

HB0358S01 compared with HB0358

~~text~~ shows text that was in HB0358 but was deleted in HB0358S01.

text shows text that was not in HB0358 but was inserted into HB0358S01.

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Representative Jordan D. Teuscher proposes the following substitute bill:

COUNTY AUDITOR AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to ~~the scope and duties of~~ a county auditor.

Highlighted Provisions:

This bill:

- ▶ ~~establishes the county auditor as being independent from any executive or administrative county officers; and~~

→ ~~modifies the authority and~~ defines terms;

- ▶ clarifies and modifies the duties of a county auditor;
- ▶ establishes that a county auditor in a county of the first class shall conduct services in accordance with generally accepted government auditing standards;
- ▶ establishes the title of county controller;
- ▶ clarifies and modifies a county auditor's duties and authority regarding a

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performance audit; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-19a-102, as last amended by Laws of Utah 2022, Chapter 288

17-19a-202, as enacted by Laws of Utah 2012, Chapter 17

~~{17-19a-205}~~ **17-19a-206**, as ~~{last amended}~~ enacted by Laws of Utah ~~{2022}~~ 2012,
Chapter ~~{288}~~ 17

17-19a-208, as enacted by Laws of Utah 2012, Chapter 17

17-19a-401, as enacted by Laws of Utah 2012, Chapter 17

~~{17-34-5, as last amended by Laws of Utah 2011, Chapter 297~~

REPEALS:

17-19a-101, as last amended by Laws of Utah 2022, Chapter 288

~~{17-19a-204, as enacted by Laws of Utah 2012, Chapter 17~~

~~17-19a-206, as enacted by Laws of Utah 2012, Chapter 17~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17-19a-102** is amended to read:

17-19a-102. Definitions.

As used in this chapter:

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) (a) "Accounting services" means the creation, modification, or deletion of transactions and records in a financial accounting system, including the preparation of a

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county's annual financial report.

(b) "Accounting services" does not include the creation of a purchase order.

(3) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

(4) "Book" means a financial record of the county, regardless of a record's format.

(5) (a) "Budget" or "budgeting" means the preparation or presentation of a proposed or tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection (5)(b)(i) or (ii).

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) (a) "County auditor" means the county officer elected as the county auditor under Section 17-53-101.

(b) "County auditor" includes a person given the title of county controller under Subsection 17-19a-202(6).

(~~7~~)⁸ "County executive" means the elected chief executive officer of a county.

[~~(7)~~ (~~18~~)⁹ "Performance audit" means [a review and audit as described in Subsection 17-19a-206(3) of a county program, county operation, county management system, or county agency to:] {a review and audit of a county office, officer, department, division, court, or entity to determine whether that} an assessment of whether a county office, officer, department, division, court, or entity, or any related county program is:

(a) managing public resources and exercising authority in compliance with law and

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policy:

- (b) achieving objectives and desired outcomes; and
- (c) providing services effectively, efficiently, economically, ethically, and equitably.

~~[(a) review procedures, activities, or policies; and]~~

~~[(b) determine whether the county is achieving the best levels of economy, efficiency, effectiveness, and compliance.]~~

Section 2. Section 17-19a-202 is amended to read:

17-19a-202. Duties and services.

~~{}~~A county auditor shall perform:~~}~~

~~{}~~(1) in accordance with Section 17-19a-205, an accounting duty or service described in this chapter or otherwise required by law;~~}~~

~~{}~~(2) an auditing duty or service described in this chapter or otherwise required by law; and~~}~~

~~{}~~(3) other duties as may be required by law.~~}~~

~~{}~~4 ~~{}~~Except as required or precluded under this chapter, the~~}~~A county auditor ~~{}~~shall~~}~~may conduct, in relation to any county office, officer, department, division, court, or entity, as the county auditor deems necessary, the following duties and services:

(a) financial audits;

(b) attestation-level examinations, reviews, and agreed-upon procedures engagements or reviews of financial statements;

(c) subject to Section 17-9a-206, performance audits;

(d) subject to~~{}~~and in accordance with~~}~~ Section 17-19a-205, accounting services; and

(e) other duties as required by law.

~~{}~~2 ~~{}~~The county auditor shall provide any specific service under Subsections (1)(a) through (c):

~~—~~~~{}~~(a) as needed, as defined by good management practices and the standards of the profession;

~~—~~~~{}~~(b) based on the county auditor's professional judgment, taking into account considerations related to risk and materiality; and

~~—~~~~{}~~(c) in~~}~~5 In a county of the first class, ~~{}~~in compliance with Generally Accepted Government Audition Standards in effect as of the end of the calendar year that precedes the

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~~start of the county auditor's work:~~

~~—— (3) (a) A county auditor shall, at the request and engagement of a county legislative body or a county executive, conduct a performance audit for a county office, officer, department, division, court, or entity as the county legislative body or county executive deems necessary:~~

~~—— (b) The county legislative body or county executive shall establish the goals and nature of performance audits under Subsection (3)(a):~~

~~—— (c) The the county auditor shall conduct ~~{a performance audit}~~ the services under ~~{Subsection (3)(a) in a manner consistent with the county auditor's professional judgment, statutory duties, and lawful authority:~~~~

~~—— (d) Subsections (4)(a) through (c) in accordance with generally accepted government auditing standards.~~

~~(6) A county legislative body ~~{or county executive and}~~ may change the title of county auditor ~~{shall agree upon the prioritization and timing of a performance audit under Subsection (3)(a) with terms that are consistent with the auditor's statutory duties and available resources:~~~~

~~—— (4) to county controller for a county auditor's office that predominantly performs accounting services.~~

~~(7) The county auditor may not conduct the services described in Subsections (~~{1}~~4)(a) through (c) with respect to the auditor's own office, accounts, or financial records.~~

~~(~~{5}~~8) Nothing in this chapter limits a county legislative body's authority under Section 17-53-212 or a county executive's authority under Section 17-53-303.~~

Section 3. Section ~~{17-19a-205}~~ 17-19a-206 is amended to read:

~~{17-19a-205. Accounting services:~~

~~—— (1) Except as provided in Subsections (2) [and (3)] through (4), the county auditor shall provide accounting services for the county.~~

~~—— (2) For a county operating under the county executive-council form of government as described in Section 17-52a-203, the county council may, by ordinance, delegate accounting services provided for or executed on behalf of the entire county:~~

~~—— (a) to the county executive; or~~

~~—— (b) to an office's or department's officer or director.~~

~~—— (3) For a county operating under the council-manager form of county government~~

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~~as described in Section 17-52a-204, if the county auditor provides preapproval or postpayment review for all payments by the county, the county council may by ordinance passed on or before December 31, 2021, delegate accounting services provided for or executed on behalf of the entire county:~~

~~—— (a) to the county manager; or~~

~~—— (b) to an office's or department's officer or director.~~

~~—— (4) A county auditor of a county of the first class complying with Generally Accepted Government Auditing Standards in accordance with Subsection 17-19a-202(2)(c) may not provide accounting services for the county.~~

~~—— [(4)] (5) If a county council delegates the provision of accounting services in accordance with Subsection (2) or (3):~~

~~—— (a) the county council shall make the delegation in accordance with good management practice to foster effectiveness, efficiency, and the adequate protection of a county asset;~~

~~—— (b) the county council shall make the delegation by considering appropriate checks and balances within county government; and~~

~~—— (c) the entity that is selected to provide accounting services shall prepare the tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.~~

~~—— }17-19a-206. Performance audit services.~~

~~[(1)(a) A county auditor shall, under the direction and supervision of the county legislative body or county executive and subject to Subsections (1)(b) and (2), provide performance audit services for a county office, department, division, or other county entity.]~~

~~[(b) A county auditor may not conduct a performance audit of the auditor's own office.]~~

~~[(2) The county legislative body or county executive shall establish the goals and nature of a performance audit and related services.]~~

(1) In a county of the first class, the county auditor shall conduct a performance audit:

(a) as the county auditor deems appropriate, taking into account:

(i) the standards of the profession;

(ii) the county auditor's professional judgment; and

(iii) the county auditor's assessment of risk and materiality; or

(b) as requested and engaged by the county legislative body or county executive, in

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accordance with the following:

(i) the county legislative body or county executive shall establish the goals and nature of the performance audit;

(ii) the county auditor shall conduct the audit in a manner consistent with the county auditor's professional judgment and statutory duties; and

(iii) the county legislative body or county executive and the county auditor shall agree upon the prioritization and timing of the performance audit, with terms that are consistent with the county auditor's statutory duties and available resources.

(2) (a) In a county of the second through sixth class, the county auditor shall conduct a performance audit under the direction and supervision of the county legislative body or county executive.

(b) The county legislative body or county executive shall establish the goals and nature of a performance audit conducted under Subsection (2)(a).

(3) A performance audit conducted ~~[in accordance with]~~ under this section may include ~~[a review and audit]~~ an assessment of the following:

- (a) the honesty and integrity of financial and other affairs;
- (b) the accuracy and reliability of financial and management reports;
- (c) the adequacy of financial controls to safeguard public funds;
- (d) the management and staff adherence to statute, ordinance, policies, and legislative intent;
- (e) the economy, efficiency, and effectiveness of operational performance;
- (f) the accomplishment of intended objectives; and
- (g) whether management, financial, and information systems are adequate and effective.

Section 4. Section **17-19a-208** is amended to read:

17-19a-208. Reporting -- State treasurer -- County legislative body.

(1) On or before the last day of each month, the ~~[county auditor]~~ county finance officer shall submit a report to the state treasurer regarding the collection, care, and disbursement of state money by the county during the preceding month.

(2) The county auditor and the county treasurer shall, as required by the county legislative body, make a joint report to the county executive and the county legislative body

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accounting for the financial condition of the county.

(3) If a county auditor determines that a county office, officer, department, division, court, or entity has not implemented a county auditor's prior recommendation in connection with a previous financial audit, performance audit, examination, or review, the county auditor shall notify the county legislative body that the entity has not implemented the recommendation.

Section 5. Section **17-19a-401** is amended to read:

17-19a-401. County auditor investigative powers -- Report of findings.

(1) (a) A county auditor:

(i) may conduct an investigation of an issue or action associated with or related to the auditor's statutory duties, including investigating a book or account of a county [~~officer, county office, or other county entity~~] office, officer, department, division, court, or entity; and

(ii) may not conduct an investigation of an issue or action that is not associated with or related to the auditor's statutory duties.

(b) A county officer, employee, or other county administrative entity shall grant the county auditor complete and free access to a book requested by the county auditor in accordance with Subsection (1)(a)(i).

(c) A county auditor, with the assistance of the county or district attorney, may:

(i) administer an oath or affirmation; or

(ii) issue an administrative subpoena for a witness or document necessary to the performance of the auditor's statutory duties.

(2) If the county auditor, after a complete investigation, finds that a book or account of a county [~~officer, office, or other county administrative entity~~] office, officer, department, division, court, or entity is not kept in accordance to law, or that an [~~officer, office, or other county administrative entity~~] office, officer, department, division, court, or entity has made an incorrect or improper financial report, the county auditor shall prepare a report of the auditor's findings and submit a copy of the report to the county executive.

(3) If a county auditor, after a complete investigation, finds that a justice court judge has not kept a book or account according to law, or that the justice court judge has made an incorrect or improper financial report, the auditor shall prepare a report of the auditor's findings and submit a copy of the report to the state court administrator, the county executive, and the

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county legislative body.

~~{ Section 6. Section 17-34-5 is amended to read:~~

~~17-34-5. Budgeting, accounting for, and disbursing of funds -- Annual audit.~~

~~(1) (a) With respect to the budgeting, accounting for, and disbursing of funds to furnish the municipal-type services and functions described in Section 17-34-1 to areas of the county outside the limits of incorporated towns and cities, including levying of taxes and imposition of fees and charges under Section 17-34-3, each county legislative body shall separately budget and strictly account for and apportion to the costs of providing municipal-type services and functions the following:~~

~~(i) the salaries of each county commissioner and the salaries and wages of all other elected and appointed county officials and employees;~~

~~(ii) the operation and maintenance costs of each municipal-type service or function provided, set forth separately as line items in the Municipal Services Fund budget;~~

~~(iii) the cost of renting or otherwise using capital facilities for the purposes of providing municipal-type services or functions; and~~

~~(iv) all other costs including administrative costs associated, directly or indirectly, with the costs of providing municipal-type services or functions.~~

~~(b) At all times these funds and any expenditures from these funds shall be separately accounted for and utilized only for the purposes of providing municipal-type services and functions to areas of the county outside the limits of incorporated towns or cities.~~

~~(2) To implement Subsection (1):~~

~~(a) a budget shall be adopted and administered in the same manner as the budget for general purposes of the county which furnishes the municipal-type services and functions is adopted and administered, either as a part of the general budget or separate from it;~~

~~(b) funds for the purposes of furnishing municipal-type services and functions under this chapter shall be collected, held, and administered in the same manner as other funds of the county are collected, held, and administered, but shall be segregated and separately maintained, except that where, in the judgment of the county legislative body, advantages inure to the fund from coinvestment of these funds and other funds also subject to control by the county legislative body, the county legislative body may direct this coinvestment, but in no event may the funds to furnish municipal-type services and functions or the income from their investment~~

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~~be used for purposes other than those described in Section 17-34-1;~~

~~—— (c) expenditures shall be made in the same manner as other expenditures of the county are made; and~~

~~—— (d) any taxes levied under this chapter shall be levied at the same time and in the same manner as other taxes of the county are levied.~~

~~—— (3) An annual audit of the budgeting, accounting for, and disbursing of funds used to furnish municipal-type services and functions, shall be conducted by an independent certified public accountant who is unaffiliated with the county auditor.~~

‡ Section ~~{7}~~6. **Repealer.**

This bill repeals:

Section **17-19a-101, Title and scope.**

~~{~~ ~~Section 17-19a-204, Auditing services.~~

~~—— Section 17-19a-206, Performance audit services.~~

‡