

GOVERNMENT RECORDS MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

▶ modifies a provision relating to fees a governmental entity may charge for providing a record; and

▶ provides that a governmental entity is not prevented from utilizing a third party to assist in or perform certain activities related to responding to a record request.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-203, as last amended by Laws of Utah 2022, Chapter 128

63G-2-204, as last amended by Laws of Utah 2023, Chapter 173

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

Section 1. Section **63G-2-203** is amended to read:

63G-2-203. Fees.



28 (1) (a) Subject to Subsection (5), a governmental entity may charge a reasonable fee to
29 cover the governmental entity's actual cost of providing a record, including:

30 (i) the cost of staff time; and

31 (ii) the cost of a third party that the governmental entity utilizes to assist with or
32 perform activities related to the governmental entity's response to a record request.

33 (b) A fee under Subsection (1)(a) shall be approved by the governmental entity's
34 executive officer.

35 (2) (a) When a governmental entity compiles a record in a form other than that
36 normally maintained by the governmental entity, the actual costs under this section may include
37 ~~[the following]:~~

38 (i) the cost of ~~[staff time for]~~ compiling, formatting, manipulating, packaging,
39 summarizing, or tailoring the record either into an organization or media to meet the person's
40 request;

41 (ii) ~~[the cost of staff time for]~~ search~~;~~ and retrieval~~;~~ costs and other direct
42 administrative costs for complying with a request; and

43 (iii) in the case of fees for a record that is the result of computer output other than word
44 processing, the actual incremental cost of providing the electronic services and products
45 together with a reasonable portion of the costs associated with formatting or interfacing the
46 information for particular users, and the administrative costs as set forth in Subsections
47 (2)(a)(i) and (ii).

48 (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest
49 paid employee who, in the discretion of the custodian of records, has the necessary skill and
50 training to perform the request.

51 (3) (a) Fees shall be established as provided in this Subsection (3).

52 (b) A governmental entity with fees established by the Legislature:

53 (i) shall establish the fees defined in Subsection (2), or other actual costs associated
54 with this section through the budget process; and

55 (ii) may use the procedures of Section [63J-1-504](#) to set fees until the Legislature
56 establishes fees through the budget process.

57 (c) Political subdivisions shall establish fees by ordinance or written formal policy
58 adopted by the governing body.

- 59 (d) The judiciary shall establish fees by rules of the judicial council.
- 60 (4) A governmental entity may fulfill a record request without charge and is
61 encouraged to do so if it determines that:
- 62 (a) releasing the record primarily benefits the public rather than a person;
- 63 (b) the individual requesting the record is the subject of the record, or an individual
64 specified in Subsection 63G-2-202(1) or (2); or
- 65 (c) the requester's legal rights are directly implicated by the information in the record,
66 and the requester is impecunious.
- 67 (5) (a) As used in this Subsection (5), "media representative":
- 68 (i) means a person who requests a record to obtain information for a story or report for
69 publication or broadcast to the general public; and
- 70 (ii) does not include a person who requests a record to obtain information for a blog,
71 podcast, social media account, or other means of mass communication generally available to a
72 member of the public.
- 73 (b) A governmental entity may not charge a fee for:
- 74 (i) reviewing a record to determine whether it is subject to disclosure, except as
75 permitted by Subsection (2)(a)(ii);
- 76 (ii) inspecting a record; or
- 77 (iii) the first quarter hour of staff time spent in responding to a request under Section
78 63G-2-204.
- 79 (c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from
80 charging a fee for the first quarter hour of staff time spent in responding to a request under
81 Section 63G-2-204 if the person who submits the request:
- 82 (i) is not a Utah media representative; and
- 83 (ii) previously submitted a separate request within the 10-day period immediately
84 before the date of the request to which the governmental entity is responding.
- 85 (6) (a) A person who believes that there has been an unreasonable denial of a fee
86 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals
87 when inspection of a public record is denied under Section 63G-2-205.
- 88 (b) The adjudicative body hearing the appeal:
- 89 (i) shall review the fee waiver de novo, but shall review and consider the governmental

90 entity's denial of the fee waiver and any determination under Subsection (4); and

91 (ii) has the same authority when a fee waiver or reduction is denied as it has when the
92 inspection of a public record is denied.

93 (7) (a) All fees received under this section by a governmental entity subject to
94 Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

95 (b) Those funds shall be used to recover the actual cost and expenses incurred by the
96 governmental entity in providing the requested record or record series.

97 (8) (a) A governmental entity may require payment of past fees and future estimated
98 fees before beginning to process a request if:

99 (i) fees are expected to exceed \$50; or

100 (ii) the requester has not paid fees from previous requests.

101 (b) Any prepaid amount in excess of fees due shall be returned to the requester.

102 (9) This section does not alter, repeal, or reduce fees established by other statutes or
103 legislative acts.

104 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be
105 set as provided in this Subsection (10).

106 (b) The lieutenant governor shall:

107 (i) after consultation with county clerks, establish uniform fees for voter registration
108 and voter history records that meet the requirements of this section; and

109 (ii) obtain legislative approval of those fees by following the procedures and
110 requirements of Section [63J-1-504](#).

111 Section 2. Section **63G-2-204** is amended to read:

112 **63G-2-204. Record request -- Response -- Time for responding.**

113 (1) (a) A person making a request for a record shall submit to the governmental entity
114 that retains the record a written request containing:

115 (i) the person's:

116 (A) name;

117 (B) mailing address;

118 (C) email address, if the person has an email address and is willing to accept
119 communications by email relating to the person's records request; and

120 (D) daytime telephone number; and

121 (ii) a description of the record requested that identifies the record with reasonable
122 specificity.

123 (b) (i) A single record request may not be submitted to multiple governmental entities.

124 (ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a
125 separate record request to each of multiple governmental entities, even if each of the separate
126 requests seeks access to the same record.

127 (2) (a) In response to a request for a record, a governmental entity may not provide a
128 record that it has received under Section 63G-2-206 as a shared record.

129 (b) If a governmental entity is prohibited from providing a record under Subsection
130 (2)(a), the governmental entity shall:

131 (i) deny the records request; and

132 (ii) inform the person making the request of the identity of the governmental entity
133 from which the shared record was received.

134 (3) A governmental entity may make rules in accordance with Title 63G, Chapter 3,
135 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall
136 be directed.

137 (4) After receiving a request for a record, a governmental entity shall:

138 (a) review each request that seeks an expedited response and notify, within five
139 business days after receiving the request, each requester that has not demonstrated that their
140 record request benefits the public rather than the person that their response will not be
141 expedited; and

142 (b) as soon as reasonably possible, but no later than 10 business days after receiving a
143 written request, or five business days after receiving a written request if the requester
144 demonstrates that expedited response to the record request benefits the public rather than the
145 person:

146 (i) approve the request and provide a copy of the record;

147 (ii) deny the request in accordance with the procedures and requirements of Section
148 63G-2-205;

149 (iii) notify the requester that it does not maintain the record requested and provide, if
150 known, the name and address of the governmental entity that does maintain the record; or

151 (iv) notify the requester that because of one of the extraordinary circumstances listed in

152 Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

153 (A) a description of the circumstances that constitute the extraordinary circumstances;

154 and

155 (B) the date when the records will be available, consistent with the requirements of

156 Subsection (7).

157 (5) Any person who requests a record to obtain information for a story or report for

158 publication or broadcast to the general public is presumed to be acting to benefit the public

159 rather than a person.

160 (6) The following circumstances constitute "extraordinary circumstances" that allow a

161 governmental entity to delay approval or denial by an additional period of time as specified in

162 Subsection (7) if the governmental entity determines that due to the extraordinary

163 circumstances it cannot respond within the time limits provided in Subsection (4):

164 (a) another governmental entity is using the record, in which case the originating

165 governmental entity shall promptly request that the governmental entity currently in possession

166 return the record;

167 (b) another governmental entity is using the record as part of an audit, and returning the

168 record before the completion of the audit would impair the conduct of the audit;

169 (c) (i) the request is for a voluminous quantity of records or a record series containing a

170 substantial number of records; or

171 (ii) the requester seeks a substantial number of records or records series in requests

172 filed within five working days of each other;

173 (d) the governmental entity is currently processing a large number of records requests;

174 (e) the request requires the governmental entity to review a large number of records to

175 locate the records requested;

176 (f) the decision to release a record involves legal issues that require the governmental

177 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case

178 law;

179 (g) segregating information that the requester is entitled to inspect from information

180 that the requester is not entitled to inspect requires extensive editing; or

181 (h) segregating information that the requester is entitled to inspect from information

182 that the requester is not entitled to inspect requires computer programming.

183 (7) If one of the extraordinary circumstances listed in Subsection (6) precludes
184 approval or denial within the time specified in Subsection (4), the following time limits apply
185 to the extraordinary circumstances:

186 (a) for claims under Subsection (6)(a), the governmental entity currently in possession
187 of the record shall return the record to the originating entity within five business days of the
188 request for the return unless returning the record would impair the holder's work;

189 (b) for claims under Subsection (6)(b), the originating governmental entity shall notify
190 the requester when the record is available for inspection and copying;

191 (c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:

192 (i) disclose the records that it has located which the requester is entitled to inspect;

193 (ii) provide the requester with an estimate of the amount of time it will take to finish
194 the work required to respond to the request;

195 (iii) complete the work and disclose those records that the requester is entitled to
196 inspect as soon as reasonably possible; and

197 (iv) for any person that does not establish a right to an expedited response as
198 authorized by Subsection (4), a governmental entity may choose to:

199 (A) require the person to provide for copying of the records as provided in Subsection
200 [63G-2-201\(10\)](#); or

201 (B) treat a request for multiple records as separate record requests, and respond
202 sequentially to each request;

203 (d) for claims under Subsection (6)(f), the governmental entity shall either approve or
204 deny the request within five business days after the response time specified for the original
205 request has expired;

206 (e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request
207 within 15 business days from the date of the original request; or

208 (f) for claims under Subsection (6)(h), the governmental entity shall complete its
209 programming and disclose the requested records as soon as reasonably possible.

210 (8) (a) If a request for access is submitted to an office of a governmental entity other
211 than that specified by rule in accordance with Subsection (3), the office shall promptly forward
212 the request to the appropriate office.

213 (b) If the request is forwarded promptly, the time limit for response begins when the

214 request is received by the office specified by rule.

215 (9) Nothing in this part prevents a governmental entity from utilizing a third party to
216 assist with or perform activities that the governmental entity's staff would otherwise perform in
217 responding to a record request.

218 [~~9~~] (10) If the governmental entity fails to provide the requested records or issue a
219 denial within the specified time period, that failure is considered the equivalent of a
220 determination denying access to the record.

221 **Section 3. Effective date.**

222 This bill takes effect on May 1, 2024.