

Representative Kim F. Coleman proposes the following substitute bill:

WATER INFRASTRUCTURE SAFETY AND MAINTENANCE

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses a large water provider maintaining its water infrastructure.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes reporting requirements on large water providers; and
- ▶ provides protection for maps.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2019, Chapters 128, 193, 244, and 277

ENACTS:

73-1-20, Utah Code Annotated 1953

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



26 Section 1. Section 63G-2-305 is amended to read:

27 **63G-2-305. Protected records.**

28 The following records are protected if properly classified by a governmental entity:

29 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
30 has provided the governmental entity with the information specified in Section 63G-2-309;

31 (2) commercial information or nonindividual financial information obtained from a
32 person if:

33 (a) disclosure of the information could reasonably be expected to result in unfair
34 competitive injury to the person submitting the information or would impair the ability of the
35 governmental entity to obtain necessary information in the future;

36 (b) the person submitting the information has a greater interest in prohibiting access
37 than the public in obtaining access; and

38 (c) the person submitting the information has provided the governmental entity with
39 the information specified in Section 63G-2-309;

40 (3) commercial or financial information acquired or prepared by a governmental entity
41 to the extent that disclosure would lead to financial speculations in currencies, securities, or
42 commodities that will interfere with a planned transaction by the governmental entity or cause
43 substantial financial injury to the governmental entity or state economy;

44 (4) records, the disclosure of which could cause commercial injury to, or confer a
45 competitive advantage upon a potential or actual competitor of, a commercial project entity as
46 defined in Subsection 11-13-103(4);

47 (5) test questions and answers to be used in future license, certification, registration,
48 employment, or academic examinations;

49 (6) records, the disclosure of which would impair governmental procurement
50 proceedings or give an unfair advantage to any person proposing to enter into a contract or
51 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
52 Subsection (6) does not restrict the right of a person to have access to, after the contract or
53 grant has been awarded and signed by all parties:

54 (a) a bid, proposal, application, or other information submitted to or by a governmental
55 entity in response to:

56 (i) an invitation for bids;

- 57 (ii) a request for proposals;
- 58 (iii) a request for quotes;
- 59 (iv) a grant; or
- 60 (v) other similar document; or
- 61 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 62 (7) information submitted to or by a governmental entity in response to a request for
- 63 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 64 the right of a person to have access to the information, after:
 - 65 (a) a contract directly relating to the subject of the request for information has been
 - 66 awarded and signed by all parties; or
 - 67 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 68 subject of the request for information; and
 - 69 (ii) at least two years have passed after the day on which the request for information is
 - 70 issued;
 - 71 (8) records that would identify real property or the appraisal or estimated value of real
 - 72 or personal property, including intellectual property, under consideration for public acquisition
 - 73 before any rights to the property are acquired unless:
 - 74 (a) public interest in obtaining access to the information is greater than or equal to the
 - 75 governmental entity's need to acquire the property on the best terms possible;
 - 76 (b) the information has already been disclosed to persons not employed by or under a
 - 77 duty of confidentiality to the entity;
 - 78 (c) in the case of records that would identify property, potential sellers of the described
 - 79 property have already learned of the governmental entity's plans to acquire the property;
 - 80 (d) in the case of records that would identify the appraisal or estimated value of
 - 81 property, the potential sellers have already learned of the governmental entity's estimated value
 - 82 of the property; or
 - 83 (e) the property under consideration for public acquisition is a single family residence
 - 84 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 85 the property as required under Section [78B-6-505](#);
 - 86 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 87 compensated transaction of real or personal property including intellectual property, which, if

88 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
89 of the subject property, unless:

90 (a) the public interest in access is greater than or equal to the interests in restricting
91 access, including the governmental entity's interest in maximizing the financial benefit of the
92 transaction; or

93 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
94 the value of the subject property have already been disclosed to persons not employed by or
95 under a duty of confidentiality to the entity;

96 (10) records created or maintained for civil, criminal, or administrative enforcement
97 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
98 release of the records:

99 (a) reasonably could be expected to interfere with investigations undertaken for
100 enforcement, discipline, licensing, certification, or registration purposes;

101 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
102 proceedings;

103 (c) would create a danger of depriving a person of a right to a fair trial or impartial
104 hearing;

105 (d) reasonably could be expected to disclose the identity of a source who is not
106 generally known outside of government and, in the case of a record compiled in the course of
107 an investigation, disclose information furnished by a source not generally known outside of
108 government if disclosure would compromise the source; or

109 (e) reasonably could be expected to disclose investigative or audit techniques,
110 procedures, policies, or orders not generally known outside of government if disclosure would
111 interfere with enforcement or audit efforts;

112 (11) records the disclosure of which would jeopardize the life or safety of an
113 individual;

114 (12) records the disclosure of which would jeopardize the security of governmental
115 property, governmental programs, or governmental recordkeeping systems from damage, theft,
116 or other appropriation or use contrary to law or public policy;

117 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
118 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere

119 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

120 (14) records that, if disclosed, would reveal recommendations made to the Board of
121 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
122 Board of Pardons and Parole, or the Department of Human Services that are based on the
123 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
124 jurisdiction;

125 (15) records and audit workpapers that identify audit, collection, and operational
126 procedures and methods used by the State Tax Commission, if disclosure would interfere with
127 audits or collections;

128 (16) records of a governmental audit agency relating to an ongoing or planned audit
129 until the final audit is released;

130 (17) records that are subject to the attorney client privilege;

131 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
132 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
133 quasi-judicial, or administrative proceeding;

134 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
135 from a member of the Legislature; and

136 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
137 legislative action or policy may not be classified as protected under this section; and

138 (b) (i) an internal communication that is part of the deliberative process in connection
139 with the preparation of legislation between:

140 (A) members of a legislative body;

141 (B) a member of a legislative body and a member of the legislative body's staff; or

142 (C) members of a legislative body's staff; and

143 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
144 legislative action or policy may not be classified as protected under this section;

145 (20) (a) records in the custody or control of the Office of Legislative Research and
146 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
147 legislation or contemplated course of action before the legislator has elected to support the
148 legislation or course of action, or made the legislation or course of action public; and

149 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

150 Office of Legislative Research and General Counsel is a public document unless a legislator
151 asks that the records requesting the legislation be maintained as protected records until such
152 time as the legislator elects to make the legislation or course of action public;

153 (21) research requests from legislators to the Office of Legislative Research and
154 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
155 in response to these requests;

156 (22) drafts, unless otherwise classified as public;

157 (23) records concerning a governmental entity's strategy about:

158 (a) collective bargaining; or

159 (b) imminent or pending litigation;

160 (24) records of investigations of loss occurrences and analyses of loss occurrences that
161 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
162 Uninsured Employers' Fund, or similar divisions in other governmental entities;

163 (25) records, other than personnel evaluations, that contain a personal recommendation
164 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
165 personal privacy, or disclosure is not in the public interest;

166 (26) records that reveal the location of historic, prehistoric, paleontological, or
167 biological resources that if known would jeopardize the security of those resources or of
168 valuable historic, scientific, educational, or cultural information;

169 (27) records of independent state agencies if the disclosure of the records would
170 conflict with the fiduciary obligations of the agency;

171 (28) records of an institution within the state system of higher education defined in
172 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
173 retention decisions, and promotions, which could be properly discussed in a meeting closed in
174 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
175 the final decisions about tenure, appointments, retention, promotions, or those students
176 admitted, may not be classified as protected under this section;

177 (29) records of the governor's office, including budget recommendations, legislative
178 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
179 policies or contemplated courses of action before the governor has implemented or rejected
180 those policies or courses of action or made them public;

181 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
182 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
183 recommendations in these areas;

184 (31) records provided by the United States or by a government entity outside the state
185 that are given to the governmental entity with a requirement that they be managed as protected
186 records if the providing entity certifies that the record would not be subject to public disclosure
187 if retained by it;

188 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
189 public body except as provided in Section 52-4-206;

190 (33) records that would reveal the contents of settlement negotiations but not including
191 final settlements or empirical data to the extent that they are not otherwise exempt from
192 disclosure;

193 (34) memoranda prepared by staff and used in the decision-making process by an
194 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
195 other body charged by law with performing a quasi-judicial function;

196 (35) records that would reveal negotiations regarding assistance or incentives offered
197 by or requested from a governmental entity for the purpose of encouraging a person to expand
198 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
199 person or place the governmental entity at a competitive disadvantage, but this section may not
200 be used to restrict access to a record evidencing a final contract;

201 (36) materials to which access must be limited for purposes of securing or maintaining
202 the governmental entity's proprietary protection of intellectual property rights including patents,
203 copyrights, and trade secrets;

204 (37) the name of a donor or a prospective donor to a governmental entity, including an
205 institution within the state system of higher education defined in Section 53B-1-102, and other
206 information concerning the donation that could reasonably be expected to reveal the identity of
207 the donor, provided that:

208 (a) the donor requests anonymity in writing;

209 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
210 classified protected by the governmental entity under this Subsection (37); and

211 (c) except for an institution within the state system of higher education defined in

212 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
213 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
214 over the donor, a member of the donor's immediate family, or any entity owned or controlled
215 by the donor or the donor's immediate family;

216 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
217 73-18-13;

218 (39) a notification of workers' compensation insurance coverage described in Section
219 34A-2-205;

220 (40) (a) the following records of an institution within the state system of higher
221 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
222 or received by or on behalf of faculty, staff, employees, or students of the institution:

223 (i) unpublished lecture notes;

224 (ii) unpublished notes, data, and information:

225 (A) relating to research; and

226 (B) of:

227 (I) the institution within the state system of higher education defined in Section
228 53B-1-102; or

229 (II) a sponsor of sponsored research;

230 (iii) unpublished manuscripts;

231 (iv) creative works in process;

232 (v) scholarly correspondence; and

233 (vi) confidential information contained in research proposals;

234 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
235 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

236 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

237 (41) (a) records in the custody or control of the Office of Legislative Auditor General
238 that would reveal the name of a particular legislator who requests a legislative audit prior to the
239 date that audit is completed and made public; and

240 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
241 Office of the Legislative Auditor General is a public document unless the legislator asks that
242 the records in the custody or control of the Office of Legislative Auditor General that would

243 reveal the name of a particular legislator who requests a legislative audit be maintained as
244 protected records until the audit is completed and made public;

245 (42) records that provide detail as to the location of an explosive, including a map or
246 other document that indicates the location of:

247 (a) a production facility; or
248 (b) a magazine;

249 (43) information:

250 (a) contained in the statewide database of the Division of Aging and Adult Services
251 created by Section [62A-3-311.1](#); or
252 (b) received or maintained in relation to the Identity Theft Reporting Information
253 System (IRIS) established under Section [67-5-22](#);

254 (44) information contained in the Management Information System and Licensing
255 Information System described in Title 62A, Chapter 4a, Child and Family Services;

256 (45) information regarding National Guard operations or activities in support of the
257 National Guard's federal mission;

258 (46) records provided by any pawn or secondhand business to a law enforcement
259 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
260 Secondhand Merchandise Transaction Information Act;

261 (47) information regarding food security, risk, and vulnerability assessments performed
262 by the Department of Agriculture and Food;

263 (48) except to the extent that the record is exempt from this chapter pursuant to Section
264 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
265 prepared or maintained by the Division of Emergency Management, and the disclosure of
266 which would jeopardize:

267 (a) the safety of the general public; or
268 (b) the security of:

269 (i) governmental property;
270 (ii) governmental programs; or
271 (iii) the property of a private person who provides the Division of Emergency
272 Management information;

273 (49) records of the Department of Agriculture and Food that provides for the

274 identification, tracing, or control of livestock diseases, including any program established under
275 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
276 of Animal Disease;

277 (50) as provided in Section 26-39-501:

278 (a) information or records held by the Department of Health related to a complaint
279 regarding a child care program or residential child care which the department is unable to
280 substantiate; and

281 (b) information or records related to a complaint received by the Department of Health
282 from an anonymous complainant regarding a child care program or residential child care;

283 (51) unless otherwise classified as public under Section 63G-2-301 and except as
284 provided under Section 41-1a-116, an individual's home address, home telephone number, or
285 personal mobile phone number, if:

286 (a) the individual is required to provide the information in order to comply with a law,
287 ordinance, rule, or order of a government entity; and

288 (b) the subject of the record has a reasonable expectation that this information will be
289 kept confidential due to:

290 (i) the nature of the law, ordinance, rule, or order; and

291 (ii) the individual complying with the law, ordinance, rule, or order;

292 (52) the portion of the following documents that contains a candidate's residential or
293 mailing address, if the candidate provides to the filing officer another address or phone number
294 where the candidate may be contacted:

295 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
296 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
297 20A-9-408.5, 20A-9-502, or 20A-9-601;

298 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

299 (c) a notice of intent to gather signatures for candidacy, described in Section
300 20A-9-408;

301 (53) the name, home address, work addresses, and telephone numbers of an individual
302 that is engaged in, or that provides goods or services for, medical or scientific research that is:

303 (a) conducted within the state system of higher education, as defined in Section
304 53B-1-102; and

305 (b) conducted using animals;

306 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
307 Evaluation Commission concerning an individual commissioner's vote on whether or not to
308 recommend that the voters retain a judge including information disclosed under Subsection
309 78A-12-203(5)(e);

310 (55) information collected and a report prepared by the Judicial Performance
311 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
312 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
313 the information or report;

314 (56) records contained in the Management Information System created in Section
315 62A-4a-1003;

316 (57) records provided or received by the Public Lands Policy Coordinating Office in
317 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

318 (58) information requested by and provided to the 911 Division under Section
319 63H-7a-302;

320 (59) in accordance with Section 73-10-33:

321 (a) a management plan for a water conveyance facility in the possession of the Division
322 of Water Resources or the Board of Water Resources; or

323 (b) an outline of an emergency response plan in possession of the state or a county or
324 municipality;

325 (60) the following records in the custody or control of the Office of Inspector General
326 of Medicaid Services, created in Section 63A-13-201:

327 (a) records that would disclose information relating to allegations of personal
328 misconduct, gross mismanagement, or illegal activity of a person if the information or
329 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
330 through other documents or evidence, and the records relating to the allegation are not relied
331 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
332 report or final audit report;

333 (b) records and audit workpapers to the extent they would disclose the identity of a
334 person who, during the course of an investigation or audit, communicated the existence of any
335 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or

336 regulation adopted under the laws of this state, a political subdivision of the state, or any
337 recognized entity of the United States, if the information was disclosed on the condition that
338 the identity of the person be protected;

339 (c) before the time that an investigation or audit is completed and the final
340 investigation or final audit report is released, records or drafts circulated to a person who is not
341 an employee or head of a governmental entity for the person's response or information;

342 (d) records that would disclose an outline or part of any investigation, audit survey
343 plan, or audit program; or

344 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
345 investigation or audit;

346 (61) records that reveal methods used by the Office of Inspector General of Medicaid
347 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
348 abuse;

349 (62) information provided to the Department of Health or the Division of Occupational
350 and Professional Licensing under Subsection 58-68-304(3) or (4);

351 (63) a record described in Section 63G-12-210;

352 (64) captured plate data that is obtained through an automatic license plate reader
353 system used by a governmental entity as authorized in Section 41-6a-2003;

354 (65) any record in the custody of the Utah Office for Victims of Crime relating to a
355 victim, including:

356 (a) a victim's application or request for benefits;

357 (b) a victim's receipt or denial of benefits; and

358 (c) any administrative notes or records made or created for the purpose of, or used to,
359 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
360 Reparations Fund;

361 (66) an audio or video recording created by a body-worn camera, as that term is
362 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
363 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
364 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
365 that term is defined in Section 62A-2-101, except for recordings that:

366 (a) depict the commission of an alleged crime;

367 (b) record any encounter between a law enforcement officer and a person that results in
368 death or bodily injury, or includes an instance when an officer fires a weapon;

369 (c) record any encounter that is the subject of a complaint or a legal proceeding against
370 a law enforcement officer or law enforcement agency;

371 (d) contain an officer involved critical incident as defined in Subsection
372 76-2-408(1)(d); or

373 (e) have been requested for reclassification as a public record by a subject or
374 authorized agent of a subject featured in the recording;

375 (67) a record pertaining to the search process for a president of an institution of higher
376 education described in Section 53B-2-102, except for application materials for a publicly
377 announced finalist; and

378 (68) an audio recording that is:

379 (a) produced by an audio recording device that is used in conjunction with a device or
380 piece of equipment designed or intended for resuscitating an individual or for treating an
381 individual with a life-threatening condition;

382 (b) produced during an emergency event when an individual employed to provide law
383 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

384 (i) is responding to an individual needing resuscitation or with a life-threatening
385 condition; and

386 (ii) uses a device or piece of equipment designed or intended for resuscitating an
387 individual or for treating an individual with a life-threatening condition; and

388 (c) intended and used for purposes of training emergency responders how to improve
389 their response to an emergency situation;

390 (69) records submitted by or prepared in relation to an applicant seeking a
391 recommendation by the Research and General Counsel Subcommittee, the Budget
392 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
393 employment position with the Legislature;

394 (70) work papers as defined in Section 31A-2-204;

395 (71) a record made available to Adult Protective Services or a law enforcement agency
396 under Section 61-1-206;

397 (72) a record submitted to the Insurance Department in accordance with Section

398 [31A-37-201](#); and

399 (73) a record described in Section [31A-37-503](#).

400 (74) any record created by the Division of Occupational and Professional Licensing as
401 a result of Subsection [58-37f-304\(5\)](#) or [58-37f-702\(2\)\(a\)\(ii\)](#); [~~and~~]

402 (75) a record described in Section [72-16-306](#) that relates to the reporting of an injury
403 involving an amusement ride[;]; and

404 (76) a map provided to the Division of Water Resources under Subsection
405 [73-1-20\(2\)\(c\)](#).

406 Section 2. Section **73-1-20** is enacted to read:

407 **73-1-20. Water infrastructure maintenance.**

408 (1) As used in this section:

409 (a) "Large water provider" means a city of the first or second class that operates a retail
410 water system.

411 (b) "Water infrastructure" means waterworks, sewer collection, sewer treatment
412 systems, and storm water runoff, including potable and nonpotable water.

413 (2) (a) A large water provider shall report every five years beginning with calendar year
414 2022 to:

415 (i) the Division of Water Resources on or before November 1; and

416 (ii) the Natural Resources, Agriculture, and Environment Interim Committee on or
417 before the committee's November interim meeting.

418 (b) A report required by this Subsection (2) shall include:

419 (i) the ages of the water infrastructure that the large water provider owns or operates;

420 (ii) the water infrastructure concealed underground that is older than the recommended
421 age for the material from which the water infrastructure is constructed; and

422 (iii) an ongoing repair and replacement plan to stay current on water infrastructure
423 replacement.

424 (c) The report required under Subsection (2)(a)(i) to the Division of Water Resources
425 shall include maps of the relevant water infrastructure. A map provided under this Subsection

426 (2)(c) is a protected document under Section [63G-2-305](#).