



1995 ASSEMBLY BILL 867

February 7, 1996 - Introduced by Representatives ALBERS, JENSEN, BALDUS, CULLEN, DUFF, GOETSCH, LA FAVE, LAZICH, SCHNEIDERS, SPRINGER, URBAN, WALKER, WASSERMAN and ZIEGELBAUER, cosponsored by Senators DARLING, FARROW, HUELSMAN, PANZER, RUDE, SHIBILSKI and WELCH. Referred to Committee on Insurance, Securities and Corporate Policy.

1 **AN ACT to amend** 180.0122 (1) (a), 180.0122 (1) (m), 180.0122 (1) (n), 180.0122
2 (1) (o), 180.0122 (1m) (intro.), 180.0202 (1) (c), 180.0202 (1) (d) 2., 180.0202 (1)
3 (e) 2., 180.0601 (1), 180.0601 (2), 180.0602 (1) (b), 180.0602 (2) (c), 180.0602 (2)
4 (d), 180.0603 (1), 180.0631 (3) (b) (intro.), 180.0701 (4) (intro.), 180.1002 (8) and
5 180.1622 (1) (f); **to repeal and recreate** 180.0631 (3) (b) (intro.); and **to create**
6 180.0103 (11e), 180.0122 (1m), 180.0602 (1) (c), 180.1002 (7m), 180.1002 (8m)
7 and 180.1002 (8n) of the statutes; **relating to:** corporations that are
8 investment companies.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes relating to corporations that state in their articles of incorporation that they are registered, or are organized for the purpose of registering, as management investment companies under the federal investment company act of 1940 (investment companies). These changes include the following:

1. The bill permits investment companies to declare an indefinite number of authorized shares. Under current law, the articles of incorporation are currently required to specify the number of authorized shares. Similarly, current law requires that the articles of incorporation specify the number of shares of each class that the corporation is authorized to issue and the number of shares of each series of each class that the corporation is authorized to issue. This bill permits an investment company to specify an indefinite number of authorized shares and to specify that each class and each series of shares have an indefinite number of authorized shares in a class and shares in a series of a class. The bill permits the board of director's to declare an indefinite number of authorized shares without shareholder approval, unless the articles of incorporation provide otherwise.

2. The bill changes filing fees for investment companies that have authorized an indefinite number of shares and that file articles of incorporation, amendments of the articles of incorporation, restatements of articles of incorporation or articles of merger. Under current law, these fees are based on the number of authorized shares. Under the bill, for investment companies that have authorized an indefinite number of shares, the filing fee for articles of incorporation is \$12,500. The formula for computing the filing fee for amendments to the articles of incorporation, restatements of the articles of incorporation or articles of merger are amended so that, if the amendment, restatement or articles of merger authorize an indefinite number of shares, the filing fee is based on \$12,500, rather than the number of authorized shares.

3. The bill authorizes the board of directors of an investment company to change the corporate name of the investment company without shareholder approval, if the investment company notifies shareholders of the change in corporate name not less than 30 days before the effective date of the change. Under current law, shareholder approval would generally be required. The bill also allows a company that is registered, or organized for the purpose of registering, as a management investment company under the federal investment company act of 1940, to amend its articles of incorporation without shareholder approval to state that it is an investment company, making the company subject to the provisions contained in this bill.

4. The bill permits the board of directors of an investment company, to the extent provided in the articles of incorporation, to change the distinguishing designation of a class or series of shares, if the change does not affect the preferences, limitations and relative rights, in whole or in part, of the class or series. Under current law, shareholder approval would be required.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 180.0103 (11e) of the statutes is created to read:

2 180.0103 (11e) "Investment company" means a corporation that is registered,
3 or is organized for the purpose of registering, as a management investment company
4 under 15 USC 80a-1 to 80a-64, if the corporation's articles of incorporation state
5 that the corporation is registered or is organized for the purposes of registering as
6 a management investment company under 15 USC 80a-1 to 80a-64.

7 **SECTION 2.** 180.0122 (1) (a) of the statutes is amended to read:

1 180.0122 (1) (a) Articles of incorporation, 1 cent for each authorized share,
2 except the minimum fee is \$90 and the maximum fee is \$10,000 and except that the
3 fee for investment companies is determined under sub. (1m).

4 **SECTION 3.** 180.0122 (1) (m) of the statutes is amended to read:

5 180.0122 (1) (m) Amendment of articles of incorporation, \$40; plus 1 cent for
6 each authorized share after the amendment, less a credit of 1 cent for each
7 authorized share immediately before the amendment; except the maximum fee
8 under this paragraph is \$10,000 and except that the fee for investment companies
9 is determined under sub. (1m).

10 **SECTION 4.** 180.0122 (1) (n) of the statutes is amended to read:

11 180.0122 (1) (n) Restatement of articles of incorporation with or without
12 amendment of articles, \$40; plus 1 cent for each authorized share after the
13 restatement and any amendment, less a credit of 1 cent for each authorized share
14 immediately before the restatement and any amendment; except the maximum fee
15 under this paragraph is \$10,000 and except that the fee for investment companies
16 is determined under sub. (1m).

17 **SECTION 5.** 180.0122 (1) (o) of the statutes is amended to read:

18 180.0122 (1) (o) Articles of merger, \$50 for each domestic corporation and each
19 foreign corporation authorized to transact business in this state that is a party to the
20 merger; plus 1 cent for each authorized share of the surviving domestic corporation
21 after the merger, less a credit of 1 cent for each share that is authorized immediately
22 before the merger by each domestic corporation that is a party to the merger; except
23 the maximum fee under this paragraph is \$10,000 and except that the fee for
24 investment companies is determined under sub. (1m).

25 **SECTION 6.** 180.0122 (1m) of the statutes is created to read:

1 180.0122 **(1m)** The secretary of state shall collect the following fees when the
2 documents described in this subsection are delivered to him or her for filing by an
3 investment company:

4 (a) Articles of incorporation; an amount determined as follows:

5 1. If the investment company declares an indefinite number of authorized
6 shares, \$12,500.

7 2. If the investment company does not declare an indefinite number of
8 authorized shares, 1 cent for each authorized share, except the minimum fee under
9 this subdivision is \$90 and the maximum fee is \$10,000.

10 (b) Amendment of articles of incorporation; \$40, unless the amendment
11 increases the number of authorized shares or declares an indefinite number of
12 authorized shares, in which case an amount determined as follows shall be added to
13 the \$40 fee:

14 1. If the amendment increases the number of authorized shares, 1 cent for each
15 authorized share after the amendment, less a credit of 1 cent for each authorized
16 share immediately before the amendment; except the maximum fee under this
17 subdivision is \$10,000.

18 2. If the amendment declares an indefinite number of authorized shares,
19 \$12,500, less a credit of 1 cent for each authorized share immediately before the
20 amendment.

21 (c) Restatement of articles of incorporation with or without amendment of
22 articles; \$40, unless the restatement also amends the articles to increase the number
23 of authorized shares or to declare an indefinite number of authorized shares, in
24 which case an amount determined as follows shall be added to the \$40 fee:

1 1. If the restatement amends the articles to increase the number of authorized
2 shares, 1 cent for each authorized share after the amendment, less a credit of 1 cent
3 for each authorized share immediately before the amendment; except the maximum
4 fee under this subdivision is \$10,000.

5 2. If the restatement amends the articles to declare an indefinite number of
6 authorized shares, \$12,500, less a credit of 1 cent for each authorized share
7 immediately before the amendment.

8 (d) Articles of merger; \$50 for each domestic or foreign investment company
9 that is a party to the merger, plus the following:

10 1. If the surviving domestic investment company has an indefinite number of
11 authorized shares, \$12,500, less a credit for each share that is authorized
12 immediately before the merger by each domestic investment company that is a party
13 to the merger.

14 2. If the surviving domestic investment company does not have an indefinite
15 number of authorized shares, 1 cent for each authorized share of the surviving
16 domestic corporation after the merger, less a credit of 1 cent for each share that is
17 authorized immediately before the merger by each domestic corporation that is a
18 party to the merger; except the maximum fee under this subdivision is \$10,000.

19 **SECTION 7.** 180.0122 (1m) (intro.) of the statutes, as created by 1995 Wisconsin
20 Act (this act), is amended to read:

21 180.0122 (1m) (intro.) The ~~secretary of state~~ department shall collect the
22 following fees when the documents described in this subsection are delivered to ~~him~~
23 ~~or her~~ the department for filing by an investment company:

24 **SECTION 8.** 180.0202 (1) (c) of the statutes is amended to read:

1 180.0202 (1) (c) The number of authorized shares, except that an investment
2 company may declare an indefinite number of authorized shares.

3 **SECTION 9.** 180.0202 (1) (d) 2. of the statutes is amended to read:

4 180.0202 (1) (d) 2. The number of shares of each class that the corporation is
5 authorized to issue, except that an investment company may declare that each class
6 has an indefinite number of authorized shares.

7 **SECTION 10.** 180.0202 (1) (e) 2. of the statutes is amended to read:

8 180.0202 (1) (e) 2. The number of shares of each series that the corporation is
9 authorized to issue, except that an investment company may declare that each series
10 has an indefinite number of authorized shares.

11 **SECTION 11.** 180.0601 (1) of the statutes is amended to read:

12 180.0601 (1) The articles of incorporation shall prescribe the classes of shares
13 and the number of shares of each class that the corporation is authorized to issue,
14 except that an investment company may prescribe that each class has an indefinite
15 number of authorized shares. If more than one class of shares is authorized, the
16 articles of incorporation shall prescribe a distinguishing designation for each class.
17 Before the issuance of shares of a class, the corporation shall describe in its articles
18 of incorporation the preferences, limitations and relative rights of that class. All
19 shares of a class shall have preferences, limitations and relative rights identical with
20 those of other shares of the same class unless the class is divided into series.

21 **SECTION 12.** 180.0601 (2) of the statutes is amended to read:

22 180.0601 (2) The articles of incorporation may create series of shares within
23 a class of shares, except that an investment company may prescribe that each series
24 has an indefinite number of authorized shares. Before the issuance of shares of a
25 series, the corporation shall describe in its articles of incorporation the number of

1 shares of each series that the corporation is authorized to issue or that there is an
2 indefinite number of authorized shares, a distinguishing designation for each series
3 within a class and the preferences, limitations and relative rights of that series. All
4 shares of a series shall have preferences, limitations and relative rights identical
5 with those of other shares of the same series and, except to the extent otherwise
6 provided in the description of the series, with those of other series of the same class.

7 **SECTION 13.** 180.0602 (1) (b) of the statutes is amended to read:

8 180.0602 (1) (b) Create one or more series within a class, and, with respect to
9 any series, determine the number of shares of the series, the distinguishing
10 designation and the preferences, limitations and relative rights, in whole or in part,
11 before the issuance of any shares of that series, except that an investment company
12 may prescribe that each series has an indefinite number of authorized shares.

13 **SECTION 14.** 180.0602 (1) (c) of the statutes is created to read:

14 180.0602 (1) (c) In the case of an investment company, change the
15 distinguishing designation of a class or series of shares, whether or not shares of the
16 class are issued and outstanding, if the change does not affect the preferences,
17 limitations and relative rights, in whole or in part, of the class or series.

18 **SECTION 15.** 180.0602 (2) (c) of the statutes is amended to read:

19 180.0602 (2) (c) The number of shares of the class or series of shares created,
20 except that an investment company may prescribe that each class and each series
21 have an indefinite number of authorized shares.

22 **SECTION 16.** 180.0602 (2) (d) of the statutes is amended to read:

23 180.0602 (2) (d) A statement that none of the shares of the class or series has
24 been issued, except that this statement is not required if the only amendment to the
25 articles of incorporation is made pursuant to sub. (1) (c).

1 **SECTION 17.** 180.0603 (1) of the statutes is amended to read:

2 180.0603 (1) A corporation may issue the number of shares of each class or
3 series authorized by the articles of incorporation. If an investment company has
4 authorized an indefinite number of shares, there is no limit on the number of shares
5 that the investment company may issue. Shares that are issued are outstanding
6 shares until they are reacquired, redeemed, converted or canceled.

7 **SECTION 18.** 180.0631 (3) (b) (intro.) of the statutes is amended to read:

8 180.0631 (3) (b) (intro.) If the articles of incorporation prohibit the reissuance
9 of acquired shares, the number of authorized shares is reduced by the number of
10 shares acquired by the corporation, effective upon amendment of the articles of
11 incorporation, except in the case of an investment company that has authorized an
12 indefinite number of shares. The board of directors may adopt articles of amendment
13 under this paragraph without shareholder action and deliver them to the secretary
14 of state for filing. The articles shall include all of the following information:

15 **SECTION 19.** 180.0631 (3) (b) (intro.) of the statutes, as affected by 1995
16 Wisconsin Acts 27 and (this act), is repealed and recreated to read:

17 180.0631 (3) (b) (intro.) If the articles of incorporation prohibit the reissuance
18 of acquired shares, the number of authorized shares is reduced by the number of
19 shares acquired by the corporation, effective upon amendment of the articles of
20 incorporation, except in the case of an investment company that has authorized an
21 indefinite number of shares. The board of directors may adopt articles of amendment
22 under this paragraph without shareholder action and deliver them to the
23 department for filing. The articles shall include all of the following information:

24 **SECTION 20.** 180.0701 (4) (intro.) of the statutes is amended to read:

1 180.0701 (4) (intro.) If so provided in the articles of incorporation or bylaws of
2 ~~a corporation registered under the federal investment company act of 1940, as~~
3 ~~amended, the corporation~~ an investment company, the investment company is not
4 required to hold an annual meeting of shareholders in any year in which none of the
5 following matters is required to be acted on by the shareholders under ~~the federal~~
6 ~~investment company act of 1940, as amended~~ 15 USC 80a-1 to 80a-64:

7 **SECTION 21.** 180.1002 (7m) of the statutes is created to read:

8 180.1002 (7m) In the case of an investment company, to change the corporate
9 name, if the investment company notifies shareholders of the change in corporate
10 name not less than 30 days before the effective date of the change.

11 **SECTION 22.** 180.1002 (8) of the statutes is amended to read:

12 180.1002 (8) If the articles of incorporation so provide, to ~~create a series of~~
13 ~~shares, to determine the numbers of shares of a series, the distinguishing~~
14 ~~designation and the preferences, limitations and relative rights of a series of shares,~~
15 ~~or to determine the preferences, limitations and relative rights of a class of shares,~~
16 ~~to the extent~~ make a change permitted by s. 180.0602.

17 **SECTION 23.** 180.1002 (8m) of the statutes is created to read:

18 180.1002 (8m) In the case of an investment company, to declare an indefinite
19 number of authorized shares.

20 **SECTION 24.** 180.1002 (8n) of the statutes is created to read:

21 180.1002 (8n) In the case of a company that is registered, or is organized for
22 the purpose of registering, as a management investment company under 15 USC
23 80a-1 to 80a-64, to state that the corporation is registered or is organized for the
24 purposes of registering as a management investment company under 15 USC 80a-1
25 to 80a-64.

