

1 **GOVERNMENT RECORDS FEE AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dan N. Johnson**

5 Senate Sponsor: Chris H. Wilson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Government Records Access and Management Act
10 related to fees.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies a provision relating to a prohibition against a governmental entity charging
14 a fee for the first quarter hour of staff time;
- 15 ▶ prohibits a governmental entity from charging a fee for the first quarter hour of staff
16 time spent responding to a record request, unless the person who submitted the
17 request submitted a separate request within the preceding 10 days and is not a Utah
18 media representative; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **63G-2-203**, as last amended by Laws of Utah 2016, Chapter 90

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

29 Section 1. Section **63G-2-203** is amended to read:

30 **63G-2-203. Fees.**

31 (1) (a) ~~[A]~~ Subject to Subsection (5), a governmental entity may charge a reasonable
32 fee to cover the governmental entity's actual cost of providing a record. ~~[This fee]~~

33 (b) A fee under Subsection (1)(a) shall be approved by the governmental entity's
34 executive officer.

35 (2) (a) When a governmental entity compiles a record in a form other than that
36 normally maintained by the governmental entity, the actual costs under this section may include
37 the following:

38 (i) the cost of staff time for compiling, formatting, manipulating, packaging,
39 summarizing, or tailoring the record either into an organization or media to meet the person's
40 request;

41 (ii) the cost of staff time for search, retrieval, and other direct administrative costs for
42 complying with a request; and

43 (iii) in the case of fees for a record that is the result of computer output other than word
44 processing, the actual incremental cost of providing the electronic services and products
45 together with a reasonable portion of the costs associated with formatting or interfacing the
46 information for particular users, and the administrative costs as set forth in Subsections
47 (2)(a)(i) and (ii).

48 (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest
49 paid employee who, in the discretion of the custodian of records, has the necessary skill and
50 training to perform the request.

51 ~~[(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first~~
52 ~~quarter hour of staff time.]~~

53 (3) (a) Fees shall be established as provided in this Subsection (3).

54 (b) A governmental entity with fees established by the Legislature:

55 (i) shall establish the fees defined in Subsection (2), or other actual costs associated
56 with this section through the budget process; and

57 (ii) may use the procedures of Section [63J-1-504](#) to set fees until the Legislature

58 establishes fees through the budget process.

59 (c) Political subdivisions shall establish fees by ordinance or written formal policy
60 adopted by the governing body.

61 (d) The judiciary shall establish fees by rules of the judicial council.

62 (4) A governmental entity may fulfill a record request without charge and is
63 encouraged to do so if it determines that:

64 (a) releasing the record primarily benefits the public rather than a person;

65 (b) the individual requesting the record is the subject of the record, or an individual
66 specified in Subsection [63G-2-202](#)(1) or (2); or

67 (c) the requester's legal rights are directly implicated by the information in the record,
68 and the requester is impecunious.

69 (5) (a) As used in this Subsection (5), "media representative":

70 (i) means a person who requests a record to obtain information for a story or report for
71 publication or broadcast to the general public; and

72 (ii) does not include a person who requests a record to obtain information for a blog,
73 podcast, social media account, or other means of mass communication generally available to a
74 member of the public.

75 (b) A governmental entity may not charge a fee for:

76 [~~(a)~~] (i) reviewing a record to determine whether it is subject to disclosure, except as
77 permitted by Subsection (2)(a)(ii); [~~or~~]

78 [~~(b)~~] (ii) inspecting a record[-]; or

79 (iii) the first quarter hour of staff time spent in responding to a request under Section
80 [63G-2-204](#).

81 (c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from
82 charging a fee for the first quarter hour of staff time spent in responding to a request under
83 Section [63G-2-204](#) if the person who submits the request:

84 (i) is not a Utah media representative; and

85 (ii) previously submitted a separate request within the 10-day period immediately

86 before the date of the request to which the governmental entity is responding.

87 (6) (a) A person who believes that there has been an unreasonable denial of a fee
88 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals
89 when inspection of a public record is denied under Section 63G-2-205.

90 (b) The adjudicative body hearing the appeal:

91 (i) shall review the fee waiver de novo, but shall review and consider the governmental
92 entity's denial of the fee waiver and any determination under Subsection (4); and

93 (ii) has the same authority when a fee waiver or reduction is denied as it has when the
94 inspection of a public record is denied.

95 (7) (a) All fees received under this section by a governmental entity subject to
96 Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

97 (b) Those funds shall be used to recover the actual cost and expenses incurred by the
98 governmental entity in providing the requested record or record series.

99 (8) (a) A governmental entity may require payment of past fees and future estimated
100 fees before beginning to process a request if:

101 (i) fees are expected to exceed \$50; or

102 (ii) the requester has not paid fees from previous requests.

103 (b) Any prepaid amount in excess of fees due shall be returned to the requester.

104 (9) This section does not alter, repeal, or reduce fees established by other statutes or
105 legislative acts.

106 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be
107 set as provided in this Subsection (10).

108 (b) The lieutenant governor shall:

109 (i) after consultation with county clerks, establish uniform fees for voter registration
110 and voter history records that meet the requirements of this section; and

111 (ii) obtain legislative approval of those fees by following the procedures and
112 requirements of Section 63J-1-504.