

CHAPTER 25

TRUST FUNDS AND THEIR MANAGEMENT

25.14	State investment fund.	25.31	Benevolent fund.
25.15	Board; purpose and standard of responsibility	25.36	Veterans trust fund.
25.156	Powers and duties of members of the board.	25.40	Transportation fund.
25.16	Executive director.	25.41	State housing authority reserve fund.
25.17	Powers and duties of board.	25.42	Wisconsin election campaign fund.
25.18	Additional powers of board.	25.45	Waste management fund.
25.19	Treasurer; bond; deposit of securities.	25.46	Environmental repair fund.
25.20	General fund.	25.48	Groundwater fund.
25.28	Badger fund; badger board duties.	25.50	Local government pooled-investment fund.
25.29	Conservation fund.	25.65	County mining investment fund.
25.30	State building trust fund.	25.67	Children's trust fund.

Cross Reference: See definitions in 24.01.

25.14 State investment fund. (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 state property insurance fund, state life 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, the state housing authority reserve fund, the children's trust fund, funds which under article X of the constitution are 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 may authorize the transfer of any temporary cash assets of any such excluded fund to the state investment fund in accordance with subs. (2) and (3).

(2) At such time as the board determines, all of the securities held by any of the state's funds, except those specifically excluded in sub. (1), shall be transferred, at the market value plus accrued interest as of the date of transfer, to the state investment fund together with such amounts of cash as may be required to provide each contributing fund an equity in the state investment fund 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 state investment fund

as in its judgment is advisable and in accordance with cash requirements of the individual funds, such transfer to be made on the basis of even thousands of dollars, and it shall furnish to the board such information with respect to daily balances of individual funds within the investment fund as may be required.

(3) All earnings, profits or losses of the state investment fund shall be distributed to each participating fund in the same ratio as each such fund's average daily balance within the state investment fund bears to the total average daily balance of all participating funds. Such distribution shall be made at such times as the department of administration may determine, but must be made at least semiannually in each complete fiscal year of operation.

(4) The department of administration shall maintain such records as may be required to account for each contributing fund's share in the state investment fund.

(5) The assets of the state investment fund shall be invested as prescribed by s. 25.17 (3) (b) and (ba).

History: 1973 c. 137; 1977 c. 418; 1979 c. 102; 1983 a. 27, 192.

25.15 Board; purpose and standard of responsibility. (1) PURPOSE. The purpose of the board is to provide professional investment management of trusts, operating funds and capital funds established by law. It is the intent of the legislature that the board be an independent agency of the state which is to manage money and property for the state, its agencies and trust funds. The goal of board management shall be towards accomplishing the purpose of each trust or fund.

(2) STANDARD OF RESPONSIBILITY. The standard of responsibility applied to the board

25.15 TRUST FUNDS AND THEIR MANAGEMENT

658

when it invests money or property shall be all of the following:

(a) To invest, sell, reinvest and collect income and rents with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity, with the same resources, and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims.

(b) To diversify investments in order to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, considering each trust's or fund's portfolio as a whole at any point in time.

(c) To administer assets of each trust or fund solely for the purpose of ensuring the fulfillment of the purpose of each trust or fund at a reasonable cost and not for any other purpose.

(3) EXEMPTION. Section 881.01 does not apply to investments by the board.

(4) INVESTMENTS WITHIN STANDARD OF RESPONSIBILITY. Investments in reverse annuity mortgages may not be presumed to violate the standard of responsibility under sub. (2).

History: 1983 a 27.

25.156 Powers and duties of members of the board. (1) The members of the board shall be the governing body of the investment board and shall prescribe rules and formulate policies deemed necessary and appropriate to carry out its functions.

(2) The members of the board shall employ an executive director, who shall serve outside the classified service, at the pleasure of the members of the board. Such director shall be qualified by training and prior experience to manage, administer and direct the investment of funds.

(3) The members of the board shall appoint an investment director to act as assistant director, except that until the appointment is made by the members of the board, the executive director may temporarily designate the assistant director.

(4) The members of the board shall adopt rules restricting the executive director, investment directors and employes from having financial interest, directly or indirectly, in firms or corporations providing services to the department and governing the receipt of gifts or favors therefrom, and also governing personal investments of all employes including the executive director and investment directors to prevent conflicts of interest.

(5) The members of the board shall be the trustees of the state investment fund.

History: 1979 c 110.

25.16 Executive director. (1) The executive and administrative functions of the investment board shall be vested in an executive director, who shall perform his functions in conformity with the requirements of the members of the board and in accordance with policies, principles and directives determined by the members of the board.

(2) The executive director shall appoint the employes necessary to perform the duties of the board under the classified service. These shall include investment directors. The members of the board shall participate in the selection of such directors. Such investment directors shall serve a probationary period of not less than 6 months nor more than 2 years as determined by the members of the board. Neither the executive director, any investment director nor any employe shall have any financial interest, either directly or indirectly, in any firm engaged in the sale or marketing of real estate or investments of any kind, nor shall any of them render investment advice to others for remuneration.

(3) The executive director may appoint an executive assistant who shall serve at the pleasure of the executive director outside the classified service. The executive assistant shall perform the duties prescribed by the executive director.

(4) The executive director shall take the official oath and the executive director and each investment director shall file a bond for the faithful performance of his duties in such amount and with such sureties as the members of the board require.

(5) The assistant director shall act in place of the executive director in his or her absence or disability. The assistant director shall take and file the official oath required of the executive director.

(6) All documents which must be executed by or on behalf of the board shall be signed only by the executive director or, in the event of his or her absence or disability, by the assistant director unless the members of the board or the executive director require the countersignature of an investment director or an investment supervisor on certain documents.

History: 1979 c 110, 221

25.17 Powers and duties of board. The "State of Wisconsin Investment Board" shall be a body corporate with power to sue and be sued in said name. The board shall have a seal with the words, "State of Wisconsin Investment Board". The board shall:

(1) Have exclusive control of the investment and collection of the principal and interest of all

moneys loaned or invested from any of the following funds:

- (a) Badger fund (s. 25.28);
- (ag) The bond security and redemption fund (s. 18.09);
- (am) Benevolent fund (s. 25.31);
- (ar) The capital improvement fund (s. 18.08);
- (av) Children's trust fund (s. 25.67);
- (b) Conservation fund (s. 25.29);
- (c) County mining investment fund (s. 25.65);
- (d) Industrial building construction loan fund (s. 560.10);
- (e) Deposit fund (s. 34.08);
- (en) Environmental repair fund (s. 25.46);
- (fm) Fixed retirement investment trust (s. 40.04 (3));
- (g) General fund (s. 25.20), including trust funds of the historical society (s. 44.015);
- (gm) Groundwater fund (s. 25.48);
- (h) Transportation fund (s. 25.40);
- (j) Insurance security fund (s. 646.21 (2));
- (jc) Investment and local impact fund (s. 70.395 (2) (b));
- (jg) Local government pooled-investment fund (s. 25.50);
- (jm) Local government property insurance fund (ch. 605);
- (k) Veterans trust fund (s. 25.36), except loans to veterans;
- (km) Veterans mortgage loan repayment fund (s. 45.79 (7));
- (l) Public employe trust fund (s. 40.01);
- (o) School fund income (s. 24.77);
- (p) Self-insured employers liability fund (s. 102.28 (8));
- (r) State housing authority reserve fund (s. 25.41);
- (t) State life insurance fund (ch. 607);
- (x) Unemployment administration fund (s. 108.20 (1));
- (xm) Wisconsin election campaign fund (s. 25.42);
- (y) Variable retirement investment trust (s. 40.04 (3));
- (ym) Waste management fund (s. 25.45);
- (z) Work injury supplemental benefit fund (s. 102.65);
- (zl) State building trust fund (s. 25.30), except for the purpose and extent of loans to the Wisconsin state public building corporation, the Wisconsin university building corporation, and the Wisconsin state colleges building corporation, which are subject to sub. (2) (b); and
- (zm) All other funds of the state or of any state department or institution, except funds which under article X of the constitution are 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,

and moneys in the university of Wisconsin trust funds, and in the trust funds of the state universities.

(2) (a) Invest any of the funds specified in sub. (1), except operating funds, the capital improvement fund and the bond security and redemption fund, in loans to the Wisconsin university building corporation, state colleges building corporation or the Wisconsin state public building corporation, but only if such loans are secured by mortgages upon property owned by the respective corporations producing sufficient income to retire the mortgage over the term of the loan or are secured by the pledge of rentals sufficient in amount to retire the indebtedness. The investment board shall make no loans to any building corporation described in this subsection except under the conditions herein prescribed, or except as otherwise provided in par. (b). These loans shall be made only when in the judgment of the investment board it is to the interest of the funds to do so, except that loans made under par. (b) shall be made at the direction of the building commission.

(b) Invest the state building trust fund in loans to the Wisconsin state public building corporation, to the Wisconsin university building corporation, and to the Wisconsin state colleges building corporation. Except for interim loans for construction, or other temporary financing for the purchase of lands, planning (including both engineering and financing) and all other expenses incidental to any of the foregoing, such loans shall be secured by a pledge and assignment of net revenues derived from the operation of buildings by said corporations on lands leased or conveyed to said corporations. Any such loan shall be made upon the direction of the building commission.

(c) Invest the state housing authority reserve fund as directed by the Wisconsin housing and economic development authority in housing rehabilitation loan program bonds of the authority including subordinated bonds which may also be special obligations of the authority. In making such investment, the board shall accept such terms and conditions as the authority specifies and is relieved of any obligations relative to prudent investment of the fund, including those set forth under ch. 881.

(3) (a) Invest any of the following funds: 1. fixed retirement investment trust; 2. state life fund; 3. veterans trust fund, in loans, securities and any other investments authorized by s. 620.22, 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.

25.17 TRUST FUNDS AND THEIR MANAGEMENT

660

Investments permitted by sub. (4) are permitted investments under this subsection.

(b) Invest any of the funds over which it has investment authority, including but not limited to the state investment fund and surplus funds of the state building trust fund not invested under sub. (2) (b) and not in the state investment fund, in:

1. Direct obligations maturing within 10 years or less from the date of settlement, of the United States or its agencies, corporations wholly owned by the United States, the international bank for reconstruction and development, the inter-American development bank, the federal national mortgage association or any corporation chartered by an act of congress.

2. Securities maturing within 10 years or less from the date of settlement, guaranteed by the United States or, where the full faith and credit of the United States is pledged or, where securities are collateralized by government-insured investments or, where the securities are issued by a corporation created by act of congress and regulated by such act.

3. Unsecured notes of financial and industrial issuers maturing within 5 years or less from the date of settlement and having one of the 2 highest ratings given by a nationally recognized rating service, but if the corporation issuing such notes has any long-term senior debt issues outstanding which also have been rated, the rating must be one of the 3 highest ratings so given.

4. Certificates of deposit issued by banks located in the United States and by savings and loan associations and credit unions located in this state.

5. Bankers acceptances accepted by banks located in the United States.

6. Direct obligations of or guaranteed by the government of Canada maturing within 2 years from the date of settlement provided that at the time of purchase the board enters into a contract with a bank or securities dealer in the United States or Canada providing that at the maturity of the obligation the Canadian dollars realized will be exchanged into U.S. dollars at a guaranteed rate of exchange.

7. Certificates of deposit of at least \$100,000 issued by solvent financial institutions in this state. The board shall adopt rules to determine solvency on the basis of assets, capital, surplus, undivided profits and net worth of a financial institution.

(ba) Invest the funds included in the state investment fund created by s. 25.14 in loans upon collateral security in the form of direct obligations of the U.S. government having a maturity of 5 years or less where the principal

amount of each such loan does not exceed 98% of the market value of such collateral security.

(bg) Make sums available, at the request of the department of veterans affairs, for the purpose of making additional housing loans to veterans under ss. 45.352, 1971 stats., and 45.80. Such sums shall be made available notwithstanding ss. 25.156 to 25.18 and shall not exceed \$16,500,000 outstanding at any one time of the balances of the general fund. Such loans shall initially be made by the department of veterans affairs from the appropriations under s. 20.485 (2) (y). Despite the specific provisions of sub. (1), the responsibility for collection of the interest and principal on such loans to veterans shall rest in the department of veterans affairs and the functions of the investment board shall be limited to advancing funds to the department of veterans affairs and to periodically receiving from the appropriations made by s. 20.485 (2) (b), (x) and (y) payments of principal and interest on the advances made to the department of veterans affairs.

(bh) Invest the fixed retirement investment trust and state life fund in loans secured by mortgages upon 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 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 1.5 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 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, or insured under policies of

insurance issued by responsible mortgage insurance companies.

(bk) Make sums available, at the request of the department of veterans affairs, for the purpose of making additional loans to veterans under s. 45.351 (2). Such sums shall be made available notwithstanding ss. 25.156 to 25.18 and shall not exceed \$2,000,000 outstanding at any one time of the balances of the general fund. Such loans shall initially be made by the department of veterans affairs from the appropriation under s. 20.485 (2) (vm). Despite the specific provisions of sub. (1), the responsibility for collection of the interest and principal on such loans to veterans shall rest in the department of veterans affairs and the functions of the investment board shall be limited to advancing funds to the department of veterans affairs and to periodically receiving from the appropriations made by s. 20.485 (2) (b), (x) and (y) payments of principal and interest on the advances made to the department of veterans affairs.

(c) Have exclusive control of the investment and collection of the principal and interest of all funds of the historical society which are available for investment as determined by said society. The board may dispose of said investments and any other securities placed under its control by the historical society when in the judgment of the board it is for the best interest of the society to do so. The board may invest those funds of the society which are available for investment under ch. 881.

(d) Invest the funds of the state insurance property fund in investments permitted by s. 201.25, 1969 stats.

(dg) Have authority to invest in:

1. Direct obligations of the United States and of agencies of and corporations wholly owned by the United States, and direct obligations of federal land banks, federal home loan banks, central bank for cooperatives and banks for cooperatives, international bank for reconstruction and development and inter-American development bank, in each case maturing within one year or less from the date of investment

2. Commercial paper maturing within one year or less from the date of investment and rated prime by the national credit office, if the issuing corporation has one or more long-term senior debt issues outstanding, each of which has one of the 3 highest ratings issued by Moody's investors service or Standard & Poor's corporation.

3. Certificates of deposit maturing within one year or less from the date of investment, issued by banks, credit unions or savings and loan associations located in the United States and

having capital and surplus of at least \$50,000,000.

(dm) Make loans secured by mortgages upon unencumbered and wholly or partly improved real property in the United States or Canada, or upon leasehold estates in improved real property therein. Real property and leasehold estates shall not be deemed to be encumbered within the meaning of this paragraph 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, railroad, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements or rights-of-way, lines 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. No such loan shall exceed 75% of the then fair market value, including buildings, if any, mortgages to secure the same. If the value of the buildings constitutes any part of the security, such buildings shall be kept insured to an amount which, together with 75% of the value of the land, shall equal or exceed the loan. The foregoing limitations and restrictions shall not apply to loans made under ch. 219 or real estate loans which are insured in whole or in part by the federal housing administration or commercial mortgage insurers.

(dr) Invest the funds of the bond security and redemption fund only in direct obligations of the United States maturing in amounts and at times sufficient to pay the principal and interest payable from such fund during the calendar year.

(e) Sell investments from one fund to another when the board determines that it is necessary and desirable, and dispose of any investments when in their judgment it is to the best interest of these funds to do so.

(f) Every investment shall be held as an asset of the fund by which purchased and, except as otherwise provided by law, the loss or gain shall inure thereto.

(g) All loans, securities and other investments in which moneys of any such fund, including the general fund, are invested shall be under the management and control of the board.

(4) Invest the funds of the fixed retirement investment trust in loans, securities or investments in addition to those permitted by any other statute, but the aggregate of the loans, securities and investments made under this subsection shall not exceed 15% of the admitted assets of said trust.

25.17 TRUST FUNDS AND THEIR MANAGEMENT

662

(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 retirement investment trust created under s. 40.04 (3) and said investments shall be excluded in computing the assets to which any such limitations apply. Assets of 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.

(6) Notwithstanding any other statute, transfers from the variable retirement investment trust to the fixed retirement investment trust under s. 40.04 (7) may be made in cash or securities or both as determined by the investment board. The investment board shall determine market values for securities in the variable retirement investment trust as of the close of business on the last working day preceding a transfer. If securities are transferred, to the extent determined feasible by the investment board, a proportionate amount of all securities in even hundreds of shares of stock or even thousands of par value of bonds in the variable retirement investment trust shall be transferred. The investment board may hold or sell the transferred securities as it determines appropriate considering market and economic conditions. Any limitation on the percentage of assets in common stocks or in the stock of one company does not apply to the transferred securities, except the investment board shall, at such time as it determines market, economic and other conditions are appropriate to the sale of the securities, sell sufficient transferred securities so as to comply with percentage of asset limitations.

(7) Make all loans and investment purchases from any funds under its control in the name of the board, except that:

(a) Mortgages on real estate outside of this state may be made to, and the title to real estate outside of this state may be acquired in the name of, a trustee under a trust agreement between the board and a bank, credit union, savings and loan association or trust company organized under the laws of the United States or

any state thereof having a combined capital and surplus of at least \$25,000,000; and any such mortgages or real estate acquired prior to June 24, 1966, may be assigned or conveyed to the trustee under an appropriate trust agreement between it and the board.

(b) Loans, securities and investments may be purchased or held in the name of, or transferred to nominees of one or more banks or trust companies meeting the requirements of this section under a custodial agreement between the board and each such bank or trust company. Any such bank or trust company shall be organized under the laws of the United States or any state thereof and any such bank or trust company not located in Wisconsin shall have a combined capital surplus and undivided profits of at least \$100,000,000.

(8) Accept when necessary to protect a mortgage loan, a quitclaim deed or warranty deed to the mortgaged property in full satisfaction of the mortgage debt, and manage, operate, lease, exchange, sell and convey, by land contract, quitclaim deed or warranty deed, and grant easement rights in, any real property acquired by said board. Any lease, land contract, quitclaim deed, warranty deed, easement, satisfaction of mortgage, partial release of mortgage, or any other instrument relating to real property in which said board has an interest shall be executed on behalf of said board by the executive director.

(9) Give such advice and assistance as may be requested by the board of commissioners of public lands or the board of regents of the university of Wisconsin system in the investment of any moneys which under sub. (1) are excepted from the moneys to be loaned or invested by the investment board, and assign, sell, convey and deed to them such investments made by the said board as may be mutually agreeable. The cost of any services rendered to the board of commissioners of public lands or the board of regents of the university of Wisconsin system pursuant to this section shall be charged to the fund to which the moneys invested belong and shall be added to appropriation to the investment board in s. 20.536.

(10) If a building constitutes any part of the security for a loan made by the investment board under s. 25.17 (3) (bh) or 620.22 (2), such building shall be kept insured for at least the unpaid amount of the loan or such larger amount as may be necessary to comply with any coinsurance clause inserted in or attached to the policy. When the full insurable value of the building is less than the unpaid amount of the loan, such building shall be kept insured for the full insurable value thereof.

(11) In order to promptly process investment transactions and receipts, have authority to establish and maintain accounts in its own name in those banks, savings and loan associations and credit unions with which the board has entered into custodial agreements.

(12) Succeed to all of the duties, functions, and powers, property, documents, records, assets, liabilities and obligations of:

(a) The commissioner of insurance in the investment of the state insurance fund;

(b) The commissioner of insurance, the state treasurer, the secretary of state and the attorney general in the investment of the life fund;

(c) The state treasurer, the secretary of state and the attorney general in the investment of the soldiers' rehabilitation fund;

(d) All other state boards, commissions, departments, institutions and officers in the investment of any funds which under sub. (1) are hereafter to be loaned and invested by the investment board.

(13) Succeed to all of the property, documents, records and assets of the state annuity and investment board in the investment of the several funds which were under the control of said board.

(14) The investment board shall, as of 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 that 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 the outstanding principal balance.

(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. 40.04 (3).

(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. 40.04 (3).

(14m) Include a discussion of the amounts and categories of investments made within the state in its annual report prepared under s. 15.07 (6) and shall make the report available to the governor and the legislature.

(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.

(51) Have the legislative audit bureau conduct a financial audit to include financial statements and an evaluation of accounting controls and accounting records of the board at least every 2 years.

(52) Maintain records from which it can determine the particular investments of the sinking funds of the bond security and redemption fund made under sub. (3) (dr) and the fair market value of such investments, and report this information to the department of administration at its request.

(61) Designate special depositories in which the state treasurer may make special deposits of funds, not exceeding the amount limited by the board, which shall be deposited subject to the depository's rules and regulations relative to either savings accounts, time certificates of deposit or open time accounts, as the case may be.

(63) (a) Fix the rates of interest to be paid by public depositories on active deposits and special deposits of the state treasurer. Such rates of interest shall be based upon the size and activity

of public deposits and shall take into consideration the net return to public depositories on sound investments. Rates of interest fixed as provided herein shall be paid uniformly by all public depositories on all public deposits unless the payment of interest on such deposits is prohibited under any act of congress or any rule or regulation of any federal agency having supervision over such public depository, and such public deposits shall be subject to no charge other than the amount required to be paid into the state deposit fund. Any public depository which refuses, neglects or by subterfuge avoids payment of interest on public deposits in accordance with the fixed rates shall be excluded from the right to receive and hold public deposits. Inactive deposits other than special deposits of the state treasurer shall bear the same rates of interest as are paid by such public depository on time accounts.

(b) In this subsection:

1. "Active deposits" shall mean public deposits which are subject to withdrawal on demand and public deposits in regular savings accounts.

2. "Inactive deposits" means public deposits which have been deposited subject to the public depository's rules and regulations relative to time accounts.

(65) Invest the industrial building construction loan fund under sub. (1) (d) only on the basis specified in sub. (3) (b) or (ba).

History: 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5); 1973 c. 117, 137, 151; 1973 c. 208 s. 17; 1973 c. 209, 333, 336; 1975 c. 26, 27, 39, 118, 147, 164, 180, 189, 200, 422; 1977 c. 29 ss. 439 to 439f, 1654 (1); 1977 c. 31, 107, 377, 418, 423; 1979 c. 32; 1979 c. 34 ss. 705 to 707b, 2102 (56) (a); 1979 c. 102; 1979 c. 109 s. 16; 1979 c. 221; 1979 c. 318 ss. 1 to 3; 1979 c. 361 s. 113; 1981 c. 20, 86; 1981 c. 96 ss. 18 to 21, 67; 1981 c. 169, 386; 1983 a. 27; 1983 a. 36 ss. 31, 96 (4); 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 142, 189, 192, 368, 410.

State deposits in a working bank must be payable on demand and withdrawn only by check issued on a warrant authorized by the department of administration. A proposal for the use of "check float" to purchase short-term securities is unauthorized. 58 Atty. Gen. 107.

Commingling of common stocks of various employe trust funds is not prohibited by sub. (3) (f). 59 Atty. Gen. 149.

Investment board may not, without authorization from the legislature, engage in "put" and "call" options on its stock portfolio. 60 Atty. Gen. 266.

Investment board has authority under (8) to contribute to a private improvement association for street improvements, if the improvements will directly benefit the board's property. 65 Atty. Gen. 85.

25.18 Additional powers of board. (1) In addition to the powers and duties enumerated in s. 25.17 the investment board may:

(a) Employ special legal or investment counsel in any matters arising out of the scope of its investment authority. The employment of special legal counsel shall be with the advice and consent of the attorney general whenever such special counsel is to be compensated by the

board. Any expense of counsel so employed shall be borne by the current income account of the fund for which the services shall be furnished, except that the fixed retirement investment fund may bear this expense from its transaction amortization account.

(b) Execute instruments in which it agrees to indemnify against its failure to indorse payments of any kind which may be made upon notes, bonds, debentures or other securities or to indemnify the issuer of securities, whether it be the obligor thereon or a trustee or agent, against any loss which might be incurred as the result of the issuance or reissuance of securities to replace securities which have been lost, stolen, mutilated or destroyed.

(c) Secure insurance against burglary, robbery or theft on any of the securities owned or held by the board or any of the funds under its management.

(d) Liquidate or cause to be liquidated any corporation 100% of whose common stock is owned by the board, or operate such corporation until it can be liquidated to recoup the investment of the board, but such period shall not exceed 5 years.

(e) Take such action as may be necessary to make investments in mortgage loans or in the purchase of interests in real estate in any other state or in Canada, including but not excluding because of enumeration, qualifying to do business, filing reports, paying franchise, license or other fees and taxes, designating agents, designating an office and subjecting itself to suit.

(f) Maintain and repair any building or other structure or premises which it owns in fee or in which it owns the beneficial interest and, notwithstanding ch. 16, it shall have exclusive authority to make such agreements and enter into such contracts as it deems necessary for such purpose. All noncapital costs under this paragraph shall be charged to the current income accounts of the funds having an interest in the building, structure or premises.

(g) Engage in financial transactions whereby bearer securities issued or guaranteed by the federal government or any of its agencies, which are owned by the board, are delivered to reputable and financially responsible dealers in the securities under an agreement which provides:

1. For the replacement of the securities with securities of the same kind and amount upon demand by the board;

2. For the payment to the board by the dealer of a commission, based upon the amount of the securities, for the period of time between the delivery of the securities to the dealer and the dealer's replacement of the securities; and

3. For the pledge and delivery by the dealer to the board of other securities issued or guaranteed by the federal government or any of its agencies, having a market value at the time of the pledge equal to at least the market value of the delivered securities, to guarantee the replacement of the securities.

(h) Sell stock, debentures or other securities which it has the right to acquire upon the exercise of conversion rights then owned by it.

(i) Engage in financial transactions whereby securities owned by the board, are delivered to reputable and financially responsible dealers under an agreement satisfactory to the board which provides for cash equal to the full current market value of the security as adjusted from time to time to changes in the market, and for replacement thereof with securities of the kind and amount upon demand by the board.

(j) Engage in financial transactions whereby securities owned by the board are delivered to reputable and financially responsible dealers under an agreement satisfactory to the board which provides for delivery to the board of other securities as collateral of at least equal value to the current market value of the security as adjusted from time to time to changes in the market, and for replacement of the original securities of the same kind and amount upon demand by the board.

(k) Engage in financial transactions whereby securities are purchased by the board under an agreement providing for the resale of such securities by the board to the original seller at a stated price together with a payment to the board of interest for the period the board holds the securities.

(l) Engage in financial transactions whereby securities owned by the board are sold under an agreement providing for the repurchase of such securities by the board at a stated price together with the payment to the buyer of interest for the period the buyer holds the securities.

(m) Notwithstanding ch. 16, employ professionals, contractors or other agents necessary to operate any property in which a fund managed by the board has an interest. Costs under this paragraph shall be paid by the fund and charged to the appropriate current income account under s. 40.04 (3).

History: 1975 c. 39; 1983 a. 27, 192.

25.19 Treasurer; bond; deposit of securities.

The state treasurer shall be the treasurer of the investment board and shall give an additional bond in such amount and with such corporate sureties as is required and approved by the board, the cost of which shall be borne by the board. Any of the securities purchased by the investment board for any of the funds whose

investment is under the control of the board may be deposited by the board or the state treasurer in vaults or other safe depositories outside of the office of the state treasurer, and either in or outside of this state, but a safekeeping receipt shall be delivered to the state treasurer for all securities so deposited. Every such safekeeping receipt shall describe the securities covered thereby and be payable on demand, without conditions, to the investment board or to any designated fund under the control of the board or to the state treasurer.

History: 1979 c. 110.

25.20 General fund. All moneys in the state treasury not specifically designated in any statute as belonging to any other funds constitute the general fund.

25.28 Badger fund; badger board duties. (1)

The moneys that are deposited under s. 70.395 (1) (b) and any moneys transferred under s. 70.395 (1m) constitute the badger fund.

(2) Fifty percent of the interest from the moneys in the badger fund shall be granted by the badger board to cities, towns, villages and counties that apply for such funds. Grants may be made for capital costs, but not operating or maintenance costs, for recreational facilities that include, but are not limited to, picnic and camping grounds, nature trails, snowmobile trails and areas, beaches and bath houses, toilets, shelters, wells and pumps, fireplaces, tennis courts, softball diamonds, baseball diamonds, soccer fields, playgrounds and playground equipment and for purchases of land for any of these purposes. The badger board shall promulgate rules establishing the criteria under which grants may be made from the interest on the fund under this section. The board may not establish rules that, for the purpose of making grants, take into account the equalized valuation of, or any income data relative to, the city, village, town or county that applies for the grant. The badger board does not have any powers of condemnation.

(3) Fifty percent of the interest from the moneys in the badger fund shall be appropriated under s. 20.255 (2) (t).

History: 1981 c. 86, 391; 1983 a. 27 s. 2202 (42).

25.29 Conservation fund. (1) There is established a separate nonlapsible trust fund designated as the conservation fund to consist of:

(a) All moneys accruing to the state for or in behalf of the department under chs. 26, 27, 28, 29 and 350, subch. I of ch. 77 and ss. 23.09 to 23.47, 23.50 to 23.99, 30.50 to 30.55, 70.58 and 71.097, including grants received from the fed-

25.29 TRUST FUNDS AND THEIR MANAGEMENT

666

eral government or any of its agencies except as otherwise provided by law.

(b) One percent of all sales and use taxes under s. 77.61 (1) on boats and snowmobiles collected by the department under ss. 30.52 (4) and 350.12 (7).

(2) License fees and other state moneys collected by each field employe of the department shall be remitted to the department within one month after receipt together with a report of the number of licenses issued and details covering the type and the amount of money remitted.

(3) Funds accruing to the conservation fund from license fees paid by hunters and from sport and recreation fishing license fees shall not be diverted for any other purpose than those provided by the department, except:

(a) As necessary to carry out civil disorder responsibilities under s. 166.04.

(b) As provided in s. 20.370 (4) (aq).

(4) No money shall be expended or paid from the conservation fund except in pursuance of an appropriation by law.

(5) A gift or bequest shall be used in accordance with the directions of the donor.

(6) All moneys received from the United States for fire prevention and control, forest planting and other forestry activities, and for wildlife restoration projects and for other purposes, and as provided in s. 29.174 (13), shall be devoted to the purposes for which these moneys are received:

(7) All of the proceeds of the tax which is levied under s. 70.58, and all moneys paid into the state treasury as the counties' share of compensation of emergency fire wardens under s. 26.14 shall be used for acquiring, preserving and developing the forests of the state, including the acquisition of lands owned by counties by virtue of any tax deed and of other lands suitable for state forests, and for the development of lands so acquired and the conduct of forestry thereon, including the growing and planting of trees; for forest and marsh fire prevention and control; for compensation of emergency fire wardens; for maintenance, permanent property and forestry improvements; for other forestry purposes authorized by law and for the payment of aid for forests as authorized in s. 28.11 and ch. 77.

(a) Eight percent of the tax levied under s. 70.58 or of the funds provided for in lieu of the levy shall be used to acquire and develop forests of the state for the purposes or capable of providing the benefits described under s. 28.04 (1) within areas approved by the department and the governor and located within the region composed of Manitowoc, Calumet, Winnebago, Sheboygan, Fond du Lac, Ozaukee,

Washington, Dodge, Milwaukee, Waukesha, Jefferson, Racine, Kenosha, Walworth, Rock and Outagamie counties.

(b) An additional 4% of the tax levied under s. 70.58 or of the funds provided in lieu of the levy shall be used to purchase forests for the state for the purposes or capable of providing the benefits described under s. 28.04 (1) within areas approved by the department and the governor and located within the region specified under par. (a).

History: 1971 c. 125; 1973 c. 90; 1977 c. 29; 1977 c. 418 ss. 244, 245, 929 (37); 1979 c. 34 ss. 707v, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1983 a. 27 ss. 636m, 637, 2202 (38).

25.30 State building trust fund. The state building trust fund consists of all appropriations or transfers made thereto by the legislature, together with all donations, gifts, bequests or contributions of money or other property, all restored advances and all investment income.

History: 1979 c. 221.

25.31 Benevolent fund. The benevolent fund, amounting to the principal sum of \$13,500, transferred to the state by chapter 636, laws of 1917, constitutes a separate trust fund and shall be conserved and applied as follows:

First: The principal of said trust fund shall be held by the state treasurer, and be invested and reinvested as provided in this chapter.

Second: The income of said trust fund shall be used and expended exclusively for the benefit of girls committed to the Wisconsin school for girls, or such other institutions as the state may hereafter establish and maintain for the care, custody and education of girls of the classes now or hereafter authorized by law to be committed to said institution, in providing healthful and instructive recreation and amusements, furnishing advance educational facilities for such of them as show special fitness therefor, providing needed medical or surgical care in exceptional cases, and other similar purposes; but no part of said income shall be used for defraying any of the ordinary expenses of any such institution.

Third: Said income shall be disbursed from the state treasury only upon warrants issued on certifications by the department of health and social services upon the recommendation of the superintendent or other managing officer of such school or other institution.

History: 1981 c. 390 s. 252.

25.36 Veterans trust fund. All moneys appropriated or transferred by law shall constitute the veterans trust fund which shall be used exclusively for veterans and administered by the department of veterans affairs, including all moneys received from the federal government

for the benefit of veterans or their dependents; all moneys paid as interest on and repayment of loans under the post-war rehabilitation fund; soldiers rehabilitation fund, veterans housing funds as they existed prior to July 1, 1961; all moneys paid as interest on and repayment of loans under this fund; and all gifts of money received by the board of veterans affairs for the purposes of this fund.

25.40 Transportation fund. (1) The separate nonlapsible trust fund designated as the transportation fund shall consist of the following:

(a) All collections of the department of transportation or the office of the commissioner of transportation and all moneys transferred under s. 84.59 (3) except net sales taxes as determined in s. 77.61 (4) (b) or (c), other revenues specified in ch. 218 derived from the issuance of licenses under the authority of the commissioner of banking which shall be paid into the general fund and revenues collected under s. 341.25 that are pledged to the fund created under s. 84.59 (2).

(b) Motor vehicle fuel and general aviation fuel taxes and other revenues collected under ch. 78 minus the costs of collecting delinquent taxes from nonresidents under s. 73.03 (28).

(c) Taxes on air carrier companies and railroad companies under ch. 76 and aircraft registration fees under s. 114.20.

(d) Assessments collected by the office of the commissioner of transportation under ss. 184.10 and 195.60.

(e) All moneys paid into the state treasury by any local unit of government or other sources for transportation purposes.

(f) All federal aid for aeronautics, highways and other transportation purposes made available by any act of congress, subject to applicable federal regulations.

(g) The investment income of the transportation fund.

(h) The actual administrative costs, as determined by the department of administration, incurred by the department of transportation in collecting the sales tax on the occasional sale of motor vehicles which shall be transferred from the general fund under s. 20.855 (4) (am).

(ig) All moneys forwarded by county treasurers from forfeitures, fines and penalties under ch. 348, as provided in s. 59.20 (8m).

(j) All moneys transferred by law from other funds.

(2) Payments from the transportation fund, except for appropriations made by ss. 20.115 (1) (q), 20.255 (2) (r), 20.285 (1) (x), 20.292 (1) (u), 20.370 (1) (mr), (2) (dq) and (4) (bt), 20.566 (1) (u) and 20.855 (4) (q) or authorized by s. 25.17 shall be made only on the order of the secretary

of transportation, from which order the secretary of administration shall draw a warrant in favor of the payee and charge the same to the transportation fund.

History: 1971 c. 125, 211; 1973 c. 90, 333; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 199; 1977 c. 29, 274, 418, 447; 1979 c. 34; 1979 c. 361 s. 113; 1981 c. 20; 1981 c. 347 s. 80 (2), (4); 1983 a. 27, 538

25.41 State housing authority reserve fund.

(1) All moneys appropriated or transferred by law; all moneys received from the federal government, from the state housing and economic development authority, or from any other source for the purpose of the state housing authority reserve fund; and all income or interest earned by, or increment to the state housing authority reserve fund due to the investment thereof shall constitute the state housing authority reserve fund which shall be used only as provided in this section.

(2) Except for the purpose of investment as provided in s. 25.17 (2) (c), moneys in the fund shall be used only for the purpose of funding the appropriation to the housing rehabilitation loan program loan loss reserve fund under s. 20.490 (2) (q). Nothing in this section may be construed as limiting the power of the legislature, at any time, to abolish the fund.

(3) Subject to s. 25.17 (2) (c), the board has exclusive control of the investment and collection of the principal and interest of all moneys invested from the fund and shall invest in investments authorized under s. 25.17 (3) (b).

History: 1977 c. 418; 1983 a. 81 s. 11; 1983 a. 83 s. 20

25.42 Wisconsin election campaign fund. All moneys appropriated under s. 20.855 (4) (b) together with all moneys reverting to the state under s. 11.50 (8) shall constitute the Wisconsin election campaign fund, to be expended for the purposes of s. 11.50. All moneys in the fund not disbursed by the state treasurer shall continue to accumulate indefinitely.

History: 1977 c. 107; 1977 c. 418 s. 929 (55); 1979 c. 34 s. 2102 (58) (a)

25.45 Waste management fund. There is established a separate nonlapsible trust fund designated as the waste management fund, to consist of all tonnage fees imposed under s. 144.441 (3), waste management base fees imposed under s. 144.441 (5) and all moneys received or recovered under s. 144.443 (11) (a) 1, 3 or 4. Moneys in the waste management fund shall be used for the purposes specified under s. 144.441 (6) (d) to (g).

History: 1977 c. 377; 1979 c. 221 s. 2202 (39); 1981 c. 374; 1983 a. 27; 1983 a. 410 s. 2202 (38)

25.46 Environmental repair fund. There is established a separate nonlapsible trust fund

25.46 TRUST FUNDS AND THEIR MANAGEMENT

668

designated as the environmental repair fund, to consist of:

- (1) The fees and surcharges imposed under s. 144.442 (2) and (3);
- (2) All moneys recovered under s. 144.442 (9); and
- (3) All moneys received from reimbursements under s. 144.76 (6) (c) 1.

History: 1983 a 410.

25.48 Groundwater fund. There is established a separate nonlapsible trust fund designated as the groundwater fund, to consist of:

- (1) The fees imposed under s. 94.64 (4) (an).
- (2) The fees and late payment fees imposed under s. 94.681 (2).
- (3) The fees imposed under s. 101.14 (5).
- (4) The fees imposed under s. 144.441 (7).
- (5) The fees imposed under s. 145.19 (6).
- (6) The fees imposed under s. 146.20 (4s) (d).
- (7) The fees imposed under s. 147.033.

History: 1983 a 410

25.50 Local government pooled-investment fund. (1) DEFINITIONS. In this section:

- (a) "Board" means the state investment board.
- (b) "Fund" means the local government pooled-investment fund.
- (c) "Local funds" means funds under the control or in the custody of any local government or local official that are not required to meet current expenditures or demands.
- (d) "Local government" means any county, town, village, city, power district, sewerage district, drainage district, public library system, school district or vocational, technical and adult education district in this state, any commission, committee, board or officer of any governmental subdivision of this state, any court of this state, other than the court of appeals or the supreme court, or any authority created under s. 231.02 or 234.02.
- (e) "Local official" means each officer or employe of a local government who by law or vote of the governing body of the local government is made the custodian of funds.

(2) **CREATION.** There is established within the state investment fund a local government pooled-investment fund with a separate and identifiable account within the fund for each local government.

(3) **LOCAL GOVERNMENTS AUTHORIZED TO PLACE FUNDS IN POOL.** (a) With the consent of the governing body, a local official may transfer local funds to the state treasurer for deposit in the fund.

(b) On the dates specified and to the extent to which they are available, subject to s. 16.53 (10),

funds payable to local governments under ss. 79.03, 79.04, 79.06, 79.08, 79.085, 79.10 and 79.105 shall be considered local funds and, pursuant to the instructions of local officials, may be paid into the separate accounts of all local governments established in the local government pooled-investment fund and, pursuant to the instructions of local officials, to the extent to which they are available, be disbursed or invested.

(4) **PERIOD OF INVESTMENTS; WITHDRAWAL OF FUNDS.** Subject to the right of the local government to specify the period in which its funds may be held in the fund, the state treasurer shall prescribe the mechanisms and procedures for deposits and withdrawals.

(5) **INVESTMENT POLICIES.** The investment board shall formulate policies for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of such investments.

(6) **INVESTMENT BOARD TO INVEST, REINVEST POOLED FUNDS.** In the amounts available for investment purposes and subject to the policies formulated by the investment board, the investment board shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of the fund

(7) **REIMBURSEMENT OF EXPENSES.** The state treasurer shall deduct quarterly a maximum of 0.25% of the amount of income received from the earnings of the fund during the preceding calendar quarter for all actual and necessary expenses incurred by the state in administering the fund.

(8) **SEPARATE ACCOUNTS.** (a) The department of administration shall keep a separate account for each local government and shall record the individual amounts and the totals of all investments of each local government's moneys in the fund.

(b) The state treasurer shall report monthly to each local official the deposits and withdrawals of the preceding month and any other activity within the account.

(9) **RULES.** The state treasurer may promulgate rules to carry out the purposes of this section.

History: 1975 c. 164; 1977 c. 29, 187; 1979 c. 34 s. 2102 (46) (a); 1979 c. 175 s. 53; 1981 c. 20, 93; 1983 a. 27 s. 2202 (45), (49)

25.65 County mining investment fund. (1) DEFINITIONS. In this section:

(a) "Board" means the state investment board.

(b) "County funds" mean payments received by counties under s. 70.395 (2) (d) 1.

(c) "County government" means any county in this state.

(d) "County official" means each officer or employe of a county government who by law or vote of the governing body of the county government is made custodian of county funds.

(e) "Fund" means the county mining investment fund.

(2) **CREATION.** There is established under the control of the board a county mining investment fund with a separate and identifiable account within the fund for each county government.

(3) **COUNTY GOVERNMENTS AUTHORIZED TO PLACE COUNTY FUNDS IN FUND.** With the consent of the county board a county official may transfer a maximum of 10% of any county funds received in a year under s. 70.395 (2) (d) 1 to the state treasurer for deposit in the fund. A county official may authorize the investment and local impact fund board to transfer the county funds to the state treasurer for the county.

(4) **PERIOD OF INVESTMENTS; WITHDRAWAL OF FUNDS.** Subject to the restrictions in this subsection the state treasurer shall prescribe the mechanisms and procedures for deposits and withdrawals. The mechanisms and procedures shall include a requirement for review and approval by the investment and local impact fund board of all withdrawals made within 10 years of deposit. The state treasurer shall notify the investment and local impact fund board of all withdrawals made 10 years or more after deposit. Withdrawals shall be made only to cover the costs of alleviating impacts due to the clos-

ing of a metalliferous mine in the county or the curtailment of metalliferous mining activity in the county.

(5) **INVESTMENT POLICIES.** The board shall formulate policies for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of the investments.

(6) **REIMBURSEMENT OF EXPENSES.** The state treasurer shall deduct quarterly a maximum of 0.25% of the amount of income received from the earnings of the fund during the preceding calendar quarter for all actual and necessary expenses incurred by the state in administering the fund.

(7) **SEPARATE ACCOUNTS.** (a) The department of administration shall keep a separate account for each county government and shall record the individual amounts and the totals of all investments of each county government's moneys in the fund.

(b) The state treasurer shall report quarterly to each county official the deposits and withdrawals of the preceding quarter and any other activity within the account.

History: 1977 c. 423.

25.67 Children's trust fund. (1) The children's trust fund is created as a separate fund. Moneys in the fund shall be expended only for the purposes of s. 48.982 (4).

(2) The fund shall consist of the moneys received under s. 48.982 (2) (d). All moneys in the fund not expended under s. 20.433 (1) (q) shall continue to accumulate indefinitely.

History: 1983 a. 27.