

GOVERNMENT RECORDS REQUESTS AMENDMENTS

2023 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:

► provides that governmental entities may utilize a third party to assist in or perform certain activities related to responding to records requests.

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

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.

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

(b) A fee under Subsection (1)(a) shall be approved by the governmental entity's



28 executive officer.

29 (2) (a) When a governmental entity compiles a record in a form other than that
30 normally maintained by the governmental entity, the actual costs under this section may include
31 the following:

32 (i) the cost of staff time for compiling, formatting, manipulating, packaging,
33 summarizing, or tailoring the record either into an organization or media to meet the person's
34 request;

35 (ii) the cost of staff time for search, retrieval, and other direct administrative costs for
36 complying with a request; and

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

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

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

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

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

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

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

53 (d) The judiciary shall establish fees by rules of the judicial council.

54 (4) A governmental entity may fulfill a record request without charge and is
55 encouraged to do so if it determines that:

56 (a) releasing the record primarily benefits the public rather than a person;

57 (b) the individual requesting the record is the subject of the record, or an individual
58 specified in Subsection [63G-2-202](#)(1) or (2); or

59 (c) the requester's legal rights are directly implicated by the information in the record,
60 and the requester is impecunious.

61 (5) (a) As used in this Subsection (5), "media representative":

62 (i) means a person who requests a record to obtain information for a story or report for
63 publication or broadcast to the general public; and

64 (ii) does not include a person who requests a record to obtain information for a blog,
65 podcast, social media account, or other means of mass communication generally available to a
66 member of the public.

67 (b) A governmental entity may not charge a fee for:

68 (i) reviewing a record to determine whether it is subject to disclosure, except as
69 permitted by Subsection (2)(a)(ii);

70 (ii) inspecting a record; or

71 (iii) the first quarter hour of staff time spent in responding to a request under Section
72 [63G-2-204](#).

73 (c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from
74 charging a fee for the first quarter hour of staff time spent in responding to a request under
75 Section [63G-2-204](#) if the person who submits the request:

76 (i) is not a Utah media representative; and

77 (ii) previously submitted a separate request within the 10-day period immediately
78 before the date of the request to which the governmental entity is responding.

79 (6) (a) A person who believes that there has been an unreasonable denial of a fee
80 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals
81 when inspection of a public record is denied under Section [63G-2-205](#).

82 (b) The adjudicative body hearing the appeal:

83 (i) shall review the fee waiver de novo, but shall review and consider the governmental
84 entity's denial of the fee waiver and any determination under Subsection (4); and

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

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

89 (b) Those funds shall be used to recover the actual cost and expenses incurred by the

90 governmental entity in providing the requested record or record series.

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

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

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

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

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

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

100 (b) The lieutenant governor shall:

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

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

105 (11) Nothing in this section prevents a governmental entity from utilizing a third party
106 to assist with or perform activities described in this section.