

SB0115S01 compared with SB0115

~~deleted text~~ shows text that was in SB0115 but was deleted in SB0115S01.

inserted text shows text that was not in SB0115 but was inserted into SB0115S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

RETIREMENT SYSTEM TRANSPARENCY REQUIREMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

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

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Other Special Clauses:

~~{ None }~~ 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

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

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

63A-1-201. Definitions.

As used in this part:

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

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

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

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

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

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

(a) a county;

(b) a municipality;

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

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

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- (e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;
 - (f) a school district;
 - (g) a charter school;
 - (h) except for a taxed interlocal entity as defined in Section 11-13-602:
 - (i) an interlocal entity as defined in Section 11-13-103;
 - (ii) a joint or cooperative undertaking as defined in Section 11-13-103; and
 - (iii) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
 - (i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (4)(a) through (h), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board; and
 - (j) a conservation district under Title 17D, Chapter 3, Conservation District Act.
- (5) (a) "Participating state entity" means the state of Utah, including ~~[its]~~ the state's executive, legislative, and judicial branches, ~~[its]~~ departments, divisions, agencies, boards, commissions, councils, committees, and institutions.
- (b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.
- (6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule ~~[under]~~ in accordance with Section 63A-1-204.
- (7) (a) "URS-participating employer" means an entity that:
- (i) is a participating entity, as that term is defined in Section 49-11-102; and
 - (ii) is not required to report public financial information under this part as:
 - (A) an independent entity;
 - (B) a participating local entity; or
 - (C) a participating state entity.

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(b) "URS-participating employer" does not include the Utah State Retirement Office created in Section 49-11-201.

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

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

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

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

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

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

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

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

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

(e) have a unique and simplified website address;

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

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-1-204; and

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

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(3) (a) The state auditor shall:

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

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

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

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

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

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

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

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

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

(i) be operational; and

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

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

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

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

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

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and

(ii) employee compensation information.

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

(i) revenue transactions;

(ii) account owner transactions; and

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

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

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

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

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

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

(ii) aggregate business travel expenses;

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

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

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

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

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

(A) would conflict with fiduciary obligations; or

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- (B) is prohibited by insider trading provisions;
- (iii) information of a commercial nature, including information related to:
 - (A) account owners, borrowers, and dependents;
 - (B) demographic data;
 - (C) contracts and related payments;
 - (D) negotiations;
 - (E) proposals or bids;
 - (F) investments;
 - (G) the investment and management of funds;
 - (H) fees and charges;
 - (I) plan and program design;
 - (J) investment options and underlying investments offered to account owners;
 - (K) marketing and outreach efforts;
 - (L) lending criteria;
 - (M) the structure and terms of bonding; and
 - (N) financial plans or strategies; and
- (iv) information protected from public disclosure by federal law.
- (7) (a) As used in this Subsection (7):
 - (i) "Local education agency" means a school district or a charter school.
 - (ii) "New school building project" means:
 - (A) the construction of a school or school facility that did not previously exist in a local education agency; or
 - (B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.
 - (iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.
 - (iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:
 - (A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

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(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the state auditor for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable policy established by the state auditor.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

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

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The state auditor may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the state auditor a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

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(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the state auditor annually by a date designated by the state auditor.

(8) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2021:

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

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

(ii) via a link to the website described in Subsection (8)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

~~[(8)]~~ (9) [A person] An individual who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

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

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

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

"(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

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

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

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

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

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

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(x) a URS-participating employer.";

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

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

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

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

(ii) "URS-participating employer" does not include the Utah State Retirement Office created in Section 49-11-201.";

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

"(a) permit Utah taxpayers to:

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

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

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

"(9) The rules made under Subsection (8) shall require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2021:

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

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

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