

Superseded 5/10/2016

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.
- (2)
 - (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:
 - (i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;
 - (ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and
 - (iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).
 - (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.
 - (c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first quarter hour of staff time.
- (3)
 - (a) Fees shall be established as provided in this Subsection (3).
 - (b) A governmental entity with fees established by the Legislature:
 - (i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and
 - (ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.
 - (c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.
 - (d) The judiciary shall establish fees by rules of the judicial council.
- (4) A governmental entity may fulfill a record request without charge and is encouraged to do so when it determines that:
 - (a) releasing the record primarily benefits the public rather than a person;
 - (b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or
 - (c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.
- (5) A governmental entity may not charge a fee for:
 - (a) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii); or
 - (b) inspecting a record.
- (6)
 - (a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.

(b) The adjudicative body hearing the appeal has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.

(7)

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

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

(8)

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

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

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

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

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

(10)

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

(b) The lieutenant governor shall:

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

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