

1 **GOVERNMENT RECORDS ACCESS AND**
2 **MANAGEMENT ACT - PUBLIC RECORDS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ben C. Ferry**

6 Senate Sponsor: Beverly Ann Evans

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Government Records Access and Management Act by amending
11 provisions related to access to certain contact information for government employees or
12 officers.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides that a governmental entity that provides a single business address, email
- 16 address, or telephone number at which the public may contact an employee or
- 17 officer is in compliance with certain provisions regarding public access to those
- 18 records; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an immediate effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **63-2-301**, as last amended by Chapter 90, Laws of Utah 2004



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

29 Section 1. Section **63-2-301** is amended to read:

30 **63-2-301. Records that must be disclosed.**

31 (1) The following records are public except to the extent they contain information
32 expressly permitted to be treated confidentially under the provisions of Subsections
33 63-2-201(3)(b) and (6)(a):

34 (a) laws;

35 (b) ~~[names]~~ the name, gender, gross compensation, job ~~[titles]~~ title, job ~~[descriptions]~~
36 description, business ~~[addresses]~~ address, business email address, business telephone
37 ~~[numbers]~~ number, number of hours worked per pay period, dates of employment, and relevant
38 education, previous employment, and similar job qualifications of ~~[the governmental entity's~~
39 ~~former and present employees and officers]~~ a current or former employee or officer of the
40 governmental entity excluding:

41 (i) undercover law enforcement personnel; and

42 (ii) investigative personnel if disclosure could reasonably be expected to impair the
43 effectiveness of investigations or endanger any individual's safety;

44 (c) final opinions, including concurring and dissenting opinions, and orders that are
45 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
46 that if the proceedings were properly closed to the public, the opinion and order may be
47 withheld to the extent that they contain information that is private, controlled, or protected;

48 (d) final interpretations of statutes or rules by a governmental entity unless classified as
49 protected as provided in Subsections 63-2-304(16), (17), and (18);

50 (e) information contained in or compiled from a transcript, minutes, or report of the
51 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
52 and Public Meetings, including the records of all votes of each member of the governmental
53 entity;

54 (f) judicial records unless a court orders the records to be restricted under the rules of
55 civil or criminal procedure or unless the records are private under this chapter;

56 (g) unless otherwise classified as private under Section 63-2-302.5, records or parts of
57 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
58 commissions, the Division of Forestry, Fire and State Lands, the School and Institutional Trust

59 Lands Administration, the Division of Oil, Gas and Mining, the Division of Water Rights, or
60 other governmental entities that give public notice of:

61 (i) titles or encumbrances to real property;

62 (ii) restrictions on the use of real property;

63 (iii) the capacity of persons to take or convey title to real property; or

64 (iv) tax status for real and personal property;

65 (h) records of the Department of Commerce that evidence incorporations, mergers,
66 name changes, and uniform commercial code filings;

67 (i) data on individuals that would otherwise be private under this chapter if the
68 individual who is the subject of the record has given the governmental entity written
69 permission to make the records available to the public;

70 (j) documentation of the compensation that a governmental entity pays to a contractor
71 or private provider;

72 (k) summary data; and

73 (l) voter registration records, including an individual's voting history, except for those
74 parts of the record that are classified as private in Subsection 63-2-302(1)(i).

75 (2) The following records are normally public, but to the extent that a record is
76 expressly exempt from disclosure, access may be restricted under Subsection 63-2-201(3)(b),
77 Section 63-2-302, 63-2-303, or 63-2-304:

78 (a) administrative staff manuals, instructions to staff, and statements of policy;

79 (b) records documenting a contractor's or private provider's compliance with the terms
80 of a contract with a governmental entity;

81 (c) records documenting the services provided by a contractor or a private provider to
82 the extent the records would be public if prepared by the governmental entity;

83 (d) contracts entered into by a governmental entity;

84 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
85 by a governmental entity;

86 (f) records relating to government assistance or incentives publicly disclosed,
87 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
88 business in Utah, except as provided in Subsection 63-2-304(35);

89 (g) chronological logs and initial contact reports;

90 (h) correspondence by and with a governmental entity in which the governmental entity
91 determines or states an opinion upon the rights of the state, a political subdivision, the public,
92 or any person;

93 (i) empirical data contained in drafts if:

94 (i) the empirical data is not reasonably available to the requester elsewhere in similar
95 form; and

96 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
97 make nonsubstantive changes before release;

98 (j) drafts that are circulated to anyone other than:

99 (i) a governmental entity;

100 (ii) a political subdivision;

101 (iii) a federal agency if the governmental entity and the federal agency are jointly
102 responsible for implementation of a program or project that has been legislatively approved;

103 (iv) a government-managed corporation; or

104 (v) a contractor or private provider;

105 (k) drafts that have never been finalized but were relied upon by the governmental
106 entity in carrying out action or policy;

107 (l) original data in a computer program if the governmental entity chooses not to
108 disclose the program;

109 (m) arrest warrants after issuance, except that, for good cause, a court may order
110 restricted access to arrest warrants prior to service;

111 (n) search warrants after execution and filing of the return, except that a court, for good
112 cause, may order restricted access to search warrants prior to trial;

113 (o) records that would disclose information relating to formal charges or disciplinary
114 actions against a past or present governmental entity employee if:

115 (i) the disciplinary action has been completed and all time periods for administrative
116 appeal have expired; and

117 (ii) the charges on which the disciplinary action was based were sustained;

118 (p) records maintained by the Division of Forestry, Fire and State Lands, the School
119 and Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that
120 evidence mineral production on government lands;

- 121 (q) final audit reports;
- 122 (r) occupational and professional licenses;
- 123 (s) business licenses; and
- 124 (t) a notice of violation, a notice of agency action under Section 63-46b-3, or similar
- 125 records used to initiate proceedings for discipline or sanctions against persons regulated by a
- 126 governmental entity, but not including records that initiate employee discipline.

127 (3) The list of public records in this section is not exhaustive and should not be used to

128 limit access to records.

129 (4) A governmental entity is in compliance with Subsection (1)(b) if it provides the

130 following information at which the public may contact a current employee or officer, or at

131 which the public could have contacted a former employee or officer when the employee or

132 officer was with the governmental entity:

- 133 (a) a single business address as it relates to a request to provide a business address;
- 134 (b) a single business email address as it relates to a request to provide a business email
- 135 address; or
- 136 (c) a single business telephone number as it relates to a request to provide a business
- 137 telephone number.

138 Section 2. **Effective date.**

139 If approved by two-thirds of all the members elected to each house, this bill takes effect

140 upon approval by the governor, or the day following the constitutional time limit of Utah

141 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

142 the date of veto override.

Legislative Review Note
as of 1-9-06 1:59 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel