  
33 expenditures in solving transportation problems within the county and, for  
34 a transportation excise tax in effect in a county as provided in section  
35 42-6107, determines whether the expenditures of the transportation excise  
36 revenues comply with section 28-6392, subsection B.

37           (b) Reviews projects completed to date and projects to be completed  
38 during the remaining years in which a transportation excise tax is in  
39 effect. Within six months after each review period, the auditor general  
40 shall present a report to the speaker of the house of representatives and  
41 the president of the senate detailing findings and making recommendations.

42           (c) Reviews, determines, reports and makes recommendations to the  
43 speaker of the house of representatives and the president of the senate  
44 whether the distribution of ARIZONA highway user revenues complies with  
45 title 28, chapter 18, article 2.

1           7. If requested by the committee, conduct performance audits of  
 2 counties and incorporated cities and towns receiving ARIZONA highway user  
 3 revenue fund monies pursuant to title 28, chapter 18, article 2 to  
 4 determine whether the monies are being spent as provided in section  
 5 28-6533, subsection B.

6           8. Perform special audits designated pursuant to law if the auditor  
 7 general determines that there are adequate monies appropriated for the  
 8 auditor general to complete the audit. If the auditor general determines  
 9 the appropriated monies are inadequate, the auditor general shall notify  
 10 the committee.

11           9. Establish a schoolwide audit team in the office of the auditor  
 12 general to conduct performance audits and monitor school districts to  
 13 determine the percentage of every dollar spent in the classroom by the  
 14 school district. Each school district shall prominently post on its  
 15 website home page a copy of its profile pages that displays the percentage  
 16 of every dollar spent in the classroom by that school district from the  
 17 most recent status report issued by the auditor general pursuant to this  
 18 paragraph. The performance audits shall determine whether school  
 19 districts that receive monies from the Arizona English language learner  
 20 fund established by section 15-756.04 and the statewide compensatory  
 21 instruction fund established by section 15-756.11 comply with title 15,  
 22 chapter 7, article 3.1. The auditor general shall determine, through  
 23 random selection, the school districts to be audited each year, subject to  
 24 review by the joint legislative audit committee. A school district that  
 25 is subject to an audit pursuant to this paragraph shall notify the auditor  
 26 general in writing whether the school district agrees or disagrees with  
 27 the findings ~~and recommendations~~ of the audit and whether the school  
 28 district will implement the ~~findings and~~ recommendations, implement  
 29 modifications to the ~~findings and~~ recommendations or refuse to implement  
 30 the ~~findings and~~ recommendations. The school district shall submit to the  
 31 auditor general a written status report on the implementation of the audit  
 32 ~~findings and recommendations every six months for two years after~~ AT THE  
 33 REQUEST OF THE AUDITOR GENERAL WITHIN THE TWO-YEAR PERIOD FOLLOWING THE  
 34 ISSUANCE OF an audit conducted pursuant to this paragraph. The auditor  
 35 general shall review the school district's progress toward implementing  
 36 the ~~findings and~~ recommendations of the audit ~~every six months after~~  
 37 ~~receipt of the district's status report for two years~~ AND PROVIDE STATUS  
 38 REPORTS OF THESE REVIEWS TO THE JOINT LEGISLATIVE AUDIT COMMITTEE DURING  
 39 THIS TWO-YEAR PERIOD. The auditor general may review a school district's  
 40 progress beyond this two-year period for recommendations that have not yet  
 41 been implemented by the school district. ~~The auditor general shall~~  
 42 ~~provide a status report of these reviews to the joint legislative audit~~  
 43 ~~committee.~~ The school district shall participate in any hearing scheduled  
 44 during this review period by the joint legislative audit committee or by

1 any other legislative committee designated by the joint legislative audit  
2 committee.

3 10. Annually review per diem compensation and reimbursement of  
4 expenses for employees of this state and members of a state board,  
5 commission, council or advisory committee by judgmentally selecting  
6 samples and evaluating the propriety of per diem compensation and expense  
7 reimbursements.

8 11. PERFORM ELECTION INTEGRITY AUDITS AS PRESCRIBED IN SECTION  
9 41-1279.08.

10 B. The auditor general may:

11 1. Subject to approval by the committee, adopt rules necessary to  
12 administer the duties of the office.

13 2. Hire consultants to conduct the studies required by subsection  
14 A, paragraphs 6 and 7 of this section.

15 C. If approved by the committee, the auditor general may charge a  
16 reasonable fee for the cost of performing audits or providing accounting  
17 services for auditing federal funds, special audits or special services  
18 requested by political subdivisions of this state. Monies collected  
19 pursuant to this subsection shall be deposited in the audit services  
20 revolving fund.

21 D. The department of transportation, THE TRANSPORTATION EXCISE TAX  
22 RECIPIENT AND the board of supervisors of a county that has approved a  
23 county transportation excise tax as provided in section 42-6106 or 42-6107  
24 and the governing bodies of counties, cities and towns receiving ARIZONA  
25 highway user revenue fund monies shall cooperate with and provide  
26 necessary information to the auditor general or the auditor general's  
27 consultant.

28 E. The department of transportation OR THE TRANSPORTATION EXCISE  
29 TAX RECIPIENT shall reimburse the auditor general as follows, and the  
30 auditor general shall deposit the reimbursed monies in the audit services  
31 revolving fund:

32 1. For the cost of conducting the studies or hiring a consultant to  
33 conduct the studies required by subsection A, paragraph 6, subdivisions  
34 (a) and (b) of this section, from monies collected pursuant to a county  
35 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

36 2. For the cost of conducting the studies or hiring a consultant  
37 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of  
38 this section, from the Arizona highway user revenue fund.

39 Sec. 4. Section 41-1279.04, Arizona Revised Statutes, is amended to  
40 read:

41 41-1279.04. Authority to examine records; violation;  
42 classification

43 A. The auditor general or the auditor general's authorized  
44 representatives, in ~~the performance of~~ PERFORMING official duties, shall  
45 have access to, ~~EMPLOYEES~~ and authority to examine, ~~any and all books,~~

1 accounts, reports, vouchers, correspondence files and other records, bank  
2 accounts, criminal history record information as defined in section  
3 41-1701 AND IN ACCORDANCE WITH SECTION 41-1750, ~~money~~ MONIES and other  
4 property of any state agency, board, commission, department, institution,  
5 program, advisory council or committee or political subdivision of this  
6 state, whether created by the constitution or otherwise, or such documents  
7 and property of a contractor relating to a contract with this state  
8 pursuant to the provisions of section 35-214. ~~It is the duty of~~ Any  
9 officer or employee of any such agency or political subdivision, having  
10 such records under the officer's or employee's control, ~~to permit~~ SHALL  
11 ALLOW access to and examination of the records on the request of the  
12 auditor general or the auditor general's authorized representative.

13 B. ~~For the purpose of complying with section 41-1279.03, subsection~~  
14 ~~A, paragraphs 4 and 9,~~ The auditor general or the auditor general's  
15 authorized representative, in ~~the performance of~~ PERFORMING official  
16 duties, may attend executive sessions of the governing body of any state  
17 agency or ~~school district~~ ENTITY in this state THAT IS SUBJECT TO  
18 TITLE 38, CHAPTER 3, ARTICLE 3.1.

19 C. For the purpose of auditing the department of revenue, the  
20 auditor general and the auditor general's authorized representatives have  
21 access to state tax returns, except that a report of the auditor general  
22 shall not violate the confidentiality of state tax laws.

23 D. FOR THE PURPOSE OF ELECTION INTEGRITY AUDITS, THE AUDITOR  
24 GENERAL AND THE AUDITOR GENERAL'S AUTHORIZED REPRESENTATIVES SHALL HAVE  
25 ACCESS TO BOTH OF THE FOLLOWING:

26 1. ANY PERSONNEL AND DATA FROM THE COUNTY RECORDER'S OFFICE AND ANY  
27 COUNTY ELECTIONS DEPARTMENT, THE DEPARTMENT OF TRANSPORTATION AND THE  
28 SECRETARY OF STATE, WHICH SHALL INCLUDE ACCESS TO ELECTRONIC DATA OR ANY  
29 SUCH DATA AND PROPERTY FROM A THIRD PARTY, THAT THE AUDITOR GENERAL DEEMS  
30 NECESSARY TO PERFORM THE DUTIES PRESCRIBED IN SECTION 41-1279.08,  
31 INCLUDING VOTER REGISTRATION DATA. THIS DATA SHALL BE PROVIDED IN THE  
32 MANNER AND FORMAT PRESCRIBED BY THE AUDITOR GENERAL.

33 2. POLLING PLACES, VOTING CENTERS AND CENTRAL COUNTING CENTERS.

34 E. ALL OFFICERS OF ANY STATE AGENCY, BOARD, COMMISSION, DEPARTMENT,  
35 INSTITUTION, PROGRAM, ADVISORY COUNCIL OR COMMITTEE OR POLITICAL  
36 SUBDIVISION OF THIS STATE SHALL PROVIDE REASONABLE AND NEEDED FACILITIES  
37 FOR AUDITOR GENERAL STAFF AND SHALL MAKE RECORDS AVAILABLE IN THE FORM AND  
38 AT THE TIME PRESCRIBED.

39 ~~D.~~ F. Any officer or person who knowingly fails or refuses to  
40 ~~permit such~~ ALLOW access and examination PURSUANT TO THIS SECTION OR WHO  
41 OTHERWISE KNOWINGLY OBSTRUCTS OR MISLEADS THE AUDITOR GENERAL IN THE  
42 EXECUTION OF THE AUDITOR GENERAL'S DUTIES is guilty of a class 2  
43 misdemeanor.

44 G. THE ATTORNEY GENERAL SHALL SUPERVISE THE PROSECUTION OF ALL  
45 OFFENDERS UNDER THIS SECTION.

1           Sec. 5. Title 41, chapter 7, article 10.1, Arizona Revised  
2 Statutes, is amended by adding section 41-1279.08, to read:

3           41-1279.08. Auditor general; election integrity audits;  
4                                       duties

5           A. THE AUDITOR GENERAL SHALL ESTABLISH AN AUDIT TEAM TO PERFORM  
6 ELECTION INTEGRITY AUDITS OF COUNTY RECORDER OFFICES AND COUNTY ELECTIONS  
7 DEPARTMENTS.

8           B. EACH ELECTION CYCLE, THE AUDITOR GENERAL SHALL CHOOSE THROUGH  
9 RANDOM SELECTION TWO COUNTIES THAT HAVE A POPULATION OF LESS THAN ONE  
10 MILLION PERSONS AND PERFORM AN ELECTION INTEGRITY AUDIT ON THOSE COUNTIES.

11           C. THE AUDITOR GENERAL SHALL PERFORM AN ELECTION INTEGRITY AUDIT OF  
12 EACH COUNTY WITH A POPULATION OF ONE MILLION OR MORE PERSONS EACH ELECTION  
13 CYCLE.

14           D. THE AUDITOR GENERAL MAY MAKE RECOMMENDATIONS TO THE COUNTIES,  
15 THE SECRETARY OF STATE AND THE LEGISLATURE TO ADDRESS FINDINGS IDENTIFIED  
16 IN THE ELECTION INTEGRITY AUDITS.

17           E. A COUNTY SUBJECT TO AN ELECTION INTEGRITY AUDIT PURSUANT TO THIS  
18 SECTION SHALL NOTIFY THE AUDITOR GENERAL IN WRITING WHETHER THE COUNTY  
19 AGREES OR DISAGREES WITH THE FINDINGS OF THE ELECTION INTEGRITY AUDIT AND  
20 WHETHER THE COUNTY WILL IMPLEMENT THE RECOMMENDATIONS, IMPLEMENT  
21 MODIFICATIONS TO THE RECOMMENDATIONS OR REFUSE TO IMPLEMENT THE  
22 RECOMMENDATIONS. THE COUNTY SHALL SUBMIT TO THE AUDITOR GENERAL WRITTEN  
23 STATUS REPORTS ON THE IMPLEMENTATION OF THE ELECTION INTEGRITY AUDIT  
24 RECOMMENDATIONS AT THE REQUEST OF THE AUDITOR GENERAL WITHIN THE TWO-YEAR  
25 PERIOD FOLLOWING THE ISSUANCE OF THE ELECTION INTEGRITY AUDIT PURSUANT TO  
26 THIS SECTION. THE AUDITOR GENERAL SHALL REVIEW THE COUNTY'S PROGRESS  
27 TOWARD IMPLEMENTING THE RECOMMENDATIONS OF THE ELECTION INTEGRITY AUDIT  
28 FOR UP TO TWO YEARS. THE AUDITOR GENERAL MAY REVIEW THE COUNTY'S PROGRESS  
29 BEYOND THIS TWO-YEAR PERIOD FOR RECOMMENDATIONS THAT HAVE NOT YET BEEN  
30 IMPLEMENTED.

31           F. THE AUDITOR GENERAL SHALL REPORT ANY ELECTION INTEGRITY AUDIT  
32 FINDINGS AND RECOMMENDATIONS AND THE STATUS OF A COUNTY'S PROGRESS TOWARDS  
33 IMPLEMENTING RECOMMENDATIONS TO THE PRESIDENT OF THE SENATE, THE SPEAKER  
34 OF THE HOUSE OF REPRESENTATIVES, THE JOINT LEGISLATIVE AUDIT COMMITTEE,  
35 THE GOVERNOR AND THE SECRETARY OF STATE. THE JOINT LEGISLATIVE AUDIT  
36 COMMITTEE SHALL FORWARD TO THE ATTORNEY GENERAL FOR INVESTIGATION AND  
37 POSSIBLE PROSECUTION INFORMATION REGARDING A COUNTY THAT FAILS OR REFUSES  
38 TO IMPLEMENT SIGNIFICANT RECOMMENDATIONS FROM THE AUDITOR GENERAL.

39           G. A COUNTY SUBJECT TO AN ELECTION INTEGRITY AUDIT SHALL POST THE  
40 AUDIT REPORT AND STATUS REPORT OF PROGRESS TOWARD IMPLEMENTING  
41 RECOMMENDATIONS ON ITS WEBSITE AND SHALL PARTICIPATE IN ANY HEARING  
42 RELATED TO THE ELECTION INTEGRITY AUDIT SCHEDULED BY THE JOINT LEGISLATIVE  
43 AUDIT COMMITTEE OR BY ANY OTHER LEGISLATIVE COMMITTEE DESIGNATED BY THE  
44 JOINT LEGISLATIVE AUDIT COMMITTEE.

1           Sec. 6. Delayed repeal  
2           Section 41-1279.08, Arizona Revised Statutes, as added by this act,  
3 is repealed from and after December 31, 2029.

4           Sec. 7. Appropriation; auditor general; exemption  
5           A. The sum of \$\_\_\_\_\_ is appropriated from the state general  
6 fund in fiscal year 2022-2023 to the auditor general for the purposes of  
7 this act.

8           B. The appropriation made in subsection A of this section is exempt  
9 from the provisions of section 35-190, Arizona Revised Statutes, relating  
10 to lapsing of appropriations.

11          Sec. 8. Effective date  
12          Sections 1 through 6 of this act are effective from and after  
13 December 31, 2022.