

SB0269S01 compared with SB0269

~~deleted text~~ shows text that was in SB0269 but was deleted in SB0269S01.

inserted text shows text that was not in SB0269 but was inserted into SB0269S01.

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Senator Deidre M. Henderson proposes the following substitute bill:

ANNUAL LEAVE PROGRAM II FOR STATE EMPLOYEES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Personnel Management Act by amending provisions for employee leave programs and creates the State Employees' Annual Leave Program II Trust Fund Act.

Highlighted Provisions:

This bill:

- ▶ defines "annual leave II" and "change date";
- ▶ provides that beginning on a date established by the Division of Finance that is no later than January ~~3~~2, ~~2015~~2016, a state agency will offer annual leave II in lieu of annual leave to eligible state employees;
- ▶ provides that any unused annual leave accrued before a change date established by the Division of Finance that is no later than January ~~3~~2, ~~2015~~2016, may be

SB0269S01 compared with SB0269

used under the same rules that applied to the leave on ~~{January 1, 2014}~~the change date;

- ▶ requires a state agency to set aside the cost of each hour of annual leave II for each eligible employee for deposit into the State Employees' Annual Leave Program II Trust Fund;
- ▶ provides for rulemaking authority; and
- ▶ enacts the State Employees' Annual Leave Program II Trust Fund Act, which creates the State Employees' Annual Leave Program II Trust Fund and board and provides for administration of the trust fund.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

67-19-14.6, Utah Code Annotated 1953

67-19f-101, Utah Code Annotated 1953

67-19f-102, Utah Code Annotated 1953

67-19f-201, Utah Code Annotated 1953

67-19f-202, Utah Code Annotated 1953

67-19f-301, Utah Code Annotated 1953

67-19f-302, Utah Code Annotated 1953

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

Section 1. Section **67-19-14.6** is enacted to read:

67-19-14.6. Annual leave -- Definition -- Previously accrued hours -- Recognition of liability.

(1) ~~{(a)}~~ As used in this section ~~{,}~~:

(a) (i) "~~{annual}~~Annual leave II" means leave hours an employing agency provides to an employee, beginning ~~{January 3, 2015}~~on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

SB0269S01 compared with SB0269

~~(b)ii~~ "Annual leave II" does not include:

~~(ii)A~~ legal holidays under Section 63G-1-301;

~~(ii)B~~ time off as compensation for actual time worked in excess of an employee's defined work period;

~~(iii)C~~ sick leave;

~~(iv)D~~ paid or unpaid administrative leave; or

~~(v)E~~ other paid or unpaid leave from work provided by:

~~(A)~~ state statute ~~or~~, administrative rule ~~or~~, or

~~(B)~~ by federal law or regulation.

~~(2) Beginning on January 3, 2015,~~ (b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before ~~January 3, 2015~~ the change date, to use the annual leave under the same rules that applied to the leave on ~~January 1, 2014~~ the change date.

(4) (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.

(b) The rules made under Subsection (4)(a) shall consider:

(i) the employee hourly rate of pay;

(ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;

(iii) other applicable employer paid benefits; and

(iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.

(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Program II Trust Fund created in Section 67-19f-201.

SB0269S01 compared with SB0269

(6) For annual leave hours accrued before ~~(January 3, 2015)~~ the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the department shall make rules for the accrual and use of annual leave II provided under this section; and

(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Section 2. Section **67-19f-101** is enacted to read:

Part 1. State Employees' Annual Leave Program II Trust Fund Act

67-19f-101. Title.

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

Section 3. Section **67-19f-102** is enacted to read:

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 Program II Trust Fund created in Section 67-19f-201.

Section 4. Section **67-19f-201** is enacted to read:

Part 2. State Employees' Annual Leave Program II Trust Fund

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

(1) There is created a trust fund entitled the "State Employees' Annual Leave Program II 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;

SB0269S01 compared with SB0269

(b) appropriations made to the trust fund by the Legislature, if any;

(c) income; and

(d) revenue received from other sources.

(3) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(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; and

(b) 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 expended only for the costs of annual leave II, including any allotted benefits under Subsection 67-19-14.6(4); and

(b) assets of the trust fund are dedicated to providing annual leave II established by statute and rule.

Section 5. Section **67-19f-202** is enacted to read:

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

(1) (a) There is created a board of trustees of the State Employees' Annual Leave Program II 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.

SB0269S01 compared with SB0269

(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.

Section 6. Section **67-19f-301** is enacted to read:

Part 3. Investment of Trust Funds

SB0269S01 compared with SB0269

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.

Section 7. Section **67-19f-302** is enacted to read:

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.

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SB0269S01 compared with SB0269

Legislative Review Note

~~as of 3-3-14 2:16 PM~~

~~Office of Legislative Research and General Counsel~~