

1                   **LOCAL GOVERNMENT RECORDS AMENDMENTS**

2                                   2009 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Ryan D. Wilcox**

5                                   Senate Sponsor: Allen M. Christensen

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7 **LONG TITLE**

8 **General Description:**

9                   This bill modifies a provision relating to political subdivisions' records appeals.

10 **Highlighted Provisions:**

11                   This bill:

12                   ▶ requires political subdivisions to designate a person as the chief administrative  
13 officer for purposes of a records appeal.

14 **Monies Appropriated in this Bill:**

15                   None

16 **Other Special Clauses:**

17                   None

18 **Utah Code Sections Affected:**

19 AMENDS:

20                   **63G-2-701**, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

23                   Section 1. Section **63G-2-701** is amended to read:

24                   **63G-2-701. Political subdivisions may adopt ordinances in compliance with**  
25 **chapter.**

26                   (1) (a) Each political subdivision may adopt an ordinance or a policy applicable  
27 throughout its jurisdiction relating to information practices including classification,  
28 designation, access, denials, segregation, appeals, management, retention, and amendment of  
29 records.

30 (b) The ordinance or policy shall comply with the criteria set forth in this section.

31 (c) If any political subdivision does not adopt and maintain an ordinance or policy,  
32 then that political subdivision is subject to this chapter.

33 (d) Notwithstanding the adoption of an ordinance or policy, each political subdivision  
34 is subject to Parts 1 and 3, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202,  
35 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.

36 (e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed  
37 with the state archives no later than 30 days after its effective date.

38 (f) The political subdivision shall also report to the state archives all retention  
39 schedules, and all designations and classifications applied to record series maintained by the  
40 political subdivision.

41 (g) The report required by Subsection (1)(f) is notification to state archives of the  
42 political subdivision's retention schedules, designations, and classifications. The report is not  
43 subject to approval by state archives. If state archives determines that a different retention  
44 schedule is needed for state purposes, state archives shall notify the political subdivision of the  
45 state's retention schedule for the records and shall maintain the records if requested to do so  
46 under Subsection 63A-12-105(2).

47 (2) Each ordinance or policy relating to information practices shall:

48 (a) provide standards for the classification and designation of the records of the  
49 political subdivision as public, private, controlled, or protected in accordance with Part 3 of  
50 this chapter;

51 (b) require the classification of the records of the political subdivision in accordance  
52 with those standards;

53 (c) provide guidelines for establishment of fees in accordance with Section  
54 63G-2-203; and

55 (d) provide standards for the management and retention of the records of the political  
56 subdivision comparable to Section 63A-12-103.

57 (3) (a) Each ordinance or policy shall establish access criteria, procedures, and

58 response times for requests to inspect, obtain, or amend records of the political subdivision,  
59 and time limits for appeals consistent with this chapter.

60 (b) In establishing response times for access requests and time limits for appeals, the  
61 political subdivision may establish reasonable time frames different than those set out in  
62 Section 63G-2-204 and Part 4 of this chapter if it determines that the resources of the political  
63 subdivision are insufficient to meet the requirements of those sections.

64 (4) (a) The political subdivision shall establish an appeals process for persons  
65 aggrieved by classification, designation or access decisions.

66 (b) The policy or ordinance shall provide for:

67 (i) (A) an appeals board composed of the governing body of the political subdivision;  
68 or

69 ~~[(ii)]~~ (B) a separate appeals board composed of members of the governing body and  
70 the public, appointed by the governing body~~[-]; and~~

71 (ii) the designation of a person as the chief administrative officer for purposes of  
72 determining appeals under Section 63G-2-401 of the governmental entity's determination.

73 (5) If the requester concurs, the political subdivision may also provide for an  
74 additional level of administrative review to the records committee in accordance with Section  
75 63G-2-403.

76 (6) Appeals of the decisions of the appeals boards established by political subdivisions  
77 shall be by petition for judicial review to the district court. The contents of the petition for  
78 review and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and  
79 63G-2-404.

80 (7) Any political subdivision that adopts an ordinance or policy under Subsection (1)  
81 shall forward to state archives a copy and summary description of the ordinance or policy.