

FEEES FOR GOVERNMENT RECORDS REQUESTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act relating to fees charged for record requests.

Highlighted Provisions:

This bill:

- ▶ provides for de novo review of an appeal of a fee waiver 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 2009, Chapter 183

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 governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record. This fee shall be approved by the governmental entity's executive officer.



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

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

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

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

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

44 (c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first
45 quarter hour of staff time.

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

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

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

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

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

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

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

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

58 (b) the individual requesting the record is the subject of the record, or an individual

59 specified in Subsection 63G-2-202(1) or (2); or

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

62 (5) A governmental entity may not charge a fee for:

63 (a) reviewing a record to determine whether it is subject to disclosure, except as
64 permitted by Subsection (2)(a)(ii); or

65 (b) inspecting a record.

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

69 (b) The adjudicative body hearing the appeal:

70 (i) shall review the fee waiver de novo ~~H→~~ **, but shall review and consider**
70a **the governmental entity's denial of the fee waiver and any determination under**
70b **Subsection (4)** ~~←H~~ ; and

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

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

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

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

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

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

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

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

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

86 (b) The lieutenant governor shall:

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

89 (ii) obtain legislative approval of those fees by following the procedures and

90 requirements of Section [63J-1-504](#).

Legislative Review Note
Office of Legislative Research and General Counsel