

1 **GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT**

2 **JUDICIAL REVIEW AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd D. Weiler**

6 House Sponsor: Steve R. Christiansen

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ limits a prohibition against a court's remand to the State Records Committee to final
15 orders adjudicating the merits of a determination concerning access to a record.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **63G-2-404**, as last amended by Laws of Utah 2019, Chapter 254

23

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

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

26 **63G-2-404. Judicial review.**

27 (1) (a) A petition for judicial review of an order or decision, as allowed under this part



28 or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the
29 order or decision.

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

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

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

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

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

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

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

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

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

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

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

50 (6) (a) The court shall:

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

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

55 (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 final order adjudicating the merits of a determination concerning access to
58 a record, the court may not remand the petition to the State Records Committee for any

59 additional proceedings.

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

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