

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63A-12-100.5**, as last amended by Laws of Utah 2011, Chapter 265

32 ENACTS:

33 **63A-12-110**, Utah Code Annotated 1953

34 **63G-2-1001**, Utah Code Annotated 1953

35 **63G-2-1002**, Utah Code Annotated 1953

36 **63G-2-1003**, Utah Code Annotated 1953

37 **63G-2-1004**, Utah Code Annotated 1953

37a **H→ 63G-2-1005, Utah Code Annotated 1953 ←H**



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

40 Section 1. Section **63A-12-100.5** is amended to read:

41 **63A-12-100.5. Definitions.**

42 (1) Except as provided under Subsection (2), the definitions in Section 63G-2-103
43 apply to this chapter.

44 (2) As used in this chapter[, "~~division~~"]:

45 (a) "Advisory board" means the Utah Public Records Website Advisory Board, created
46 in Section 63A-12-110.

47 (b) "Division" or "state archives" means the Division of Archives and Records Service.

48 Section 2. Section **63A-12-110** is enacted to read:

49 **63A-12-110. Utah Public Records Website Advisory Board.**

50 (1) There is created, within the division, the Utah Public Records Website Advisory
51 Board, consisting of the following 14 members:

52 (a) a member of the Senate, appointed by the president of the Senate;

53 (b) a member of the House of Representatives, appointed by the speaker of the House
54 of Representatives;

55 (c) the following members appointed by the governor:

56 (i) a member to represent higher education;

57 (ii) a member to represent public schools;

58 (iii) a member to represent counties;

90 (8) The duties of the advisory board are to make recommendations to the division
91 relating to the website, including:

- 92 (a) the design and functionality of the website;
- 93 (b) proposed rules relating to the website; and
- 94 (c) records that should be required or permitted to be posted on the website.

95 Section 3. Section **63G-2-1001** is enacted to read:

96 **Part 10. Utah Public Records Website**

97 **63G-2-1001. Title.**

98 This part is known as "Utah Public Records Website."

99 Section 4. Section **63G-2-1002** is enacted to read:

100 **63G-2-1002. Definitions.**

101 As used in this part:

102 (1) "Advisory board" means the Utah Public Records Website Advisory Board, created
103 in Section 63A-12-110.

104 (2) "Department" means the Department of Technology Services.

105 (3) "Division" means the Division of Archives and Records Services.

106 (4) "Meeting" is as defined in Section 52-4-103.

107 (5) "Public body" is as defined in Section 52-4-103.

107a **H→ (6) "Restricted information" means:**

107b **(a) a private, protected, or controlled record;**

107c **(b) private, protected, or controlled information;**

107d **(c) a record or information that is protected from release by state law;**

107e **(d) a record or information that is protected from release by federal law or rule;**

107f **(e) a medical record; or**

107g **(f) medical information;**

108 ~~[(6)]~~ **(7) ←H "Website" means the Utah Public Records Website created under Section**
109 **63G-2-1003.**

110 Section 5. Section **63G-2-1003** is enacted to read:

111 **63G-2-1003. Utah Public Records Website.**

112 (1) The division shall, with the assistance of the department, establish and maintain the
113 Utah Public Records Website.

114 (2) The purpose of the website is to function as a central repository of public records,
115 of all government entities, as required by this part or by rule made under this part.

116 (3) Except as provided in Subsection (5)(b), (c), or (d), or by rule made under

121 (b) rules adopted by the governing body of a government entity ~~H→~~ **, unless the rules are**
121a **posted on the website described in Subsection (6)(d)** ~~←H~~ ;

122 (c) policies adopted by the governing body of a government entity;

123 (d) statutorily required reports that do not contain ~~H→~~ **[information that is private;**
123a **protected;**
124 **or-controlled] restricted information** ~~←H~~ ;

125 (e) manuals that do not contain ~~H→~~ **[information that is private, protected, or controlled]**
125a **restricted information** ~~←H~~ ;

126 (f) feasibility studies;

127 (g) approved minutes and agendas of public meetings;

128 (h) records circulated at all public portions of meetings;

129 (i) resolutions for the issuing of bonds or other obligations;

130 (j) except as provided in Subsection (4), records provided in response to a public
131 records request made under this chapter;

132 (k) a record described in Subsection 63G-2-301 ~~H→~~ **[~~(c)~~] (3)** ~~←H~~ that contains
132a information to
133 which access may be restricted under Subsection 63G-2-201(3)(b) or Section 63G-2-302,
134 63G-2-304, or 63G-2-305, if the information to which access may be restricted is already
135 redacted from the record; and

136 (l) any other record series designated by the division under Section 63G-2-1004.

137 (4) A government entity is not required to post records described in Subsection (3)(j)
138 if:

139 (a) (i) the records provided contain ~~H→~~ **restricted** ~~←H~~ information ~~H→~~ **[that is private;**
139a **protected, or controlled]** ~~←H~~ ;

140 and

141 (ii) the ~~H→~~ **restricted** ~~←H~~ information ~~H→~~ **[described in Subsection (4)(a)(i)]** ~~←H~~ is
141a provided to the requestor,
142 because the person has an interest in the information that:

143 (A) is not held by the general public; or

144 (B) is not held by the general public to the extent that it is held by the requestor; or

145 (b) posting the records on the website would be unduly burdensome based on the
146 format of the records or the expense required to post the records.

147 (5) (a) A record posted on the website:

148 (i) shall, to the extent possible, be posted in the original format of the record; or

149 (ii) if not posted in the original format of the record, may, to the extent possible, be
150 posted in another format, approved by the division, that may be viewed and searched with
151 software that is widely available to the public free of charge.

152 (b) A government entity is not required to post a record on the website if the record is
 153 posted on a website described in Subsection (6)(a) or (b).

154 (c) A government entity is not required to post a record or an archived streaming file
 155 on the website, or provide live streaming through the website, if:

156 (i) the government entity posts all records and archived streaming files, that the
 157 government entity is otherwise required to post on the website, on its own website;

158 (ii) the government entity provides all live streaming, that the government entity is
 159 otherwise required to provide through the website, on its own website; and

160 (iii) the government entity's website has the capability of searching for documents on
 161 its website.

162 (d) The division may, upon written request by a government entity, grant a temporary
 163 or limited exception to the government entity to a requirement of this part or a rule made under
 164 this part, if the exception is:

165 (i) necessary to avoid undue hardship to the government entity;

166 (ii) necessary to allow the government entity time to obtain or implement technology to
 167 comply with the requirement; or

168 (iii) otherwise necessary, as determined by the division.

169 (6) The website shall contain conspicuous links on the home page of the website to:

170 (a) the Utah Public Notice Website created in Section 63F-1-701;

171 (b) the Utah Public Finance Website, created in Section 63A-3-402;

172 (c) the open government resources page of the official website of the state executive
 173 branch; ~~H~~→ [and]

173a **(d) the website of the Division of Administrative Rules; and**

174 ~~(d)~~ (e) ←~~H~~ a page that contains links to:

175 (i) the official website of the Utah State Legislature;

176 (ii) the Utah data page of the official website of the state executive branch;

177 (iii) the Utah State Courts website;

178 (iv) the public legal notice website described in Section 45-1-101; and

179 (v) the websites of all government entities in Utah.

180 (7) The Department of Technology Services shall ensure that the website:

181 (a) is available and functioning;

182 (i) on or before July 1, 2012, to allow the public to listen to or view archived streaming

214 (B) upload to the website archived streaming audio or video files of the public portion
 215 of all meetings of the board that are held on or after July 1, 2013; and

216 (v) a public body, other than a public body described in Subsections (8)(b)(i) through
 217 (iv), may post archived streaming audio or video files on, or provide live streaming audio or
 218 video files through, the website of the public portion of some or all of the meetings of the
 219 public body, unless the division, by rule, makes it mandatory for the public body to post the
 220 audio or video files on, or provide the live streaming audio or video through, the website.

221 (9) The division shall establish, by rule, a retention schedule that specifies when a
 222 record is permitted to be removed from the website.

223 (10) (a) A government entity is not required to post a record on the website if the
 224 record was created before the later of:

225 (i) July 1, 2013; or

226 (ii) the day on which the government entity is required to post the record on the
 227 website.

228 (b) Notwithstanding Subsection (10)(a), a government entity is required to post on the
 229 website, the most current version of a record described in Subsections (3)(a) through (c).

230 (11) Nothing in this part is intended to require a government entity to post ~~H~~→ [a private,

231 ~~protected, or controlled record] restricted information ←H on the website.~~

232 (12) The posting, by a government entity, of a record on the website qualifies as
 233 retention of the record by the government entity for the period of time during which the record
 234 is posted on the website.

235 (13) This part does not apply to a government entity with an annual budget of less than
 236 \$1,000,000, except to the extent that this limitation amount is reduced by the division, by rule,
 237 after consultation with the advisory board.

238 (14) The division or the Department of Technology Services may assist a government
 239 entity to come into compliance with the requirements of this part or a rule made under this part.

240 Section 6. Section **63G-2-1004** is enacted to read:

241 **63G-2-1004. Rulemaking authority of division.**

242 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
 243 Administrative Rulemaking Act, that:

244 (a) establish procedures and related requirements for posting information on the

245 website;

246 (b) establish a time frame for differing types and sizes of government entities to come
 247 into full compliance with the requirements of this part and rules made under this part; and

248 (c) designate records series, in addition to the records series described in Subsections
 249 63G-2-1003(3)(a) through (k), that are clearly public in nature, as a record series that is
 250 required to be posted on the website by a government entity.

251 (2) The division may, by rule, require a government entity to post land use plans on the
 252 website, including development plans, zoning plans, and comprehensive plans.

253 (3) The division may not make rules that require a government entity to post ~~H→~~ [a private;
 254 protected, or controlled record] restricted information ~~←H~~ on the website.

255 (4) The division shall present all proposed rules made under this part to the
 256 Administrative Rules Review Committee, created in Section 63G-3-501.

256a **H→ Section 7. Section 63G-2-1005 is enacted to read:**

256b **63G-2-1005. Limitations on posting.**

256c **Notwithstanding any provision of this part, or rules made under this part, a**
 256d **government entity is not required to, and may not be required to:**

256e **(1) redact restricted information from a record in order to require the record to be, or**
 256f **make the record eligible to be, posted on the website; or**

256g **(2) post a record on the website that contains restricted information.** ~~←H~~

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