

1 **STATE EMPLOYEES' ANNUAL LEAVE TRUST FUND**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Deidre M. Henderson**

6 House Sponsor: Steve Eliason

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

14 ▶ amends the name of the "State Employees' Annual Leave Program II Trust Fund" to
15 the "State Employees' Annual Leave Trust Fund";

16 ▶ allows certain transfers to the State Employees' Annual Leave Trust Fund from the
17 termination pool for annual leave liabilities and allows costs for both annual leave
18 and annual leave II to be paid from the fund;

19 ▶ prohibits a creditor from obtaining assets of the trust fund; and

20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **67-19-14.6**, as enacted by Laws of Utah 2014, Chapter 437



28 67-19f-101, as enacted by Laws of Utah 2014, Chapter 437

29 67-19f-102, as enacted by Laws of Utah 2014, Chapter 437

30 67-19f-201, as enacted by Laws of Utah 2014, Chapter 437

31 67-19f-202, as enacted by Laws of Utah 2014, Chapter 437



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

34 Section 1. Section 67-19-14.6 is amended to read:

35 **67-19-14.6. Annual leave -- Definitions -- Previously accrued hours -- Recognition**
36 **of liability.**

37 (1) As used in this section:

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

41 (ii) "Annual leave II" does not include:

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

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

45 (C) sick leave;

46 (D) paid or unpaid administrative leave; or

47 (E) other paid or unpaid leave from work provided by state statute, administrative rule,
48 or by federal law or regulation.

49 (b) "Change date" means the date established by the Division of Finance under
50 Subsection (2) when annual leave II begins for a state agency.

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

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

58 (4) (a) At the time of employee accrual of annual leave II, an employing agency shall

59 set aside the cost of each hour of annual leave II for each eligible employee in an amount
60 determined in accordance with rules made by the Division of Finance.

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

62 (i) the employee hourly rate of pay;

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

65 (iii) other applicable employer paid benefits; and

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

68 (5) The cost set aside under Subsection (4) shall be deposited by the Division of
69 Finance into the State Employees' Annual Leave [~~Program H~~] Trust Fund created in Section
70 67-19f-201.

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

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

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

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

79 Section 2. Section 67-19f-101 is amended to read:

80 **CHAPTER 19f. STATE EMPLOYEES' ANNUAL LEAVE**
81 **TRUST FUND ACT**

82 **67-19f-101. Title.**

83 This chapter is known as the "State Employees' Annual Leave [~~Program H~~] Trust Fund
84 Act."

85 Section 3. Section 67-19f-102 is amended to read:

86 **67-19f-102. Definitions.**

87 As used in this chapter:

88 (1) "Annual leave II" is as defined in Section 67-19-14.6.

89 (2) "Board of trustees" or "board" means the board of trustees created in Section

90 67-19f-202.

91 (3) "Income" means the revenues received by the state treasurer from investments of
92 the trust fund principal.

93 (4) "Trust fund" means the State Employees' Annual Leave [~~Program H~~] Trust Fund
94 created in Section 67-19f-201.

95 Section 4. Section 67-19f-201 is amended to read:

96 **67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.**

97 (1) There is created a trust fund entitled the "State Employees' Annual Leave [~~Program~~
98 H] Trust Fund."

99 (2) The trust fund consists of:

100 (a) ongoing revenue provided from a state agency set aside for accrued annual leave II
101 required under Section 67-19-14.6;

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

103 (c) transfers from the termination pool described in Subsection 67-19-14.6(6) made by
104 the Division of Finance to the trust fund for annual leave liabilities accrued before the change
105 date established under Section 67-19-14.6;

106 [~~c~~] (d) income; and

107 [~~d~~] (e) revenue received from other sources.

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

110 (4) (a) The state treasurer shall invest trust fund money by following the procedures
111 and requirements of Part 3, Investment of Trust Funds.

112 (b) (i) The trust fund shall earn interest.

113 (ii) The state treasurer shall deposit all interest or other income earned from investment
114 of the trust fund back into the trust fund.

115 (5) The board of trustees created in Section 67-19f-202 may expend money from the
116 trust fund for:

117 (a) reimbursement to the employer of the costs paid to the trust fund in accordance
118 with Section 67-19-14.6 as annual leave II is used by an employee; [~~and~~]

119 (b) payments based on accrued annual leave and on accrued annual leave II that are
120 made upon termination of an employee; and

121 ~~[(b)]~~ (c) reasonable administrative costs that the board of trustees incurs in performing
122 its duties as trustee of the trust fund.

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

124 (a) money deposited into the trust fund is ~~expended only for the costs of annual leave~~
125 ~~H, including any allotted benefits under Subsection 67-19-14.6(4)]~~ irrevocable and is expended
126 only for the costs described in Subsection (5); and

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

129 (7) A creditor of the board of trustees or a state agency liable for annual leave benefits
130 may not seize, attach, or otherwise obtain assets of the trust fund.

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

132 **67-19f-202. Board of trustees of the State Employees' Annual Leave Trust Fund.**

133 (1) (a) There is created a board of trustees of the State Employees' Annual Leave
134 ~~[Program H]~~ Trust Fund composed of the following three members:

135 (i) the state treasurer or the state treasurer's designee;

136 (ii) the director of the Division of Finance or the director's designee; and

137 (iii) the executive director of the Governor's Office of Management and Budget or the
138 executive director's designee.

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

140 (c) Three members of the board is a quorum.

141 (d) A member may not receive compensation or benefits for the member's service, but
142 may receive per diem and travel expenses as allowed in:

143 (i) Section [63A-3-106](#);

144 (ii) Section [63A-3-107](#); and

145 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
146 [63A-3-107](#).

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

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

150 (2) The board shall:

151 (a) on behalf of the state, act as trustee of the trust fund created under Section

- 152 **67-19f-201** and exercise the state's fiduciary responsibilities;
- 153 (b) meet at least twice per year;
- 154 (c) review and approve the policies, projections, rules, criteria, procedures, forms,
- 155 standards, performance goals, and actuarial reports for the trust fund;
- 156 (d) review and approve the budget for the trust fund;
- 157 (e) review financial records for the trust fund, including trust fund receipts,
- 158 expenditures, and investments; and
- 159 (f) do any other things necessary to perform the state's fiduciary obligations under the
- 160 trust fund.
- 161 (3) The board may:
- 162 (a) commission and obtain actuarial studies of the liabilities for the trust fund; and
- 163 (b) for purposes of the trust fund, establish labor additive rates to charge for the
- 164 administrative expenses of the trust fund.
- 165 (4) The attorney general shall:
- 166 (a) act as legal counsel and provide legal representation to the board of trustees; and
- 167 (b) attend, or direct an attorney from the Office of the Attorney General to attend, each
- 168 meeting of the board of trustees.

Legislative Review Note
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Office of Legislative Research and General Counsel