

GOVERNMENT RECORDS FEE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dan N. Johnson

Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies a provision relating to a prohibition against a governmental entity charging a fee for the first quarter hour of staff time;
- ▶ prohibits a governmental entity from charging a fee for the first quarter hour of staff time spent responding to a record request, unless the person who submitted the request also submitted a separate request within the preceding 10 days; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



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

29 **63G-2-203. Fees.**

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

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

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

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

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

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

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

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

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

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

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

56 (ii) may use the procedures of Section **63J-1-504** to set fees until the Legislature
57 establishes fees through the budget process.

58 (c) Political subdivisions shall establish fees by ordinance or written formal policy

59 adopted by the governing body.

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

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

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

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

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

68 (5) A governmental entity may not charge a fee for:

69 (a) reviewing a record to determine whether it is subject to disclosure, except as
70 permitted by Subsection (2)(a)(ii); ~~or~~

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

72 (c) the first quarter hour of staff time spent in responding to a request under Section
73 [63G-2-204](#), unless the person who submitted the request previously submitted a separate
74 request within the 10-day period immediately before the date of the request to which the
75 governmental entity is responding.

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

79 (b) The adjudicative body hearing the appeal:

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

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

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

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

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

- 90 (i) fees are expected to exceed \$50; or
91 (ii) the requester has not paid fees from previous requests.
92 (b) Any prepaid amount in excess of fees due shall be returned to the requester.
93 (9) This section does not alter, repeal, or reduce fees established by other statutes or
94 legislative acts.
95 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be
96 set as provided in this Subsection (10).
97 (b) The lieutenant governor shall:
98 (i) after consultation with county clerks, establish uniform fees for voter registration
99 and voter history records that meet the requirements of this section; and
100 (ii) obtain legislative approval of those fees by following the procedures and
101 requirements of Section [63J-1-504](#).