

GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT
JUDICIAL REVIEW AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Steve R. Christiansen

LONG TITLE

General Description:

This bill modifies a provision relating to judicial review of State Records Committee decisions.

Highlighted Provisions:

This bill:

► allows a court to remand a petition for judicial review to the State Records Committee under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-404, as last amended by Laws of Utah 2019, Chapter 254

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

Section 1. Section **63G-2-404** is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part or in Subsection **63G-2-701**(6)(a)(ii), shall be filed no later than 30 days after the date of the

order or decision.

(b) The State Records Committee is a necessary party to a petition for judicial review of a State Records Committee order.

(c) The executive secretary of the State Records Committee shall be served with notice of a petition for judicial review of a State Records Committee order, in accordance with the Utah Rules of Civil Procedure.

(2) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(a) the petitioner's name and mailing address;

(b) a copy of the State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the State Records Committee;

(c) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(d) a request for relief specifying the type and extent of relief requested; and

(e) a statement of the reasons why the petitioner is entitled to relief.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6) (a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a State Records Committee order, allow introduction of evidence presented to the State Records Committee;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

56 ~~[(b) In a court's review and decision of a petition seeking judicial review of a State~~
57 ~~Records Committee order, the court may not remand the petition to the State Records~~
58 ~~Committee for any additional proceedings.]~~

59 (b) A court may remand a petition for judicial review to the State Records Committee
60 if:

61 (i) the remand is to allow the State Records Committee to decide an issue that:

62 (A) involves access to a record; and

63 (B) the State Records Committee has not previously addressed in the proceeding that
64 led to the petition for judicial review; and

65 (ii) the court determines that remanding to the State Records Committee is in the best
66 interests of justice.

67 (7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration
68 and weighing of the various interests and public policies pertinent to the classification and
69 disclosure or nondisclosure, order the disclosure of information properly classified as private,
70 controlled, or protected if the interest favoring access is greater than or equal to the interest
71 favoring restriction of access.

72 (b) The court shall consider and, where appropriate, limit the requester's use and
73 further disclosure of the record in order to protect privacy interests in the case of private or
74 controlled records, business confidentiality interests in the case of records protected under
75 Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of
76 other protected records.