

Representative John Dougall proposes the following substitute bill:

INVESTMENT OF POST-EMPLOYMENT BENEFITS

AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the State Post-Retirement Benefits Trust Act to create an Elected Official Post-Retirement Benefit Trust Fund.

Highlighted Provisions:

This bill:

- ▶ exempts the trust fund from the State Money Management Act
- ▶ creates the Elected Official Post-Retirement Benefit Trust Fund;
- ▶ establishes the purposes of the trust fund;
- ▶ authorizes the board of trustees for the State Post-Retirement Benefits Trust Fund to serve as trustees for the Elected Official Post-Retirement Benefit Trust Fund; and
- ▶ establishes procedures for the investment of and expenditures from the trust funds.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 51-7-2, as last amended by Laws of Utah 2007, Chapter 99

27 67-19d-202, as last amended by Laws of Utah 2010, Chapter 286

28 ENACTS:

29 67-19d-201.5, Utah Code Annotated 1953

30 **Uncodified Material Affected:**

31 ENACTS UNCODIFIED MATERIAL



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

34 Section 1. Section 51-7-2 is amended to read:

35 **51-7-2. Exemptions from chapter.**

36 The following funds are exempt from this chapter:

37 (1) funds invested in accordance with the participating employees' designation or
38 direction pursuant to a public employees' deferred compensation plan established and operated
39 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

40 (2) funds of the Workers' Compensation Fund;

41 (3) funds of the Utah State Retirement Board;

42 (4) funds of the Utah Housing Corporation;

43 (5) endowment funds of higher education institutions;

44 (6) permanent and other land grant trust funds established pursuant to the Utah

45 Enabling Act and the Utah Constitution; ~~and~~

46 (7) the State Post-Retirement Benefits Trust Fund~~[-]; and~~

47 (8) the Elected Official Post-Retirement Benefit Trust Fund.

48 Section 2. Section 67-19d-201.5 is enacted to read:

49 **67-19d-201.5. Elected Official Post-Retirement Benefit Trust Fund -- Creation --**

50 **Oversight -- Dissolution.**

51 (1) There is created the "Elected Official Post-Retirement Benefit Trust Fund."

52 (2) The Elected Official Post-Retirement Benefit Trust Fund consists of:

53 (a) appropriations made to the fund by the Legislature for the purpose of funding the
54 post-retirement benefits in Section 49-20-404;

55 (b) revenues received by the state treasurer from the investment of the Elected Official
56 Post-Retirement Benefit Trust Fund; and

57 (c) other revenues received from other sources.

58 (3) The Division of Finance shall account for the receipt and expenditures of money in
59 the Elected Official Post-Retirement Benefit Trust Fund.

60 (4) (a) Except as provided in Subsection (4)(c), the state treasurer shall invest the
61 Elected Official Post-Retirement Benefit Trust Fund money by following the same procedures
62 and requirements for the investment of the State Post-Retirement Benefits Trust Fund in Part 3,
63 Trust Fund Investments.

64 (b) (i) The Elected Official Post-Retirement Benefit Trust Fund shall earn interest.

65 (ii) The state treasurer shall deposit all interest or other income earned from investment
66 of the Elected Official Post-Retirement Benefit Trust Fund back into the Elected Official Post
67 Retirement Benefit Trust Fund.

68 (c) The Elected Official Post-Retirement Benefit Trust Fund is exempt from Title 51,
69 Chapter 7, State Money Management Act.

70 (5) The board of trustees created in Section 67-19d-202 may expend money from the
71 Elected Official Post-Retirement Benefit Trust Fund for:

72 (a) the employer portion of the cost of the program established in Section 49-20-404;
73 and

74 (b) reasonable administrative costs that the board of trustees incurs in performing its
75 duties as trustees of the Elected Official Post-Retirement Benefit Trust Fund.

76 (6) The board of trustees shall ensure that:

77 (a) money deposited into the Elected Official Post-Retirement Benefit Trust Fund is
78 irrevocable and is expended only for the employer portion of the costs of post-retirement
79 benefits under Section 49-20-404; and

80 (b) creditors of the board of trustees and of employers liable for the post-retirement
81 benefits may not seize, attach, or otherwise obtain assets of the Elected Official
82 Post-Retirement Benefit Trust Fund.

83 (7) When all of the liabilities for which the Elected Official Post-Retirement Benefit
84 Trust Fund was created are paid, the Division of Finance shall transfer any assets remaining in
85 the Elected Official Post-Retirement Trust Fund into the appropriate fund.

86 Section 3. Section **67-19d-202** is amended to read:

87 **67-19d-202. Board of trustees of the State Post-Retirement Benefits Trust Fund.**

88 (1) (a) There is created a board of trustees of the State Post-Retirement Benefits Trust
89 Fund composed of three members:

90 (i) the state treasurer or designee;

91 (ii) the director of the Division of Finance or designee; and

92 (iii) the director of the Governor's Office of Planning and Budget or designee.

93 (b) The state treasurer is chair of the board.

94 (c) Three members of the board are a quorum.

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

97 (i) Section 63A-3-106;

98 (ii) Section 63A-3-107; and

99 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
100 63A-3-107.

101 (e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the
102 board of trustees.

103 (ii) The Division of Finance shall provide accounting services for the trust fund.

104 (2) The board shall:

105 (a) on behalf of the state, act as trustee of the [~~trust fund~~] State Post-Retirement
106 Benefits Trust Fund and the Elected Official Post-Retirement Benefit Trust Fund and exercise
107 the state's fiduciary responsibilities;

108 (b) meet at least twice per year;

109 (c) review and approve all policies, projections, rules, criteria, procedures, forms,
110 standards, performance goals, and actuarial reports;

111 (d) review and approve the [~~trust fund~~] budget for the State Post-Retirement Benefits
112 Trust Fund and the Elected Official Post-Retirement Benefit Trust Fund;

113 (e) review financial records of the [~~trust fund~~] State Post-Retirement Benefits Trust
114 Fund and the Elected Official Post-Retirement Benefit Trust Fund, including trust fund
115 receipts, expenditures, and investments;

116 (f) commission and obtain actuarial studies of the [~~trust fund~~] State Post-Retirement
117 Benefits Trust Fund and the Elected Official Post Retirement Benefit Trust Fund liabilities;

118 (g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor

119 additive rates to charge all federal, state, and other programs to cover:

120 (i) the annual required contribution as determined by actuary; and

121 (ii) the administrative expenses of the trust fund; and

122 (h) do any other things necessary to perform the state's fiduciary obligations under the

123 ~~[trust fund]~~ State Post-Retirement Benefits Trust Fund and the Elected Official

124 Post-Retirement Benefit Trust Fund.

125 (3) The attorney general shall:

126 (a) act as legal counsel and provide legal representation to the board of trustees; and

127 (b) attend, or direct an attorney from the Office of the Attorney General to attend, each

128 meeting of the board of trustees.

129 **Section 4. Intent Language regarding Finance Mandated Line Item -- OPEB.**

130 The Legislature intends that the Division of Finance transfer any unspent funds from

131 the current or any prior fiscal years, and additional funds appropriated during the 2011 General

132 Session in the Department of Administrative Services - Finance-Mandated-OPEB-Other

133 Post-Employment Benefits Program to the Elected Official Post-Retirement Benefit Trust

134 Fund.

FISCAL NOTE

H.B. 331 1st Sub. (Buff)

SHORT TITLE: Investment of Post-employment Benefits Amendments

SPONSOR: Richardson, H.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill allows the State Post-Retirement Benefits board of trustees to manage elected officials' post employment benefits investments. It allows the Division of Finance to transfer existing resources into a newly created Elected Official Post-Retirement Benefit Trust Fund. Enacting the bill may cost the Division of Finance \$800 one-time and \$2,400 ongoing from the General Fund beginning in FY 2012 for administration of the new trust fund. The Division of Finance reports that it can handle the additional workload within its existing budget.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$2,400	\$2,400
General Fund, One-Time	\$0	\$800	\$0
Total Expenditure	\$0	\$3,200	\$2,400
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$3,200)	(\$2,400)
Net Impact, General/Education Funds	\$0	(\$3,200)	(\$2,400)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.