

1973 Senate Bill 449

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CHAPTER 137 , Laws of 1973

AN ACT to repeal 25.17 (1) (c), (v), (wm) and (z), 41.04 (1) (h), 41.12 (7) (b), 41.17 (2), 41.18 (2), 41.20 (2) (b) and (3) and 41.42; to renumber and amend 41.12 (7) (c) and 41.17 (1); to amend 25.14 (1), 25.17 (3) (a) and (bh), (4) and (5), 41.04 (1) (f), 41.33, 42.21, 42.243 (4) (b) 1 and 2, (5) and (6), 42.245 (7) (d), 42.50 (1) (a), 42.76 (4) (b) 1 and 2, (5) and (6) and 42.78 (8) (b); to repeal and recreate 25.17 (14) and (15), 41.18 (1), 41.32 (4) and 42.223 (4); and to create 25.17 (1) (fm) and (y) and 40.06 of the statutes, relating to investment by the investment board of employe trust funds.

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

SECTION 1. 25.14 (1) of the statutes is amended to read:

25.14 (1) There is created a state investment fund under the jurisdiction and management of the investment board (hereinafter referred to as "board") to be operated as an investment trust for the purpose of managing the securities of all the state's funds consisting of the funds specified in s. 25.17 (1) except the ~~conservation wardens pension fund~~, state insurance fund, state life fund, ~~state teachers retirement fund~~, ~~Milwaukee teachers retirement fund~~, ~~Wisconsin retirement fund~~ fixed retirement investment trust, variable retirement investment trust, capital improvement fund, bond security and redemption fund, state building trust fund, the trust funds of the historical society, funds which by the constitution are required to be controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be controlled and invested by any other authority, the university trust funds and the trust funds of the state universities except that the respective authorities controlling the investment of any such excluded fund or funds may authorize the transfer of any temporary cash assets of any such excluded fund or funds to the state investment fund in accordance with subs. (2) and (3).

SECTION 2. 25.17 (1) (c), (v), (wm) and (z) of the statutes are repealed.

SECTION 3. 25.17 (1) (fm) and (y) of the statutes are created to read:

25.17 (1) (fm) Fixed retirement investment trust (s. 40.06);

(y) Variable retirement investment trust (s. 40.06);

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SECTION 4. 25.17 (3) (a) and (bh), (4) and (5) of the statutes are amended to read:

25.17 (3) (a) Invest any of the following funds: 1. ~~conservation wardens pension fund fixed retirement investment trust~~; 2. state life fund; 3. ~~state teachers retirement fund system~~; 4. ~~Milwaukee teachers retirement fund~~; 5. ~~Wisconsin retirement fund~~; 6. veterans trust fund, in loans, securities and any other investments authorized by s. 206.34 of the 1969 statutes, and in bonds or other evidences of indebtedness or preferred stock of companies engaged in the finance business whether as direct lenders or as holding companies owning subsidiaries engaged in the finance business, provided such investments meet all other requirements of s. 206.34 of the 1969 statutes. Such investments previously permitted by s. 206.34 (1) (m) or sub. (4) are deemed to be permitted investments under this subsection.

(bh) Invest the ~~conservation wardens pension fund~~, fixed retirement investment trust and state life fund, ~~state teachers retirement fund~~, ~~Milwaukee teachers retirement fund~~ and ~~Wisconsin retirement fund~~ in loans secured by mortgages upon ~~unincumbered~~ unencumbered and improved real property in the United States or Canada when such real estate is leased to a corporation incorporated or existing under the laws of the United States or any state, district or territory thereof, or Canada or any ~~Province~~ province thereof, whose income available for fixed charges for the period of 5 fiscal years next preceding the date of the investment has averaged not less than ~~one and one half~~ 1-1/2 times its average annual fixed charges applicable to such period, if there is pledged and assigned, either absolutely or conditionally, as additional security for the loan either the lease or sufficient of the rentals payable thereunder to repay the principal and interest of the loan within the unexpired term of the lease. Real property and leasehold estates are not ~~incumbered~~ encumbered within the meaning of this section by reason of the existence of unpaid assessments and taxes not delinquent, mineral, oil or timber rights, easements or rights of way for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements or rights of way, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner. The foregoing limitations and restrictions shall not apply to real estate loans which are insured under the national housing act by the federal housing administration or to real estate loans made under ch. 219.

(4) Invest the funds of the ~~state teachers retirement system~~, ~~the Wisconsin retirement fund~~ and ~~each teachers annuity and retirement fund created under subch. II of ch. 42~~ fixed retirement investment trust in loans, securities or investments in addition to those permitted by any other section of the statutes, but the aggregate of the loans, securities and investments made under this subsection shall not exceed 15% of the admitted assets of ~~each of said funds~~ trust.

(5) The limitations upon the percentage of the assets of any fund which are imposed by sub. (4) or any other statute shall not be applicable to investments made by the investment board of funds in the variable ~~annuity divisions~~ retirement investment trust created under s. ~~41.01 (2), 42.243 or 42.76~~ respectively, 40.06 and said investments shall be excluded in computing the assets to which any such limitations apply. Assets of ~~said variable annuity divisions~~, the variable retirement investment trust shall be invested primarily in equity securities which shall include common stocks, real estate or other recognized forms of equities whether or not subject to indebtedness, including securities convertible into common stocks except that the investment board temporarily may invest such assets in investments which are

authorized under sub. (3), but the assets so temporarily invested shall be replaced by equity securities at the earliest time deemed by the board to be practicable considering the then existing condition of the securities market and other influential factors.

SECTION 5. 25.17 (14) and (15) of the statutes are repealed and recreated to read:

25.17 (14) The investment board shall as of June 30 and December 31 of each year make and file with the department of employe trust funds a report of the value of the assets of the fixed retirement investment trust and of the variable retirement investment trust, determined as of each such date at market value for the variable retirement investment trust and on the following basis for the fixed retirement investment trust:

(a) Bonds shall be valued at par. Other evidences of debt and loans secured by mortgages having a fixed term and rate shall be valued at face amount.

(b) Preferred stocks shall be valued at current market value, but if no current market exists shall be valued at par.

(c) Real property which is leased to others shall be valued at cost less the total of principal paid to date.

(d) Any preferred stock, bond, or mortgage which is in arrears or in default shall be assigned a value by the investment board which will approximate what the board in its sole discretion feels the asset is worth.

(e) All other investments shall be valued at market.

(f) With respect to all securities under pars. (a) to (e), the amount of any premium or discount at time of purchase, gain or loss at time of sale or other disposition, premium on call or redemption, commitment or standby fee, profit or loss on residual value, scrap value, fire or casualty award, condemnation award, adjustment in book value, or other gains or losses shall be transferred to the transaction amortization account of the fixed retirement investment trust under s. 40.06.

(g) With respect to all securities under pars. (a) to (e), the amount of any dividend, interest income, accrued interest received or accrued interest paid, arrears of interest or any other adjustment in interest shall be transferred to the current income account of the fixed retirement investment trust under s. 40.06.

(15) For purposes of the power and authority of the investment board to make investments the "admitted assets" of the fixed retirement investment trust or the variable retirement investment trust shall be the total valuation of the assets of such trust as set forth in the last report made pursuant to sub. (14), plus the purchase price of any investments, other than common stocks, made subsequent to such last report, minus the admitted asset value of any asset sold, other than common stocks, subsequent to such last report, plus the market value of the common stocks of the trust on the last day of the preceding month. Any percentage limitation or permission respecting the power and authority of the investment board to make investments shall be calculated as each occasion for investment occurs and upon the admitted assets of the trust at that time.

SECTION 6. 40.06 of the statutes is created to read:

40.06 Retirement investment trusts. (1) There are created as separate funds a fixed retirement investment trust and a variable retirement investment trust under the jurisdiction and management of the investment board for the purpose of managing the securities of all the retirement funds specified in chs. 41 and 42. Within the fixed

retirement investment trust there shall be maintained a transaction amortization account and a current income account, and such other accounts as are established by the investment board or the employe trust funds board. Administrative costs determined in accordance with s. 40.01 shall be paid from the fixed retirement investment trust and the variable retirement investment trust prior to any distribution therefrom.

(2) At such time as the employe trust funds board determines, all of the securities held by the retirement funds provided for in chs. 41 and 42 shall be transferred, at values determined by the employe trust funds board to be equitable to each fund as of the date of transfer (with appropriate provision, if necessary, for amortizing over a period of years any one-time adjustments required to achieve such equity) to the appropriate trust created under sub. (1) together with such amounts of cash as may be required to provide each contributing fund an equity in each of the trusts created under sub. (1) which may be expressed in terms of even thousands of dollars. Thereafter the department of administration shall make such subsequent transfers of money between the individual funds and the trusts created under sub. (1) as are necessary to meet the current cash requirements of the individual funds, such transfers to be made on the basis of even thousands of dollars, and shall furnish to the department of employe trust funds and to the investment board such information with respect to daily balances of individual funds within the trusts created under sub. (1) as are required.

(3) All earnings, profits or losses of the fixed retirement investment trust and the net gain or loss of the variable retirement investment trust, less transfers made in accordance with s. 40.01, shall be distributed to each participating fund in the same ratio as each such fund's average daily balance within the respective investment trust bears to the total average daily balance of all participating funds in that investment trust. The distribution may be made at such times as the department of employe trust funds determines, but must be made at least semiannually on June 30 and December 31. Any such distribution shall be determined as follows:

(a) For the fixed retirement investment trust the amount to be distributed as provided herein, on a semiannual basis, shall be 3.5% of the then balance of the transaction amortization account plus the then balance of the current income account. For any distribution on other than a semiannual basis, the percentages specified herein shall be changed proportionately.

(b) For the variable retirement investment trust the amount of net gain to be distributed for any period shall be the excess of 1) the increase within the period in the value of the assets of the trust resulting from income from the investments thereof and from the sale or appreciation in value of any investment thereof, over 2) the decrease within the period in the value of such assets resulting from transfers made pursuant to s. 40.01, and from the sale or the depreciation in value of any investments thereof. If the decrease exceeds the increase the amount of such excess shall be the net loss of the trust for the period.

(4) The assets of each of the investment trusts shall be mingled in one fund, and no particular contributing fund shall have any right in any specific item of cash, investment or other property other than an undivided interest in the whole as provided herein. The department of administration shall maintain such records as may be required to account for each contributing fund's share in the corresponding investment trust.

(5) The department of employe trust funds shall advise the investment board and the state treasurer as to the limitations on the amounts of cash to be invested in order

to maintain such cash balances as are deemed advisable to meet current annuity, benefit and expense requirements.

SECTION 7. 41.04 (1) (f) of the statutes is amended to read:

41.04 (1) (f) Submit an annual statement to the governing body of each participating employer, and to any participating employe upon request, as soon after the end of each calendar year as possible. Such statement shall include a balance sheet, showing the financial and actuarial condition of the fund as of the end of the calendar year, a statement of receipts and disbursements during such year, a statement showing changes in the assets, liability, reserve and surplus accounts during such year, information as to investments and such additional statistics as are deemed necessary for a proper interpretation of the condition of the fund. ~~Upon written request a detailed statement of investments shall be available to each participant or participating employer.~~

SECTION 8. 41.04 (1) (h) of the statutes is repealed.

SECTION 9. 41.12 (7) (b) of the statutes is repealed.

SECTION 10. 41.12 (7) (c) of the statutes is renumbered 41.12 (7) and amended to read:

41.12 (7) The rate of net gain or loss for any period shall be determined by dividing the amount ~~thereof~~ received from the distribution under s. 40.06 (3) (b) by the average of the amounts of the assets of the variable annuity division at the beginning of each month in the period. Any net gain or loss of the variable annuity division not credited or debited to participants' accounts pursuant to sub. (6) (a) or (b), to employer segregated reserves pursuant to sub. (6a), or to the reserve for variable annuities granted account pursuant to sub. (9) at the end of any period shall be considered in the determination of the rate of net gain or loss for the ensuing period.

SECTION 11. 41.17 (1) of the statutes is renumbered 41.17 and amended to read:

41.17 The assets of the fund, in excess of the amount of cash required for the current operations as determined by the board, shall be invested and reinvested as provided by ~~s. ss. 25.17 (3) (a), (4) and (5)~~ 40.06.

SECTION 12. 41.17 (2) of the statutes is repealed.

SECTION 13. 41.18 (1) of the statutes is repealed and recreated to read:

41.18 (1) All money received by the board shall be deposited with the state treasurer for the account of the fund. All disbursements shall be made pursuant to authorization by the board except that investments shall be made as provided in s. 40.06.

SECTION 14. 41.18 (2) of the statutes is repealed.

SECTION 15. 41.20 (2) (b) and (3) of the statutes are repealed.

SECTION 16. 41.32 (4) of the statutes is repealed and recreated to read:

41.32 (4) Deposit all money received with the state treasurer for the account of the fund. All disbursements shall be made pursuant to authorization by the board except that investments shall be made as provided in s. 40.06.

SECTION 17. 41.33 of the statutes is amended to read:

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41.33 Investment. The assets of the fund, in excess of the amount of cash required for current operations as determined by the board, shall be invested and reinvested by ~~the investment board under s. 25.17 (1) and 40.06.~~ as provided by ss. 25.17 (1) and 40.06.

SECTION 18. 41.42 of the statutes is repealed.

SECTION 19. 42.21 of the statutes is amended to read:

42.21 Title of subchapter; administration of. This subchapter shall be known as the "State Teachers Retirement Law". The state teachers retirement system shall be administered by the state teachers retirement board. ~~Investment income of each of the several funds and divisions of the state teachers retirement system shall be decreased by the appropriate portion of the administrative costs determined pursuant to s. 40.01.~~

SECTION 20. 42.223 (4) of the statutes is repealed and recreated to read:

42.223 (4) Amounts waived under s. 42.52, including interest or net gains or losses, shall be transferred to the state accumulation fund.

SECTION 21. 42.243 (4) (b) 1 and 2 of the statutes are amended to read:

42.243 (4) (b) 1. The annuity reserve fund shall consist of all transfers made to the annuity reserve fund ~~plus earnings from investments~~ less payments from the fund--the total adjusted for ~~capital net~~ gains and losses and for mortality gains and losses. The annuities paid from this fund shall be adjusted annually so that the value of the total required reserve for these annuities, if they were considered as fixed annuities, would, under the mortality and interest assumptions then in effect, be within 2% of the amount of this fund.

2. Except as otherwise provided in ss. 42.245 (7) (d) and 42.33 (1) (d), the retirement deposit fund shall consist of the deposits made by or for members ~~plus earnings from investments~~, less withdrawals and transfers from the fund--the total adjusted for ~~capital net~~ gains and losses.

SECTION 22. 42.243 (5) and (6) of the statutes are amended to read:

42.243 (5) EARNINGS--APPORTIONMENT AND CREDITING. (a) *Earnings.* The earnings of the funds of the variable annuity division shall consist of that portion of the net gains or losses which is due to such items as dividends, rents, interest payments and other income derived from investments rather than from changes in capital value of investments.

(b) *Apportionment.* As of June 30 of each year the board shall determine the earnings ~~to be apportioned to~~ of the several funds of the variable annuity division.

(c) *Crediting.* Earnings will be credited to ~~the~~ individual accounts in the retirement deposit fund only ~~on amounts which have been on deposit for the full year except that, whenever when~~ a member's deposit accumulation, or state deposit accumulation, or both, are to be paid out in a single sum as a death benefit pursuant to sub. (7) (d) or s. 42.50, or are transferred to the annuity reserve fund pursuant to s. 42.48. In such instances interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth of the rate at which earnings were ~~apportioned~~ calculated on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be paid out or transferred with the amount to which it was so credited. Earnings credited pursuant to this paragraph shall be excluded from the determination of the

excess or deficiency resulting from participation in the variable annuity division as required by s. 42.245 (2) (b) 1 or (d) 4.

(6) (title) NET GAINS AND LOSSES. (a) *Determination.* ~~Capital Net gains or losses for any period shall be the value of the fund as evaluated by the board under sub. (4) (f) at the end of the period plus the disbursements from the fund during the period (other than for investments or for administrative and investment expenses charged to earnings); less the total of 1. the value of the fund at the beginning of the period, 2. the earnings of the fund during the period, and 3. receipts (other than receipts from investments) amount received from the distribution under s. 40.06 (3) during the period. If this quantity is negative, it shall be the capital loss for the period.~~

(b) *Apportionment.* As of June 30 of each year the board shall determine the ~~capital net~~ gains or losses to be apportioned to the several funds.

(c) *Crediting to accounts.* ~~Capital Net~~ gains and losses will be credited to the individual accounts in the retirement deposit fund only on amounts that have been on deposit for the full year except that:

1. Where transfers from the fixed annuity division have been elected pursuant to sub. (3), such gains and losses may be credited on the basis of full quarters that such transferred funds have been on deposit at the rate of one-quarter of the current year's ~~capital net~~ gains and losses.

2. The board may, in order to avoid substantial inequities in case of extraordinary ~~capital~~ gains or losses, allocate a portion of these to deposits or transfers made during the current year.

SECTION 23. 42.245 (7) (d) of the statutes is amended to read:

42.245 (7) (d) The retirement deposit fund after June 30, 1966, shall not include deposits or payments made by the state for formula group members. On July 1, 1966, there shall be established for the purpose of providing variable annuity benefits for members of the formula group the state accumulation fund of the variable annuity division in the amount equal to the aggregate amount of the accumulations from required deposits of all such members in the variable annuity division. ~~Earnings and capital Net gains and losses~~ shall be credited to the state accumulation fund of the variable annuity division at the same time and in the same amounts as such ~~earnings and capital net gains and losses~~ are credited to individual accounts in the retirement deposit fund of the variable annuity division with respect to accumulations of required deposits which are subject to this section.

SECTION 24. 42.50 (1) (a) of the statutes is amended to read:

42.50 (1) (a) In the case of a member of the formula group the accumulation at the date of death if prior to July 1, 1966, and otherwise the accumulation at June 30, 1966, from state deposits made on his behalf, compounded to the end of the last completed calendar quarter year preceding his death at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year, but any accumulation on June 30, 1966, from state deposits in the variable annuity division shall be so compounded at the respective rates of ~~earnings and capital net~~ gains and losses credited to individual accounts in the variable annuity division; or

SECTION 25. 42.76 (4) (b) 1 and 2 of the statutes are amended to read:

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42.76 (4) (b) 1. The reserve fund shall consist of all transfers made to the reserve fund ~~plus earnings from investments~~ less payments from the fund -- the total adjusted for ~~capital net~~ gains and losses and for mortality gains and losses. The annuities paid from this fund shall be adjusted annually so that the value of the total required reserve for these annuities, if they were considered as fixed annuities, would, under the mortality and interest assumptions under which they were issued, be within 2% of the amount of this fund;

2. The retirement deposit fund shall consist of the deposits made by or for the members ~~plus earnings from investments~~ less withdrawals and transfers from the fund -- the total adjusted for ~~capital net~~ gains and losses.

SECTION 26. 42.76 (5) and (6) of the statutes are amended to read:

42.76 (5) EARNINGS -- APPORTIONMENT AND CREDITING. (a) *Earnings*. The earnings of the funds of the variable annuity division and the fixed annuity division shall consist of that portion of the distributions under s. 40.06 (3) which is due to such items as dividends, rents, interest payments and other income derived from investments rather than from changes in capital value of investments. ~~The earnings shall be decreased by the administrative costs of such funds determined pursuant to s. 40.01.~~

(b) *Apportionment*. As of June 30 of each year the board shall determine the earnings ~~to be apportioned to~~ of the several funds of the variable annuity division and the fixed annuity division.

(c) *Crediting*. Earnings will be credited to ~~the~~ individual accounts in the retirement deposit fund only ~~on amounts which have been on deposit for the full year except that, whenever when~~ a member's deposit accumulation, and state deposit accumulation, are transferred to the reserve fund. In such instances interest shall be credited to the amount to be so transferred for each one-month period which has elapsed since the preceding June 30 at one-twelfth of the rate at which earnings were ~~apportioned~~ calculated on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be transferred with the amount to which it was so credited. No interest shall be credited to an account on a pro rata basis where a refund of contribution is paid out in a single sum.

(6) (title) NET GAINS AND LOSSES. (a) (title) *Net gains*. ~~Capital Net gains or losses~~ for any period shall be the value of each fund as evaluated by the board under sub. (4) (c) ~~at the end of the period plus the disbursements from the fund during the period (other than for investments or for administrative and investment expenses charged to earnings); less the total of 1) the value of the fund at the beginning of the period, 2) the earnings of the fund during the period, and 3) receipts, other than receipts from investments, amount received from the distribution under s. 40.06 (3) during the period. If this quantity is negative, it shall be the capital loss for the period.~~

(b) *Apportionment*. As of June 30 of each year the board shall determine the ~~capital net~~ gains or losses to be apportioned to the several funds.

(c) *Crediting to accounts*. ~~Capital Net~~ gains and losses will be credited to the individual accounts in the retirement deposit fund only on amounts that have been on deposit for the full year, except that the board may, in order to avoid substantial inequities in case of extraordinary ~~capital~~ gains or losses, allocate a portion of these to deposits made during the current year.

SECTION 27. 42.78 (8) (b) of the statutes is amended to read:

42.78 (8) (b) The retirement deposit fund after June 30, 1966, shall not include deposits or payments made by the state for formula group members. On July 1, 1966,

there shall be established for the purpose of providing variable annuity benefits for members of the formula group the state accumulation fund of the variable annuity division in the amount equal to the aggregate amount of the accumulations from required deposits of all such members in the variable annuity division. ~~Earnings and capital~~ Net gains and losses shall be credited to the state accumulation fund of the variable annuity division at the same time and in the same amounts as such ~~earnings and capital~~ net gains and losses are credited to individual accounts in the retirement deposit fund of the variable annuity division with respect to accumulations of required deposits which are subject to this section.

SECTION 28. Program responsibility citations. In the list of program responsibility citations enumerated for the investment board under section 15.761 of the statutes, reference to sections "41.04, 41.12 (7) (b), 41.18 and 41.33" are deleted and reference to section "40.06" is inserted.

SECTION 29. Transitional provisions. This act shall take effect on the day after publication but the affected retirement funds shall be invested and accounted for under the statutes in force prior to the effective date until July 1, 1975, or such earlier date as the employe trust funds board determines under section 40.06 (2) of the statutes, as created by this act.