

1st Sub. S.B. 44
GOVERNMENT RECORDS AMENDMENTS

Representative **David Ure** proposes the following amendments:

1. *Page 1, Lines 22 through 23*

Senate Committee Amendments

1-31-2005:

22 ▶ allows government entities to provide access to an electronic equivalent of a paper

23 record;

= ▶ provides definitions;

▶ enacts language from an existing subsection relating to disclosure of records that are governed by court rules as a new section;

▶ provides that disclosure of records governed by court rules is governed exclusively by the court rules;

2. *Page 2, Line 38:*

38 63-2-903, as last amended by Chapters 97 and 185, Laws of Utah 2002

ENACTS:

63-2-201.5, Utah Code Annotated 1953

3. *Page 7, Lines 198 through 199:*

198 controlled, or protected information.

(28) "Court rule" means any rule or set or rules promulgated, developed, or implemented by the courts of this state or the United States, whether of a general or limited scope, including the Utah Rules of Civil Procedure and the Federal Rules of Civil and Criminal Procedure.

199 Section 2. Section **63-2-201** is amended to read:

4. *Page 8, Line 222 through Page 9, Line 266*

Senate 2nd Reading Amendments

1-31-2005:

222 (ii) the interests favoring access outweighs the interest favoring restriction of access.

223 ~~{(6)(a) The disclosure of [records] a record to which access is governed or limited~~

224 ~~pursuant to court rule, another state statute, federal statute, or federal regulation, including~~

225 ~~[records] a record for which access is governed or limited as a condition of participation in a~~

226 ~~state or federal program or for receiving state or federal funds, is governed by the specific~~

227 ~~provisions of that statute, rule, or regulation. }~~

228 ~~{(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter~~
229 ~~is not inconsistent with the statute, rule, or regulation. }~~

230 ~~{(7)}~~ (6) A governmental entity shall provide a person with a certified copy of a record if:

- 231 (a) the person requesting the record has a right to inspect it;
232 (b) the person identifies the record with reasonable specificity; and
233 (c) the person pays the lawful fees.

234 ~~{(8)}~~ (7) (a) A governmental entity is not required to create a record in response to a request.

235 (b) Upon request, a governmental entity shall provide a record in a particular format if:

236 (i) the governmental entity is able to do so without unreasonably interfering with the
237 governmental entity's duties and responsibilities; and

238 (ii) the requester agrees to pay the governmental entity for its costs incurred in
239 providing the record in the requested format in accordance with Section 63-2-203.

240 (c) Nothing in this section requires a governmental entity to fulfill a person's records
241 request if the request unreasonably duplicates prior records requests from that person.

242 ~~{(9)}~~ (8) (a) ~~Ŝ→ [The] A ←Ŝ~~ governmental entity may allow a person requesting Ŝ→ more than
243 50

242a pages of ←Ŝ records to copy the

243 records if:

244 ~~Ŝ→ [(9) If a] (i) the person requests copies of more than 50 pages of records from a~~
245 ~~governmental entity[, and, if]:~~

246 ~~——(ii)] (i) ←Ŝ~~ (i) the records are contained in files that do not contain records that are exempt from
247 disclosure, or the records may be segregated to remove private, protected, or controlled
248 information from disclosure; and

249 ~~Ŝ→ [(iii)] (ii) ←Ŝ~~ the governmental entity Ŝ→ [supervises the copying process] provides
249a reasonable safeguards ←Ŝ to protect the public from
250 the potential for loss of a public record.

251 (b) When the requirements of Subsection (9)(a) are met, the governmental entity may:

252 ~~[(a)] (i)~~ (i) provide the requester with the facilities for copying the requested records and
253 require that the requester make the copies [himself]; or

254 ~~[(b)] (ii)~~ (ii) allow the requester to provide [his] the requester's own copying facilities and
255 personnel to make the copies at the governmental entity's offices and waive the fees for
256 copying the records.

257 ~~{(10)}~~ (9) (a) A governmental entity that owns an intellectual property right and that offers
258 the intellectual property right for sale or license may control by ordinance or policy the
259 duplication and distribution of the material based on terms the governmental entity considers to
260 be in the public interest.

261 (b) Nothing in this chapter shall be construed to limit or impair the rights or protections
262 granted to the governmental entity under federal copyright or patent law as a result of its

263 ownership of the intellectual property right.

264 ~~{(11)}~~ (11) A governmental entity may not use the physical form, electronic or otherwise, in

265 which a record is stored to deny, or unreasonably hinder the rights of ~~[persons]~~ a person to

266 inspect and receive ~~[copies]~~ a copy of a record under this chapter.

5. *Page 9, Line 268*

Senate 2nd Reading Amendments

1-31-2005:

268 of providing access to its paper equivalent.

= **Section 3. Section 63-2-201.5 is enacted to read:**

= **63-2-201.5. Supremacy and exclusivity of court rules, statutes, and regulations.**

(1) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is exclusively governed by the specific provisions of that statute, rule, or regulation.

(2) This chapter applies to records described in Subsection (1) only insofar as this chapter is not inconsistent with the statute, rule, or regulation.

Renumber remaining sections accordingly.