

1 **INVESTMENT OF POST-EMPLOYMENT BENEFITS**

2 **AMENDMENTS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John Dougall**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates the Elected Official Post-Retirement Benefit Trust Fund;
- 14 ▶ establishes the purposes of the trust fund;
- 15 ▶ authorizes the board of trustees for the State Post-Retirement Benefits Trust Fund to
- 16 serve as trustees for the Elected Official Post-Retirement Benefit Trust Fund; and
- 17 ▶ establishes procedures for the investment of and expenditures from the trust funds.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **67-19d-202**, as last amended by Laws of Utah 2010, Chapter 286

25 ENACTS:

26 **67-19d-201.5**, Utah Code Annotated 1953



28 **Uncodified Material Affected:**
29 ENACTS UNCODIFIED MATERIAL



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

32 Section 1. Section **67-19d-201.5** is enacted to read:

33 **67-19d-201.5. Elected Official Post-Retirement Benefit Trust Fund -- Creation --**
34 **Oversight -- Dissolution.**

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

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

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

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

41 (c) other revenues received from other sources.

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

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

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

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

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

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

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

58 (b) reasonable administrative costs that the board of trustees incurs in performing its

59 duties as trustees of the Elected Official Post-Retirement Benefit Trust Fund.

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

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

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

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

70 Section 2. Section **67-19d-202** is amended to read:

71 **67-19d-202. Board of trustees of the State Post-Retirement Benefits Trust Fund.**

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

74 (i) the state treasurer or designee;

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

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

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

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

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

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

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

83 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
84 63A-3-107.

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

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

88 (2) The board shall:

89 (a) on behalf of the state, act as trustee of the ~~[trust fund]~~ State Post-Retirement

90 Benefits Trust Fund and the Elected Official Post-Retirement Benefit Trust Fund and exercise
91 the state's fiduciary responsibilities;

92 (b) meet at least twice per year;

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

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

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

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

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

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

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

106 (h) do any other things necessary to perform the state's fiduciary obligations under the
107 [~~trust fund~~] State Post-Retirement Benefits Trust Fund and the Elected Official
108 Post-Retirement Benefit Trust Fund.

109 (3) The attorney general shall:

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

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

113 **Section 3. Intent Language regarding Finance Mandated Line Item -- OPEB.**

114 The Legislature intends that the Division of Finance transfer any unspent funds from
115 the current or any prior fiscal years, and additional funds appropriated during the 2011 General
116 Session in the Department of Administrative Services - Finance-Mandated-OPEB-Other
117 Post-Employment Benefits Program to the Elected Official Post-Retirement Benefit Trust
118 Fund.

Legislative Review Note
as of 2-4-11 2:15 PM

Office of Legislative Research and General Counsel