

HB0166S01 compared with HB0166

~~{deleted text}~~ shows text that was in HB0166 but was deleted in HB0166S01.

Inserted text shows text that was not in HB0166 but was inserted into HB0166S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jefferson Moss proposes the following substitute bill:

SCHOOL AND INSTITUTIONAL TRUST FUND~~}~~

~~}~~AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the School and Institutional Trust Fund Management Act.

Highlighted Provisions:

This bill:

- ▶ ~~{exempts}~~modifies the number of annual meetings of the School and Institutional Trust Fund ~~{Office from the Utah Procurement Code, and requires the office to create rules to ensure the competitive and prudent procurement of services and goods;~~

→ ~~modifies the number of annual meetings}~~ Board of Trustees;

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- ▶ modifies the membership of the School and Institutional Trust Fund Nominating Committee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{53D-1-103}~~53D-1-104, as enacted by Laws of Utah 2014, Chapter 426

53D-1-304, as enacted by Laws of Utah 2014, Chapter 426

53D-1-401, as enacted by Laws of Utah 2014, Chapter 426

53D-1-403, as last amended by Laws of Utah 2015, Chapter 276

53D-1-501, as enacted by Laws of Utah 2014, Chapter 426

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

Section 1. Section ~~{53D-1-103}~~53D-1-104 is amended to read:

~~{~~ **53D-1-103. Application of other law.**

~~_____ (1) The office, board, and nominating committee are subject to Title 52, Chapter 4, Open and Public Meetings Act.~~

~~_____ (2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.~~

~~_____ (3) The office and board are subject to Title 63G, Chapter 2, Government Records Access and Management Act.~~

~~_____ (4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).~~

~~_____ (b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.~~

~~_____ (5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.~~

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~~———— (6) (a) A board member, the director, and an office employee or agent are subject to:~~

~~———— (i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and~~

~~———— (ii) other requirements that the board establishes.~~

~~———— (b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.~~

~~———— (7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.~~

~~———— (b) (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.~~

~~———— (ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).~~

~~———— (iii) (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.~~

~~———— (B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.~~

~~———— (8) (a) The office is exempt from Title 63G, Chapter 6a, Utah Procurement Code.~~

~~———— (b) The office shall establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure competitive and prudent procurement of services and goods.~~

~~———— [(8)] (9) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.~~

‡ **53D-1-104. Attorney general representation.**

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(1) The attorney general shall:

(a) represent the board, director, and office in any legal action relating to the trust fund;

(b) undertake suits for damages and any other necessary or appropriate relief in the name of the trust fund and the state; and

(c) ensure that legal counsel assigned to provide legal counsel to the board, director, and office is present at ~~all~~ board meetings as needed.

(2) The attorney general may institute an action to enforce this chapter or to protect the interests of beneficiaries.

Section 2. Section **53D-1-304** is amended to read:

53D-1-304. Board meetings.

(1) The board shall hold at least ~~nine~~ six meetings per year to conduct business.

(2) The board chair or two board members:

(a) may call a board meeting; and

(b) if calling a board meeting, shall provide as much advance notice as is reasonable under the circumstances to all board members, the director, and the director of the school children's trust section.

(3) Any board member may place an item on a board meeting agenda.

(4) The board shall annually adopt a set of parliamentary procedures to govern board meetings.

(5) The board may establish an attendance policy to govern the attendance of board members at board meetings.

Section 3. Section **53D-1-401** is amended to read:

53D-1-401. Appointment of director -- Qualifications -- Nature of employment -- Removal by State Board of Education petition.

(1) The office shall be managed by a director.

(2) ~~[On or before January 25, 2015]~~ If there is a vacancy in the director position, the board shall appoint an individual as director.

(3) The board shall ensure that an individual appointed as director possesses:

(a) outstanding professional qualifications pertinent to the prudent investment of trust fund money; and

(b) expertise in institutional investment management.

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(4) The director is an at-will employee who may be removed by the board at any time with or without cause.

(5) (a) The State Board of Education may submit a written petition to the board requesting the board to remove the director for cause, explained in the petition.

(b) The board shall hold a hearing on a petition under Subsection (5)(a) within 45 days after receiving the petition.

(c) If, after holding a hearing, the board finds by a preponderance of the evidence that there is cause for removing the director, the board shall remove the director.

Section 4. Section **53D-1-403** is amended to read:

53D-1-403. Reports.

(1) At least annually, the director shall report in person to the Legislative Management Committee, the governor, and the State Board of Education, concerning the office's investments, performance, estimated distributions, and other activities.

(2) The director shall report to the board concerning the work of the director and the investment activities and other activities of the office:

(a) in a public meeting at least [~~nine~~] six times per year; and

(b) as otherwise requested by the board.

(3) (a) Before November 1 of each year, the director shall:

(i) submit a written report to school community councils, created under Section 53A-1a-108, and charter trust land councils, established under Section 53A-16-101.5 concerning the office's investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office's website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

(b) quarterly financial reports; and

(c) any other report requested by the board.

(5) The director shall:

(a) invite the director of the school children's trust section to attend any meeting at

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which the director gives a report under this section; and

(b) provide the director of the school children's trust section:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the director of the school children's trust section.

Section 5. Section **53D-1-501** is amended to read:

53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies --

Compensation.

(1) There is established a School and Institutional Trust Fund Nominating Committee.

(2) The nominating committee consists of:

~~[(a) two members appointed by the State Board of Education;]~~

~~[(b) two]~~ [(a) four] members, appointed by the State Board of Education upon recommendation by the director of the school children's trust section, each of whom is a member of a respected professional organization;

~~[(e)]~~ [(b)] the chief investment officer of the University of Utah endowment;

~~[(d)]~~ [(c)] the chief investment officer of the Utah State University endowment; and

~~[(e)]~~ [(d)] the director of the school children's trust section.

(3) An individual appointed as a member of the nominating committee under Subsection (2)(a) ~~[or (b)]~~ shall be appointed based on the individual's expertise in:

(a) investment finance;

(b) institutional asset management;

(c) trust administration; or

(d) the practice of law in the areas of capital markets, securities law, trusts, foundations, endowments, investment finance, institutional asset management, or trust administration.

(4) The term of a member appointed under Subsection (2)(a) ~~[or (b)]~~ is four years~~[- except that the initial term of members appointed under Subsection (2)(b) is two years].~~

(5) A nominating committee member shall serve until a successor is appointed and qualified.

(6) (a) If a member appointed under Subsection (2)(a) ~~[or (b)]~~ leaves office, the vacancy shall be filled in the same manner as the initial appointment under Subsection (2)(a) ~~[or (b)]~~.

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(b) An individual appointed to fill a vacancy under Subsection (6)(a) serves the remainder of the unexpired term.

(7) A member of the nominating committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

†

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~