

RETIREMENT SYSTEM TRANSPARENCY REQUIREMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to the public disclosure of information by employers participating in the Utah Retirement System.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires certain employers that participate in the Utah Retirement System to disclose employee compensation information through the Utah Public Finance Website or the employer's own website, if the employer is not currently required to disclose the information.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63A-1-201, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-1-202, as last amended by Laws of Utah 2019, Chapter 214 and renumbered and amended by Laws of Utah 2019, Chapter 370

Utah Code Sections Affected by Coordination Clause:

67-3-12, Utah Code Annotated 1953

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

31 Section 1. Section **63A-1-201** is amended to read:

32 **63A-1-201. Definitions.**

33 As used in this part:

34 (1) "Board" means the Utah Transparency Advisory Board created under Section
35 **63A-1-203**.

36 (2) "Department" means the Department of Administrative Services.

37 (3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same
38 as that term is defined in Section **63E-1-102**.

39 (b) "Independent entity" includes an entity that is part of an independent entity
40 described in this Subsection (3), if the entity is considered a component unit of the independent
41 entity under the governmental accounting standards issued by the Governmental Accounting
42 Standards Board.

43 (c) "Independent entity" does not include the Utah State Retirement Office created in
44 Section **49-11-201**.

45 (4) "Participating local entity" means each of the following local entities:

46 (a) a county;

47 (b) a municipality;

48 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local
49 Districts;

50 (d) a special service district under Title 17D, Chapter 1, Special Service District Act;

51 (e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

52 (f) a school district;

53 (g) a charter school;

54 (h) except for a taxed interlocal entity as defined in Section **11-13-602**;

55 (i) an interlocal entity as defined in Section **11-13-103**;

56 (ii) a joint or cooperative undertaking as defined in Section **11-13-103**; and

57 (iii) any project, program, or undertaking entered into by interlocal agreement in

58 accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

59 (i) except for a taxed interlocal entity as defined in Section [11-13-602](#), an entity that is
60 part of an entity described in Subsections (4)(a) through (h), if the entity is considered a
61 component unit of the entity described in Subsections (4)(a) through (h) under the
62 governmental accounting standards issued by the Governmental Accounting Standards Board;
63 and

64 (j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

65 (5) (a) "Participating state entity" means the state of Utah, including ~~[its]~~ the state's
66 executive, legislative, and judicial branches, ~~[its]~~ departments, divisions, agencies, boards,
67 commissions, councils, committees, and institutions.

68 (b) "Participating state entity" includes an entity that is part of an entity described in
69 Subsection (5)(a), if the entity is considered a component unit of the entity described in
70 Subsection (5)(a) under the governmental accounting standards issued by the Governmental
71 Accounting Standards Board.

72 (6) "Public financial information" means records that are required to be made available
73 on the Utah Public Finance Website, a participating local entity's website, or an independent
74 entity's website as required by this part, and as the term "public financial information" is
75 defined by rule ~~[under]~~ in accordance with Section [63A-1-204](#).

76 (7) (a) "URS-participating employer" means an entity that:

77 (i) is a participating entity, as that term is defined in Section [49-11-102](#); and

78 (ii) is not required to report public financial information under this part as:

79 (A) an independent entity;

80 (B) a participating local entity; or

81 (C) a participating state entity.

82 (b) "URS-participating employer" does not include:

83 (i) the Utah State Retirement Office created in Section [49-11-201](#); or

84 (ii) a withdrawing entity.

85 (8) (a) "Withdrawing entity" means an entity that elects to withdraw from participation

86 in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

87 (b) "Withdrawing entity" includes a withdrawing entity, as that term is defined in
88 Sections 49-11-623 and 49-11-624.

89 Section 2. Section **63A-1-202** is amended to read:

90 **63A-1-202. Utah Public Finance Website -- Establishment and administration --**
91 **Records disclosure -- Exceptions.**

92 (1) There is created the Utah Public Finance Website to be administered by the state
93 auditor.

94 (2) The Utah Public Finance Website shall:

95 (a) permit Utah taxpayers to:

96 (i) view, understand, and track the use of taxpayer dollars by making public financial
97 information available on the Internet for participating state entities, independent entities, ~~and~~
98 participating local entities, and URS-participating employers, using the Utah Public Finance
99 Website; and

100 (ii) link to websites administered by participating local entities ~~[or]~~, independent
101 entities, or URS-participating employers that do not use the Utah Public Finance Website for
102 the purpose of providing ~~[participating local entities' or independent entities']~~ public financial
103 information as required by this part and by rule ~~[under]~~ in accordance with Section **63A-1-204**;

104 (b) allow a person ~~[who]~~ that has Internet access to use the website without paying a
105 fee;

106 (c) allow the public to search public financial information on the Utah Public Finance
107 Website using criteria established by the board;

108 (d) provide access to financial reports, financial audits, budgets, or other financial
109 documents that are used to allocate, appropriate, spend, and account for government funds, as
110 may be established by rule ~~[under]~~ in accordance with Section **63A-1-204**;

111 (e) have a unique and simplified website address;

112 (f) be directly accessible via a link from the main page of the official state website;

113 (g) include other links, features, or functionality that will assist the public in obtaining

114 and reviewing public financial information, as may be established by rule under Section
115 63A-1-204; and

116 (h) include a link to school report cards published on the State Board of Education's
117 website under Section 53E-5-211.

118 (3) (a) The state auditor shall:

119 (i) establish and maintain the website, including the provision of equipment, resources,
120 and personnel as necessary;

121 (ii) maintain an archive of all information posted to the website;

122 (iii) coordinate and process the receipt and posting of public financial information from
123 participating state entities; and

124 (iv) coordinate and regulate the posting of public financial information by participating
125 local entities and independent entities.

126 (b) The department shall provide staff support for the advisory committee.

127 (4) (a) A participating state entity and each independent entity shall permit the public
128 to view the entity's public financial information via the website, beginning with information
129 that is generated not later than the fiscal year that begins July 1, 2008, except that public
130 financial information for an:

131 (i) institution of higher education shall be provided beginning with information
132 generated for the fiscal year beginning July 1, 2009; and

133 (ii) independent entity shall be provided beginning with information generated for the
134 entity's fiscal year beginning in 2014.

135 (b) [~~No later than May 15, 2009, the~~] The website shall:

136 (i) be operational; and

137 (ii) permit public access to participating state entities' public financial information,
138 except as provided in Subsections (4)(c) and (d).

139 (c) An institution of higher education that is a participating state entity shall submit the
140 entity's public financial information at a time allowing for inclusion on the website no later
141 than May 15, 2010.

142 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
143 submit the entity's public financial information for inclusion on the Utah Public Finance
144 Website or via a link to its own website on the Utah Public Finance Website.

145 (5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall
146 provide the following financial information to the state auditor for posting on the Utah Public
147 Finance Website:

148 (i) administrative fund expense transactions from its general ledger accounting system;
149 and

150 (ii) employee compensation information.

151 (b) The plan is not required to submit other financial information to the state auditor,
152 including:

153 (i) revenue transactions;

154 (ii) account owner transactions; and

155 (iii) fiduciary or commercial information, as defined in Section 53B-12-102.

156 (6) (a) The following independent entities shall each provide administrative expense
157 transactions from [its] the independent entity's general ledger accounting system and employee
158 compensation information to the state auditor for posting on the Utah Public Finance Website
159 or via a link to a website administered by the independent entity:

160 (i) the Utah Housing Corporation, created in Section 63H-8-201; and

161 (ii) the School and Institutional Trust Lands Administration, created in Section
162 53C-1-201.

163 (b) The Utah Capital Investment Corporation, an independent entity created in Section
164 63N-6-301, shall provide the following information to the division for posting on the Utah
165 Public Finance Website or via a link to a website administered by the independent entity for
166 each fiscal year ending on or after June 30, 2015:

167 (i) aggregate compensation information for full-time and part-time employees,
168 including benefit information;

169 (ii) aggregate business travel expenses;

170 (iii) aggregate expenses related to the Utah Capital Investment Corporation's allocation
171 manager; and

172 (iv) aggregate administrative, operating, and finance costs.

173 (c) For purposes of this part, an independent entity described in Subsection (6)(a) or (b)
174 is not required to submit to the state auditor, or provide a link to, other financial information,
175 including:

176 (i) revenue transactions of a fund or account created in its enabling statute;

177 (ii) fiduciary or commercial information related to any subject if the disclosure of the
178 information:

179 (A) would conflict with fiduciary obligations; or

180 (B) is prohibited by insider trading provisions;

181 (iii) information of a commercial nature, including information related to:

182 (A) account owners, borrowers, and dependents;

183 (B) demographic data;

184 (C) contracts and related payments;

185 (D) negotiations;

186 (E) proposals or bids;

187 (F) investments;

188 (G) the investment and management of funds;

189 (H) fees and charges;

190 (I) plan and program design;

191 (J) investment options and underlying investments offered to account owners;

192 (K) marketing and outreach efforts;

193 (L) lending criteria;

194 (M) the structure and terms of bonding; and

195 (N) financial plans or strategies; and

196 (iv) information protected from public disclosure by federal law.

197 (7) (a) As used in this Subsection (7):

- 198 (i) "Local education agency" means a school district or a charter school.
- 199 (ii) "New school building project" means:
- 200 (A) the construction of a school or school facility that did not previously exist in a local
201 education agency; or
- 202 (B) the lease or purchase of an existing building, by a local education agency, to be
203 used as a school or school facility.
- 204 (iii) "School facility" means a facility, including a pool, theater, stadium, or
205 maintenance building, that is built, leased, acquired, or remodeled by a local education agency
206 regardless of whether the facility is open to the public.
- 207 (iv) "Significant school remodel" means a construction project undertaken by a local
208 education agency with a project cost equal to or greater than \$2,000,000, including:
- 209 (A) the upgrading, changing, alteration, refurbishment, modification, or complete
210 substitution of an existing school or school facility in a local education agency; or
- 211 (B) the addition of a school facility.
- 212 (b) For each new school building project or significant school remodel, the local
213 education agency shall:
- 214 (i) prepare an annual school plant capital outlay report; and
- 215 (ii) submit the report:
- 216 (A) to the state auditor for publication on the Utah Public Finance Website; and
- 217 (B) in a format, including any raw data or electronic formatting, prescribed by
218 applicable policy established by the state auditor.
- 219 (c) The local education agency shall include in the capital outlay report described in
220 Subsection (7)(b)(i) the following information as applicable to each new school building
221 project or significant school remodel:
- 222 (i) the name and location of the new school building project or significant school
223 remodel;
- 224 (ii) construction and design costs, including:
- 225 (A) the purchase price or lease terms of any real property acquired or leased for the

226 project or remodel;

227 (B) facility construction;

228 (C) facility and landscape design;

229 (D) applicable impact fees; and

230 (E) furnishings and equipment;

231 (iii) the gross square footage of the project or remodel;

232 (iv) the year construction was completed; and

233 (v) the final student capacity of the new school building project or, for a significant

234 school remodel, the increase or decrease in student capacity created by the remodel.

235 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),

236 the local education agency shall report the actual cost, fee, or other expense.

237 (ii) The state auditor may require that a local education agency provide further itemized

238 data on information listed in Subsection (7)(c).

239 (e) (i) No later than May 15, 2015, a local education agency shall provide the state

240 auditor a school plant capital outlay report for each new school building project and significant

241 school remodel completed on or after July 1, 2004, and before May 13, 2014.

242 (ii) For a new school building project or significant school remodel completed after

243 May 13, 2014, the local education agency shall provide the school plant capital outlay report

244 described in this Subsection (7) to the state auditor annually by a date designated by the state

245 auditor.

246 (8) A URS-participating employer shall provide employee compensation information

247 for each fiscal year ending on or after June 30, 2022:

248 (a) to the state auditor for posting on the Utah Public Finance Website; or

249 (b) (i) through the URS-participating employer's own website; and

250 (ii) via a link to the website described in Subsection (8)(b)(i), submitted to the state

251 auditor for posting on the Utah Public Finance Website.

252 ~~[(8)]~~ (9) [A person] An individual who negligently discloses a record that is classified

253 as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and

254 Management Act, is not criminally or civilly liable for an improper disclosure of the record if
255 the record is disclosed solely as a result of the preparation or publication of the Utah Public
256 Finance Website.

257 Section 3. **Coordinating S.B. 115 with H.B. 27 -- Substantive amendments.**

258 If this S.B. 115 and H.B. 27, Public Information Website Modifications, both pass and
259 become law, it is the intent of the Legislature that the Office of Legislative Research and
260 General Counsel shall prepare the Utah Code database for publication as follows:

261 (1) Subsection 67-3-12(1)(g) is amended to read:

262 "(g) "Qualifying entity" means:

263 (i) an independent entity;

264 (ii) a participating local entity;

265 (iii) a participating state entity;

266 (iv) a local education agency;

267 (v) a state institution of higher education as defined in Section [53B-3-102](#);

268 (vi) the Utah Educational Savings Plan created in Section [58B-8a-103](#);

269 (vii) the Utah Housing Corporation created in Section [63H-8-201](#);

270 (viii) the School and Institutional Trust Lands Administration created in Section
271 [53C-1-201](#);

272 (ix) the Utah Capital Investment Corporation created in Section [63N-6-301](#); or

273 (x) a URS-participating employer.";

274 (2) the following language is inserted as a new Subsection 67-3-12(1)(h):

275 "(h) (i) "URS-participating employer" means an entity that:

276 (A) is a participating entity, as that term is defined in Section [49-11-102](#); and

277 (B) is not required to report public financial information under this section as a
278 qualifying entity described in Subsections (1)(g)(i) through (ix).

279 (ii) "URS-participating employer" does not include:

280 (A) the Utah State Retirement Office created in Section [49-11-201](#); or

281 (B) a withdrawing entity.

282 (i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation
283 in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

284 (ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in
285 Sections [49-11-623](#) and [49-11-624](#).";

286 (3) Subsection 67-3-12(3)(a) is amended to read:

287 "(a) permit Utah taxpayers to:

288 (i) view, understand, and track the use of taxpayer dollars by making public financial
289 information available on the Internet for participating state entities, independent entities, [and]
290 participating local entities, and URS-participating employers using the [Utah Public Finance
291 Website] website; and

292 (ii) link to websites administered by participating local entities [or], independent
293 entities, or URS-participating employers that do not use the [Utah Public Finance Website]
294 website for the purpose of providing [participating local entities' or independent entities']
295 public financial information as required by this [part] section and by rule made under [Section
296 [63A-1-204](#)] Subsection (8);"; and

297 (4) the following language is inserted as a new Subsection 67-3-12(9):

298 "(9) The rules made under Subsection (8) shall only require a URS-participating
299 employer to provide employee compensation information for each fiscal year ending on or after
300 June 30, 2022:

301 (a) to the state auditor for posting on the public finance website; or

302 (b) (i) through the URS-participating employer's own website; and

303 (ii) via a link to the website described in Subsection (9)(b)(i), submitted to the state
304 auditor for posting on the public finance website."