

TIMELY AGENCY REVIEW OF CERTAIN APPLICATIONS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

This act enacts statutes governing review and action by state agencies on applications and other requests for permits, licenses, and authorizations from state agencies. The act sets a time limit by which agency decisions are to be made, provides for relief to aggrieved citizens, and makes requirements applicable to pending applications.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

63-98-101, Utah Code Annotated 1953

63-98-102, Utah Code Annotated 1953

63-98-201, Utah Code Annotated 1953

63-98-301, Utah Code Annotated 1953

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

Section 1. Section **63-98-101** is enacted to read:

CHAPTER 98. UTAH FAIR GOVERNMENT PRACTICES ACT

Part 1. General Provisions

63-98-101. Title.

This chapter is known as the "Utah Fair Government Practices Act."

Section 2. Section **63-98-102** is enacted to read:

63-98-102. Definitions.

As used in this chapter:

(1) (a) "Agency" means the state of Utah or any department, division, or agency or other administrative subunit of the state.

(b) "Agency" does not include:



- 28 (i) a court or other instrumentality of the judicial branch;
- 29 (ii) the Legislature or other instrumentality of the legislative branch;
- 30 (iii) a municipality, county, school district, or special district; or
- 31 (iv) an interlocal agency organized under Title 11, Chapter 13, Interlocal Cooperation Act,
- 32 unless an agency is a member.

33 (2) "Applicant" means the person or entity applying for a permit.

34 (3) "Application" means an application, petition, notice of intent, request for agency
35 action, or other request for a permit.

36 (4) "Complete application" means an application that contains all information sufficient
37 to evaluate the application as required by the applicable statute or rule governing the content of the
38 application.

39 (5) "Permit" means an approval, order, license, authorization, or other action by an agency
40 granting a right or entitlement to a person under the laws of the state.

41 Section 3. Section **63-98-201** is enacted to read:

42 **Part 2. Action on Applications**

43 **63-98-201. Time within which to decide application -- Calculation of time --**

44 **Submittal of amended application -- Applicability to pending applications.**

45 (1) State agencies shall act in a timely, efficient, and responsive manner in reviewing and
46 making decisions on applications by its citizens for permits.

47 (2) (a) Each agency shall grant or deny each application for a permit by a date no later than
48 one year after the date a complete application is submitted to the agency.

49 (b) For purposes of this chapter, the calculation of the time spent by an agency in deciding
50 to grant or deny a permit does not include any time spent in an appeal of the final decision of the
51 agency to an administrative board or other reviewing authority.

52 (c) If an applicant submits an amended application that contains substantive changes to
53 the original application, the one-year time limit within which to make a decision to grant or deny
54 the application shall begin on the date of submittal of the amended complete application.

55 (3) (a) If an agency fails to grant or deny a complete application for a permit within the
56 time period established by Subsection (2), the permit is approved and the agency shall issue the
57 permit.

58 (b) An agency may not deny an application merely because the time period established by

59 this section has expired.

60 (c) If the agency refuses to issue the permit as required by Subsection (3)(a), the applicant
61 may seek an extraordinary writ, or seek other appropriate judicial redress, to require the agency to
62 issue the permit.

63 (4) This chapter applies to:

64 (a) each application filed after May 1, 2001; and

65 (b) each complete application pending before an agency on May 1, 2001.

66 (5) The requirements of this section do not apply to:

67 (a) enforcement actions initiated by an agency;

68 (b) judicial or quasi-judicial proceedings of boards or commissions; or

69 (c) review of applications when statutes or rules expressly require or allow review periods
70 of more or less than one year.

71 Section 4. Section **63-98-301** is enacted to read:

72 **Part 3. Remedies**

73 **63-98-301. Report to Legislature.**

74 If an agency fails to issue the permit for an application within the time specified in Section
75 63-98-201, the agency failing to make the decision shall, within 30 days after the final date that
76 the decision was due, provide to the applicant, and to the legislative committee with oversight
77 responsibility for the agency, a report that describes:

78 (1) the reasons for failing to make a timely decision; and

79 (2) the steps to be taken by the agency to ensure a timely decision on other pending and
80 future applications.

Legislative Review Note
as of 2-6-01 2:13 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel