

Senator Mike Dmitrich proposes the following substitute bill:

SHARED GOVERNMENT RECORDS

AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Dmitrich

House Sponsor: Ralph Becker

Cosponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Government Records Access and Management Act by amending provisions for requesting records from certain governmental entities that receive the record as a shared record.

Highlighted Provisions:

This bill:

- ▶ provides that a person making a request for a record shall submit the request to the governmental entity that prepared, owns, or retains the record; and

- ▶ provides that a governmental entity that has received a record as a shared record from another governmental entity for auditing purposes may not provide the record;

- ▶ provides that if a governmental entity is prohibited from providing certain records, it shall deny the records request and inform the person making the request that records requests must be submitted to the governmental entity that prepares, owns, or retains the record; and

- ▶ make technical changes.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63-2-204**, as last amended by Chapters 40 and 71, Laws of Utah 2005



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

34 Section 1. Section **63-2-204** is amended to read:

35 **63-2-204. Requests -- Time limit for response and extraordinary circumstances.**

36 (1) A person making a request for a record shall furnish the governmental entity with a
37 written request containing:

38 (a) the person's name, mailing address, and daytime telephone number, if available;

39 and

40 (b) a description of the record requested that identifies the record with reasonable
41 specificity.

42 (2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit
43 the request to the governmental entity that prepares, owns, or retains the record.

44 (b) In response to a request for a record, a governmental entity may not provide a
45 record that it has received under Section 63-2-206 as a shared record if the record was shared
46 for the purpose of auditing, if the governmental entity is authorized by state statute to conduct
47 an audit.

48 (c) If a governmental entity is prohibited from providing a record under Subsection
49 (2)(b), it shall:

50 (i) deny the records request; and

51 (ii) inform the person making the request that records requests must be submitted to the
52 governmental entity that prepares, owns, or retains the record.

53 [~~2~~] (d) A governmental entity may make rules in accordance with Title 63, Chapter
54 46a, Utah Administrative Rulemaking Act, specifying where and to whom requests for access
55 shall be directed.

56 (3) (a) As soon as reasonably possible, but no later than ten business days after

57 receiving a written request, or five business days after receiving a written request if the
58 requester demonstrates that expedited response to the record request benefits the public rather
59 than the person, the governmental entity shall respond to the request by:

- 60 (i) approving the request and providing the record;
- 61 (ii) denying the request;
- 62 (iii) notifying the requester that it does not maintain the record and providing, if
63 known, the name and address of the governmental entity that does maintain the record; or
- 64 (iv) notifying the requester that because of one of the extraordinary circumstances
65 listed in Subsection (4), it cannot immediately approve or deny the request.

66 (b) The notice described in Subsection (3)(a)(iv) shall:

- 67 (i) describe the circumstances relied upon; and
- 68 (ii) specify the date when the records will be available.

69 (c) Any person who requests a record to obtain information for a story or report for
70 publication or broadcast to the general public is presumed to be acting to benefit the public
71 rather than a person.

72 (4) The following circumstances constitute "extraordinary circumstances" that allow a
73 governmental entity to delay approval or denial by an additional period of time as specified in
74 Subsection (5) if the governmental entity determines that due to the extraordinary
75 circumstances it cannot respond within the time limits provided in Subsection (3):

76 (a) another governmental entity is using the record, in which case the originating
77 governmental entity shall promptly request that the governmental entity currently in possession
78 return the record;

79 (b) another governmental entity is using the record as part of an audit, and returning the
80 record before the completion of the audit would impair the conduct of the audit;

81 (c) (i) the request is for a voluminous quantity of records or a record series containing a
82 substantial number of records;

83 (ii) the requester seeks a substantial number of records or records series in requests
84 filed within five working days of each other;

85 (d) the governmental entity is currently processing a large number of records requests;

86 (e) the request requires the governmental entity to review a large number of records to
87 locate the records requested;

88 (f) the decision to release a record involves legal issues that require the governmental
89 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case
90 law;

91 (g) segregating information that the requester is entitled to inspect from information
92 that the requester is not entitled to inspect requires extensive editing; or

93 (h) segregating information that the requester is entitled to inspect from information
94 that the requester is not entitled to inspect requires computer programming.

95 (5) If one of the extraordinary circumstances listed in Subsection (4) precludes
96 approval or denial within the time specified in Subsection (3), the following time limits apply
97 to the extraordinary circumstances:

98 (a) for claims under Subsection (4)(a), the governmental entity currently in possession
99 of the record shall return the record to the originating entity within five business days of the
100 request for the return unless returning the record would impair the holder's work;

101 (b) for claims under Subsection (4)(b), the originating governmental entity shall notify
102 the requester when the record is available for inspection and copying;

103 (c) for claims under Subsections (4)(c), (d), and (e), the governmental entity shall:

104 (i) disclose the records that it has located which the requester is entitled to inspect;

105 (ii) provide the requester with an estimate of the amount of time it will take to finish
106 the work required to respond to the request;

107 (iii) complete the work and disclose those records that the requester is entitled to
108 inspect as soon as reasonably possible; and

109 (iv) for any person that does not establish a right to an expedited response as
110 authorized by Subsection (3)(a), a governmental entity may choose to:

111 (A) require the person to provide for copying of the records as provided in Subsection
112 63-2-201(9); or

113 (B) treat a request for multiple records as separate record requests, and respond
114 sequentially to each request;

115 (d) for claims under Subsection (4)(f), the governmental entity shall either approve or
116 deny the request within five business days after the response time specified for the original
117 request has expired;

118 (e) for claims under Subsection (4)(g), the governmental entity shall fulfill the request

119 within 15 business days from the date of the original request; or

120 (f) for claims under Subsection (4)(h), the governmental entity shall complete its
121 programming and disclose the requested records as soon as reasonably possible.

122 (6) (a) If a request for access is submitted to an office of a governmental entity other
123 than that specified by rule in accordance with Subsection (2), the office shall promptly forward
124 the request to the appropriate office.

125 (b) If the request is forwarded promptly, the time limit for response begins when the
126 record is received by the office specified by rule.

127 (7) If the governmental entity fails to provide the requested records or issue a denial
128 within the specified time period, that failure is considered the equivalent of a determination
129 denying access to the record.