

SB0242S01 compared with SB0242

~~{deleted text}~~ shows text that was in SB0242 but was deleted in SB0242S01.

Inserted text shows text that was not in SB0242 but was inserted into SB0242S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Curtis S. Bramble proposes the following substitute bill:

GOVERNMENT RECORDS ACCESS AND MANAGEMENT

ACT~~{~~

~~}~~AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

- ▶ provides that a governmental entity is not required to respond to a record request from an individual who is confined in a correctional facility following conviction~~{~~ or is on probation or parole~~}~~, with an exception;
- ▶ modifies the time a chief administrative officer has to make a decision on an appeal;
- ▶ prohibits a court from remanding to the State Records Committee a petition for

SB0242S01 compared with SB0242

review of a State Records Committee order;{

→ ~~modifies membership of the State Records Committee;}~~ and

- ▶ modifies qualifications of members of a political subdivision appeals board.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-201, as last amended by Laws of Utah 2016, Chapter 410

63G-2-204, as last amended by Laws of Utah 2011, Chapter 340

63G-2-401, as last amended by Laws of Utah 2015, Chapter 335

63G-2-404, as last amended by Laws of Utah 2015, Chapter 335

{ ~~**63G-2-501**, as last amended by Laws of Utah 2015, Chapter 335~~

‡ **63G-2-701**, as last amended by Laws of Utah 2015, Chapter 335

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

Section 1. Section **63G-2-201** is amended to read:

63G-2-201. Right to inspect records and receive copies of records.

(1) Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or

SB0242S01 compared with SB0242

63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or
(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:
(A) is mutually beneficial to:
(I) the subject of the record;
(II) the governmental entity; and
(III) the public; and
(B) serves a public purpose related to:
(I) public safety; or
(II) consumer protection; and
(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.

(7) A governmental entity shall provide a person with a certified copy of a record if:

SB0242S01 compared with SB0242

- (a) the person requesting the record has a right to inspect it;
 - (b) the person identifies the record with reasonable specificity; and
 - (c) the person pays the lawful fees.
- (8) (a) In response to a request, a governmental entity is not required to:
- (i) create a record;
 - (ii) compile, format, manipulate, package, summarize, or tailor information;
 - (iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
 - (iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
 - (v) fill a person's records request if:
 - (A) the record requested is accessible in the identical physical form and content in a public publication or product produced by the governmental entity receiving the request;
 - (B) the governmental entity provides the person requesting the record with the public publication or product; and
 - (C) the governmental entity specifies where the record can be found in the public publication or product.
- (b) Upon request, a governmental entity may provide a record in a particular form under Subsection (8)(a)(ii) or (iii) if:
- (i) the governmental entity determines it is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities; and
 - (ii) the requester agrees to pay the governmental entity for providing the record in the requested form in accordance with Section 63G-2-203.
- (9) (a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide ~~records~~ a record in response to, a record request if the request is submitted by or ~~on~~ in behalf of an individual who is
- ~~(i) confined in a jail or other correctional facility following the individual's conviction; or~~
 - ~~(ii) being supervised on probation or parole with the Department of Corrections.~~
- (b) Subsection (9)(a) does not apply to ~~a record request that~~

SB0242S01 compared with SB0242

~~(i) seeks access to a public record; and~~

~~(ii) };~~

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).

~~[(9)] (10) (a)~~ A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) ~~When~~ If the requirements of Subsection ~~[(9)] (10)~~(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

~~[(10)] (11) (a)~~ A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

~~[(11)] (12)~~ A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

SB0242S01 compared with SB0242

~~[(12)]~~ (13) Subject to the requirements of Subsection (8), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

- (a) the person making the request requests or states a preference for an electronic copy;
- (b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and
- (c) the electronic copy of the record:
 - (i) does not disclose other records that are exempt from disclosure; or
 - (ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

~~[(13)]~~ (14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

- (a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and
- (b) any public interests served by disclosure.

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

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

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

- (a) the person's name, mailing address, and daytime telephone number, if available;
- and
- (b) a description of the record requested that identifies the record with reasonable specificity.

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

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

(c) If a governmental entity is prohibited from providing a record under Subsection

SB0242S01 compared with SB0242

(2)(b), it shall:

(i) deny the records request; and

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

(d) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

(3) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (5), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection (6).

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

(5) The following circumstances constitute "extraordinary circumstances" that allow a

SB0242S01 compared with SB0242

governmental entity to delay approval or denial by an additional period of time as specified in Subsection (6) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (3):

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

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

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

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

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

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

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

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

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

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

(a) for claims under Subsection (5)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;

(b) for claims under Subsection (5)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsections (5)(c), (d), and (e), the governmental entity shall:

SB0242S01 compared with SB0242

- (i) disclose the records that it has located which the requester is entitled to inspect;
 - (ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;
 - (iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and
 - (iv) for any person that does not establish a right to an expedited response as authorized by Subsection (3), a governmental entity may choose to:
 - (A) require the person to provide for copying of the records as provided in Subsection 63G-2-201[~~(9)~~](10); or
 - (B) treat a request for multiple records as separate record requests, and respond sequentially to each request;
 - (d) for claims under Subsection (5)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;
 - (e) for claims under Subsection (5)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or
 - (f) for claims under Subsection (5)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.
- (7) (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (2), the office shall promptly forward the request to the appropriate office.
- (b) If the request is forwarded promptly, the time limit for response begins when the record is received by the office specified by rule.
- (8) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Section 3. Section **63G-2-401** is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1) (a) A requester or interested party may appeal an access denial to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief

SB0242S01 compared with SB0242

administrative officer within 30 days after:

(i) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

(ii) the record request is considered denied under Subsection 63G-2-204(8), if that subsection applies.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(3), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a "determination" or its equivalent under Subsection 63G-2-204(8).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer's determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5) (a) The chief administrative officer shall make a decision on the appeal within:

SB0242S01 compared with SB0242

(i) (A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b) (i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7) (a) The governmental entity shall send written notice of the chief administrative officer's decision to all participants.

(b) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice under Subsection (7)(a) shall include:

(i) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:

(A) the records committee or district court; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

SB0242S01 compared with SB0242

(ii) the time limits for filing an appeal; and

(iii) the name and business address of:

(A) the executive secretary of the records committee; and

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c).

(8) A person aggrieved by a governmental entity's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 4. Section **63G-2-404** is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision.

(b) The records committee is a necessary party to a petition for judicial review of a records committee order.

(c) The executive secretary of the records committee shall be served with notice of a petition for judicial review of a records committee order, in accordance with the Utah Rules of Civil Procedure.

(2) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(a) the petitioner's name and mailing address;

(b) a copy of the records committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the records committee;

(c) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(d) a request for relief specifying the type and extent of relief requested; and

(e) a statement of the reasons why the petitioner is entitled to relief.

SB0242S01 compared with SB0242

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6) (a) The court shall:

~~[(a)]~~ (i) make ~~[its]~~ the court's decision de novo, but, for a petition seeking judicial review of a records committee order, allow introduction of evidence presented to the records committee;

~~[(b)]~~ (ii) determine all questions of fact and law without a jury; and

~~[(c)]~~ (iii) decide the issue at the earliest practical opportunity.

(b) In a court's review and decision of a petition seeking judicial review of a records committee order, the court may not remand the petition to the records committee for any additional proceedings.

(7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 5. Section ~~{63G-2-501}~~ 63G-2-701 is amended to read:

~~{~~ ~~63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.~~

~~_____ (1) There is created the State Records Committee within the Department of Administrative Services to consist of the following seven individuals:~~

~~_____ (a) an individual in the private sector whose profession requires the individual to create~~

SB0242S01 compared with SB0242

~~or manage records that if created by a governmental entity would be private or controlled;~~

~~—— (b) the director of the Division of State History or the director's designee;~~

~~—— (c) the governor or the governor's designee;~~

~~—— (d) two citizen members, one of whom is employed in the field of law enforcement;~~

~~—— (e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and~~

~~—— (f) one individual representing the news media.~~

~~—— (2) The members specified in Subsections (1)(a), (d), (e), and (f) shall be appointed by the governor with the consent of the Senate.~~

~~—— (3) (a) Except as required by Subsection (3)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.~~

~~—— (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.~~

~~—— (c) Each appointed member is eligible for reappointment for one additional term.~~

~~—— (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.~~

~~—— (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~—— (a) Section 63A-3-106;~~

~~—— (b) Section 63A-3-107; and~~

~~—— (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~

~~—— Section 6. Section **63G-2-701** is amended to read:~~

‡ **63G-2-701. Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.**

(1) As used in this section:

(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

SB0242S01 compared with SB0242

(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

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

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

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

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

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

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

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

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

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

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

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

(d) provide standards for the management and retention of the records of the political

SB0242S01 compared with SB0242

subdivision comparable to Section 63A-12-103.

(4) (a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.

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

(5) (a) A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.

(b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.

(c) (i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.

(ii) An appeals board established by a political subdivision shall be composed of three members:

(A) one of whom shall be an employee of the political subdivision; and

(B) two of whom shall be members of the public who are not employed by or officials of a governmental entity, at least one of whom shall have professional experience with requesting or managing records.

(iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.

(iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the records committee, as provided in Section 63G-2-403.

(6) (a) A political subdivision or requester may appeal an appeals board decision:

(i) to the records committee, as provided in Section 63G-2-403; or

(ii) by filing a petition for judicial review with the district court.

(b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.

SB0242S01 compared with SB0242

(c) A person who appeals an appeals board decision to the records committee does not lose or waive the right to seek judicial review of the decision of the records committee.

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

†

Legislative Review Note

Office of Legislative Research and General Counsel†