

**Effective 5/12/2015**

**Chapter 19f**  
**State Employees' Annual Leave Trust Fund Act**

**Part 1**  
**General Provisions**

**67-19f-101 Title.**

This chapter is known as the "State Employees' Annual Leave Trust Fund Act."

Amended by Chapter 368, 2015 General Session

**67-19f-102 Definitions.**

As used in this chapter:

- (1) "Annual leave II" is as defined in Section 67-19-14.6.
- (2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.
- (3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.
- (4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

Amended by Chapter 368, 2015 General Session

**Part 2**  
**Oversight and Board of Trustees**

**67-19f-201 Trust fund -- Creation -- Oversight -- Dissolution.**

- (1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."
- (2) The trust fund consists of:
  - (a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 67-19-14.6;
  - (b) appropriations made to the trust fund by the Legislature, if any;
  - (c) transfers from the termination pool described in Subsection 67-19-14.6(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section 67-19-14.6;
  - (d) income; and
  - (e) revenue received from other sources.
- (3)
  - (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.
  - (b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection 67-19-14.6(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.
- (4)
  - (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

- (b)
  - (i) The trust fund shall earn interest.
  - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:
  - (a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 67-19-14.6 as annual leave II is used by an employee;
  - (b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and
  - (c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.
- (6) The board of trustees shall ensure that:
  - (a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and
  - (b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.
- (7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Amended by Chapter 368, 2015 General Session

**67-19f-202 Board of trustees of the State Employees' Annual Leave Trust Fund.**

- (1)
  - (a) There is created a board of trustees of the State Employees' Annual Leave Trust Fund composed of the following three members:
    - (i) the state treasurer or the state treasurer's designee;
    - (ii) the director of the Division of Finance or the director's designee; and
    - (iii) the executive director of the Governor's Office of Management and Budget or the executive director's designee.
  - (b) The state treasurer is chair of the board.
  - (c) Three members of the board is a quorum.
  - (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
  - (e)
    - (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
    - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
  - (a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;
  - (b) meet at least twice per year;
  - (c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;
  - (d) review and approve the budget for the trust fund;

- (e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and
  - (f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.
- (3) The board may:
- (a) commission and obtain actuarial studies of the liabilities for the trust fund; and
  - (b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.
- (4) The attorney general shall:
- (a) act as legal counsel and provide legal representation to the board of trustees; and
  - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 368, 2015 General Session

### **Part 3 Investment of Trust Funds**

#### **67-19f-301 Investment of State Employees' Annual Leave Program II Trust Fund.**

- (1) The state treasurer shall invest the assets of the trust fund with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.
- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing the trust fund assets.
- (4)
  - (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
  - (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Enacted by Chapter 437, 2014 General Session

#### **67-19f-302 State treasurer to follow "prudent investor" rule -- Standard of care.**

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
  - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and
  - (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
  - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
  - (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
    - (i) not in isolation, but in the context of the trust fund portfolio as a whole; and

- (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 437, 2014 General Session