

1 **ELECTED OFFICIAL RETIREMENT BENEFITS**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John L. Valentine**

6 House Sponsor: John Dougall

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the State Post-Retirement Benefits Trust Act and the Public
11 Employees' Benefit and Insurance Program Act to eliminate post-retirement health
12 benefits for new legislators and governors and to permit the investment of funds for
13 existing post-retirement health benefits for legislators and governors.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ eliminates the governor and legislator's post-retirement health care benefits for new
17 governors and legislators;

18 ▶ establishes Elected Official Post-Retirement Benefits Trust Fund for the purpose of
19 investing funds for existing governor and legislator post-retirement health care
20 benefits;

21 ▶ authorizes the board of trustees for the State Post-Retirement Benefits Trust Fund to
22 serve as trustees for the Elected Official Post-Retirement Benefits Trust Fund; and

23 ▶ establishes procedures for the investment of and expenditures from the trust funds.

24 **Money Appropriated in this Bill:**

25 This bill:

26 ▶ appropriates \$246,300 and transfers \$1,783,700 for a total of \$2,030,000 from the
27 General Fund and appropriates and transfers \$1,439,900 from other sources for
28 fiscal year 2011-12 only to the Elected Official Post-Retirement Benefits Trust
29 Fund;

30 ▶ appropriates \$246,300 and transfers \$1,783,700 for a total of \$2,030,000 from the
31 General Fund for fiscal year 2012-13 to the Elected Official Post-Retirement
32 Benefits Trust Fund.

33 **Other Special Clauses:**

34 This bill provides an immediate effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **49-20-404**, as last amended by Laws of Utah 2011, Chapter 439

38 **67-19d-202**, as last amended by Laws of Utah 2010, Chapter 286

39 **67-19d-301**, as enacted by Laws of Utah 2007, Chapter 99

40 ENACTS:

41 **67-19d-201.5**, Utah Code Annotated 1953



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

44 Section 1. Section **49-20-404** is amended to read:

45 **49-20-404. Governors' and legislative paid-up group health coverage benefit --**
46 **Limitations -- Medicare supplemental coverage -- Spouse coverage -- Limitations.**

47 (1) ~~(a)~~ The state shall pay the percentage [~~described in Subsection (3)~~] of the cost of
48 providing paid-up group health coverage [~~policy~~] under Subsection (3) for members and their
49 surviving spouses covered under Chapter 19, Utah Governors' and Legislators' Retirement Act,
50 or except as provided under Subsection (1)(b), governors and legislators, as defined in Section
51 49-19-102, and their surviving spouses covered under Chapter 22, New Public Employees' Tier

52 II Contributory Retirement Act, who:

53 ~~(a)~~ (i) retire after January 1, 1998;

54 ~~(b)~~ (ii) are at least 62 but less than 65 years of age;

55 ~~(c)~~ (iii) elect to receive and apply for this benefit to the program; and

56 ~~(d)~~ (iv) are active members at the time of retirement or have continued coverage with
57 the program until the date of eligibility for the benefit under this Subsection (1).

58 (b) A governor or a legislator who begins service on or after January 1, 2012, and a
59 surviving spouse of the governor or the legislator who begins service on or after January 1,
60 2012, is not eligible for the benefit provided under this Subsection (1).

61 (2) The state shall pay the percentage [~~described in Subsection (3)~~] of the cost of
62 providing Medicare supplemental coverage under Subsection (3) for members and their
63 surviving spouses covered under Chapter 19, Utah Governors' and Legislators' Retirement Act
64 who:

- 65 (a) retire after January 1, 1998;
- 66 (b) are at least 65 years of age; and
- 67 (c) elect to receive and apply for this benefit to the program.

68 (3) The following percentages apply to the benefit described in Subsections (1)(a) and
69 (2):

- 70 (a) 100% if the member has accrued 10 or more years of service credit;
- 71 (b) 80% if the member has accrued 8 or more years of service credit;
- 72 (c) 60% if the member has accrued 6 or more years of service credit; and
- 73 (d) 40% if the member has accrued 4 or more years of service credit.

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

75 **67-19d-201.5. Elected Official Post-Retirement Benefits Trust Fund -- Creation --**
76 **Oversight -- Dissolution.**

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

78 (2) The Elected Official Post-Retirement Benefits Trust Fund consists of:

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

81 (b) revenues received by the state treasurer from the investment of the Elected Official
82 Post-Retirement Benefits Trust Fund; and

83 (c) other revenues received from other sources.

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

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

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

91 (ii) The state treasurer shall deposit all interest or other income earned from investment
92 of the Elected Official Post-Retirement Benefits Trust Fund back into the Elected Official
93 Post-Retirement Benefits Trust Fund.

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

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

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

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

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

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

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

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

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

113 **67-19d-202. Board of trustees of the State Post-Retirement Benefits Trust Fund**

114 **and the Elected Official Post-Retirement Benefits Trust Fund.**

115 (1) (a) There is created a board of trustees of the State Post-Retirement Benefits Trust
116 Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three
117 members:

- 118 (i) the state treasurer or designee;
 - 119 (ii) the director of the Division of Finance or designee; and
 - 120 (iii) the director of the Governor's Office of Planning and Budget or designee.
- 121 (b) The state treasurer is chair of the board.
- 122 (c) Three members of the board are a quorum.
- 123 (d) A member may not receive compensation or benefits for the member's service, but
124 may receive per diem and travel expenses in accordance with:

- 125 (i) Section 63A-3-106;
- 126 (ii) Section 63A-3-107; and
- 127 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
128 63A-3-107.

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

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

132 (2) The board shall:

133 (a) on behalf of the state, act as trustee of the [~~trust fund~~] State Post-Retirement
134 Benefits Trust Fund created under Section 67-19d-201 and the Elected Official
135 Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 and exercise the
136 state's fiduciary responsibilities;

137 (b) meet at least twice per year;

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

140 (d) review and approve the [~~trust fund~~] budget for each trust fund described under
141 Subsection (2)(a);

142 (e) review financial records [~~of the trust fund~~] for each trust fund described under
143 Subsection (2)(a), including trust fund receipts, expenditures, and investments;

144 (f) commission and obtain actuarial studies of the [~~trust fund~~] liabilities for each trust
145 fund described under Subsection (2)(a);

146 (g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor
147 additive rates to charge all federal, state, and other programs to cover:

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

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

150 (h) do any other things necessary to perform the state's fiduciary obligations under [~~the~~
151 ~~trust fund~~] each trust fund described under Subsection (2)(a).

152 (3) The attorney general shall:

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

154 (b) attend, or direct an attorney from the Office of the Attorney General to attend, each
155 meeting of the board of trustees.

156 Section 4. Section **67-19d-301** is amended to read:

157 **67-19d-301. Investment of State Post-Retirement Benefits Trust Fund.**

158 (1) The state treasurer shall invest the assets of the State Post-Retirement Benefits
159 Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement
160 Benefits Trust Fund created under Section 67-19d-201.5 with the primary goal of providing for
161 the stability, income, and growth of the principal.

162 (2) Nothing in this section requires a specific outcome in investing.

163 (3) The state treasurer may deduct any administrative costs incurred in managing trust
164 fund assets from earnings before distributing them.

165 (4) (a) The state treasurer may employ professional asset managers to assist in the
166 investment of assets of the trust fund.

167 (b) The treasurer may only provide compensation to asset managers from earnings
168 generated by the trust fund's investments.

169 Section 5. **Appropriation.**

170 Under the terms and conditions of Utah Code Title 63J Chapter 1, Budgetary
 171 Procedures Act, the following sums of money are appropriated from resources not otherwise
 172 appropriated, or reduced from amounts previously appropriated, out of the funds or fund
 173 accounts indicated for the fiscal year beginning July 1, 2011 and ending June 30, 2012. These
 174 are additions to amounts previously appropriated for fiscal year 2012.

175 To Department of Administrative Services – Finance – Mandated – OPEB

176 From General Fund, One-time (\$1,783,700)

177 From Beginning Nonlapsing Appropriation Balances (\$1,439,900)

178 Schedule of Programs:

179 Other Post Employment Benefits (\$3,223,600)

180 To Elected Official Post-Retirement Benefits Trust Fund

181 From General Fund, One-time \$2,030,000

182 From Beginning Nonlapsing Appropriation Balances –

183 Finance – Mandated – OPEB \$1,439,900

184 Schedule of Programs:

185 Elected Official Post-Retirement Benefits Trust Fund \$3,469,900

186 Under the terms and conditions of Utah Code Title 63J Chapter 1, Budgetary
 187 Procedures Act, the following sums of money are appropriated from resources not otherwise
 188 appropriated, or reduced from amounts previously appropriated, out of the funds or fund
 189 accounts indicated for the fiscal year beginning July 1, 2012 and ending June 30, 2013. These
 190 are additions to amounts previously appropriated for fiscal year 2013.

191 To Department of Administrative Services – Finance – Mandated – OPEB

192 From General Fund (\$1,783,700)

193 Schedule of Programs:

194 Other Post Employment Benefits (\$1,783,700)

195 To Elected Official Post-Retirement Benefits Trust Fund

196 From General Fund \$2,030,000

197 Schedule of Programs:

198 Elected Official Post-Retirement Benefits Trust Fund \$2,030,000
199 Section 6. **Effective date.**
200 If approved by two-thirds of all the members elected to each house, this bill takes effect
201 upon approval by the governor, or the day following the constitutional time limit of Utah
202 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
203 the date of veto override.