

State of Wisconsin



1995 Senate Bill 402

Date of enactment: April 22, 1996

Date of publication*: May 6, 1996

1995 WISCONSIN ACT 274

(Vetoed in Part)

AN ACT to repeal 25.18 (1) (L); to renumber and amend 25.50 (5); to amend 13.94 (1) (df), 13.94 (1s) (c) 3., 15.07 (2) (a), 15.76 (intro.), 19.42 (10) (L) and (13) (k), 25.156 (4), 25.16 (1), 25.16 (2), 25.16 (4), 25.17 (intro.), 25.17 (51), 25.18 (1) (intro.), 25.18 (2) (intro.) and 25.18 (2) (e); to repeal and recreate 25.17 (14m); and to create 15.76 (1r), 25.156 (2m), 25.156 (8), 25.156 (9), 25.165, 25.167, 25.17 (14g), 25.17 (14r), 25.17 (51m), 25.183, 25.50 (5) (a) to (d) and 25.50 (5m) of the statutes; relating to: legislative oversight of the investment board, structure and composition of the investment board, regulation of certain investments by the investment board, granting rule-making authority and making an appropriation.

Vetoed
In Part

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

SECTION 1. 13.94 (1) (df) of the statutes is amended to read:

13.94 (1) (df) Annually, perform a financial audit of the investment board, including an assessment of the fair presentation of the financial statements and an evaluation of accounting controls and accounting records the internal control structure of the board. As part of the financial audit, the bureau shall identify certain statutes and policies and guidelines adopted by the board and shall determine the extent of compliance by the board with the statutes, policies and guidelines. Biennially, the bureau shall conduct a performance evaluation audit of the investment board that includes an audit of the board's policies and management practices.

SECTION 2. 13.94 (1s) (c) 3. of the statutes is amended to read:

13.94 (1s) (c) 3. The investment board for the cost of the any audit required to be performed under sub. (1) (df).

Vetoed In Part **SECTION 3m.** 15.07 (2) (a) of the statutes is amended to read:

15.07 (2) (a) The chairperson and vice chairperson of the investment board shall be designated elected biennially by the governor from among the members who have had at least 10 years of financial experience or 10 years of experience in making investments, except that the secretary of administration, or the secretary's designee, may not serve as the chairperson or vice chairperson of the investment board.

Vetoed
In Part

SECTION 5. 15.76 (intro.) of the statutes is amended to read:

15.76 Investment board; creation. (intro.) There is created a state of Wisconsin investment board, to be known for statutory purposes as the investment board. The investment board shall consist of 8 members, as follows the following members:

SECTION 6. 15.76 (1r) of the statutes is created to read:

15.76 (1r) One member appointed for a 6-year term, who is a representative of a local government that participates in the local government pooled-investment fund under s. 25.50. The member shall be employed by the local government in a finance position and have had at least

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

10 years of financial experience, but may not be an elected official, an employe of a county with a population greater than 450,000 or an employe of a city, town or village with a population greater than 150,000. If the member appointed under this subsection loses the status upon which the appointment was based, he or she shall cease to be a member of the investment board.

SECTION 7. 19.42 (10) (L) and (13) (k) of the statutes are amended to read:

19.42 **(10)** (L) The executive director, executive assistant to the executive director, internal auditor, chief investment officer and investment directors of the investment board.

(13) (k) The executive director, executive assistant to the executive director, internal auditor, chief investment officer and investment directors of the investment board.

SECTION 8. 25.156 (2m) of the statutes is created to read:

25.156 **(2m)** The investment board shall employe an internal auditor, who shall serve outside the classified service. The board shall fix the compensation of the internal auditor.

SECTION 9. 25.156 (4) of the statutes is amended to read:

25.156 **(4)** The members of the board shall promulgate rules restricting the executive director, internal auditor, chief investment officer, 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, internal auditor, chief investment officer and investment directors to prevent conflicts of interest.

SECTION 10. 25.156 (8) of the statutes is created to read:

25.156 **(8)** The investment board shall keep full minutes of its proceedings.

SECTION 10m. 25.156 (9) of the statutes is created to read:

25.156 **(9)** The chairperson of the investment board shall appear at least annually before any committee established in the senate, whose jurisdiction includes financial institutions, if that committee so requests.

SECTION 11. 25.16 (1) of the statutes is amended to read:

25.16 **(1)** The executive and administrative functions of the investment board, except for the functions performed by the internal auditor under s. 25.165 (2), shall be vested in an executive director, who shall perform the functions of executive director 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.

SECTION 12. 25.16 (2) of the statutes is amended to read:

25.16 **(2)** ~~The Subject to authorization under s. 16.505, the~~ executive director may appoint one division administrator and investment directors and shall appoint a chief investment officer and all other employes necessary to carry out the functions of the investment board, except that the investment board shall appoint the internal auditor and shall participate in the selection of the chief investment officer and investment directors and the internal auditor shall appoint his or her staff. The executive director shall appoint all employes outside the classified service, except blue collar and clerical employes. Neither the executive director, the internal auditor, the chief investment officer, any investment director nor any other employe of the board 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.

SECTION 13. 25.16 (4) of the statutes is amended to read:

25.16 **(4)** The executive director shall take the official oath and the executive director, chief investment officer and each investment director shall file a bond for the faithful performance of that person's duties in such amount and with such sureties as the members of the board require.

SECTION 14. 25.165 of the statutes is created to read:

25.165 Internal auditor. (1) There is created in the investment board an internal audit subunit, under the supervision of the internal auditor. The internal auditor shall report directly to the board and, subject to authorization under s. 16.505, shall appoint all employes necessary to carry out the duties of the internal auditor. The internal auditor shall appoint all employes outside the classified service, except blue collar and clerical employes. The internal auditor shall fix the compensation of all employes appointed by the internal auditor, subject to restrictions set forth in the compensation plan under s. 230.12 or any applicable collective bargaining agreement in the case of employes in the classified service, but the investment board may provide for bonus compensation to employes in the unclassified service as authorized under s. 25.156 (6).

(2) The internal auditor may review any activity, information or investment of the board and have access to records of the board and any external party under contract with the board and shall do all of the following:

(a) Plan and conduct audit activities, risk assessments, research projects and management reviews under the direction of the board and in accordance with policies, principles and directives determined by the board.

(b) Coordinate and assist with external audits and reviews of the board.

(c) Monitor for compliance with applicable legal requirements and with the board's contractual agreements any bank, savings and loan association, savings bank or

credit union with which the board has entered into a custodial agreement under s. 25.17 (11); any investment advisers with which the board has contracted to manage and control board assets under s. 25.18 (2) (e); and any other external parties with which the board has contracted to provide investment services to the board.

SECTION 15. 25.167 of the statutes is created to read:

25.167 Chief investment officer. Under the supervision of the executive director, the chief investment officer shall do all of the following:

(1) Monitor activities of the investment directors for compliance with the board's investment policies and guidelines in investment decisions and approve unusual transactions, as defined by the board.

(2) Develop and implement operating procedures that are intended to ensure that the investment policies and guidelines of the board are followed.

(3) Ensure that investments are completely and accurately reported on all management and financial reports and that any information requested by the board is provided to the board on a timely basis.

SECTION 16. 25.17 (intro.) of the statutes is amended to read:

25.17 Powers and duties of board. (intro.) 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 Subject to s. 25.183, the~~ board shall:

SECTION 17. 25.17 (14g) of the statutes is created to read:

25.17 (14g) Annually, on or before January 1, submit to the joint legislative audit committee, to the joint committee on finance and to the chief clerk of each house, for distribution to the appropriate standing committees under s. 13.172 (3), a report of the board's annual investment goals and long-term investment strategies. The report shall specify any change in the annual investment goals and long-term investment strategies from those in the previous year.

SECTION 18. 25.17 (14m) of the statutes is repealed and recreated to read:

25.17 (14m) Annually, on or before March 31, submit to the joint legislative audit committee, to the joint committee on finance and to the chief clerk of each house, for distribution to the appropriate standing committees under s. 13.172 (3), a report including all of the following:

1. An assessment of the board's progress in meeting its annual investment goals established in the report under sub. (14g).

2. Information on the types of investments held by the board, including the market values of the investments and the degree of risk associated with the investments, the board's use of derivatives, as defined in s. 25.183 (1) (a), any ventures by the board into new markets, any use

of new investment instruments by the board and a comparison of the investment performance of the board to that achieved by a peer group of public and private entities that invest similar-sized funds.

3. A discussion of the amounts and categories of investments made within the state, including the amounts and categories of investments described, and progress in meeting the objectives of the plan submitted, under sub. (70).

SECTION 19. 25.17 (14r) of the statutes is created to read:

25.17 (14r) Upon adopting any change in the board's investment policies or guidelines, submit to the joint legislative audit committee, to the joint committee on finance and to the chief clerk of each house, for distribution to the appropriate standing committees under s. 13.172 (3), a report summarizing the change in the investment policies or guidelines.

SECTION 20. 25.17 (51) of the statutes is amended to read:

25.17 (51) Annually, have the legislative audit bureau conduct a financial audit ~~to include, including an assessment of the fair presentation of the~~ financial statements and an evaluation of ~~accounting controls and accounting records~~ the internal control structure of the board. As part of the financial audit, the legislative audit bureau shall identify certain statutes and policies and guidelines adopted by the board and shall determine the extent of compliance by the board with the statutes, policies and guidelines. The board shall reimburse the legislative audit bureau for the cost of audits required to be performed under this subsection.

SECTION 21. 25.17 (51m) of the statutes is created to read:

25.17 (51m) Biennially, have the legislative audit bureau conduct a performance evaluation audit that includes an audit of the board's policies and management practices. The board shall reimburse the legislative audit bureau for the cost of audits required to be performed under this subsection.

SECTION 22. 25.18 (1) (intro.) of the statutes is amended to read:

25.18 (1) (intro.) In addition to the powers and duties enumerated in s. 25.17, but subject to s. 25.183, the investment board may:

SECTION 23. 25.18 (1) (L) of the statutes is repealed.

SECTION 24. 25.18 (2) (intro.) of the statutes is amended to read:

25.18 (2) (intro.) In addition to the powers set forth in sub. (1) and s. 25.17, but subject to s. 25.183, the investment board may:

SECTION 24m. 25.18 (2) (e) of the statutes is amended to read:

25.18 (2) (e) Contract with and delegate to investment advisers the management and control over assets from any fund or trust delivered to such investment

advisers for investment in real estate, mortgages, equities, debt of foreign corporations and debt of foreign governments, and pay such advisers fees from the current income of the fund or trust being invested. No more than 40% 15% of the total assets of the fixed retirement investment trust or 40% 15% of the total assets of the variable retirement investment trust may be delivered to investment advisers. The board shall set performance standards for such investment advisers, monitor such investments to determine if performance standards are being met and if an investment adviser does not consistently meet the performance standards then terminate the contract with such investment adviser.

SECTION 26. 25.183 of the statutes is created to read:

25.183 Certain investments prohibited. (1) DEFINITIONS. In this section:

(a) “Derivative” means any financial contract or other instrument that derives its value from the value or performance of any security, currency exchange rate or interest rate or of any index or group of any securities, currency exchange rates or interest rates, but does not include any of the following:

1. Any security that is traded on a national securities exchange or on an automated interdealer quotation system sponsored by a securities association registered under 15 USC 78o–3, et seq.

2. Any forward contract which has a maturity at the time of issuance not exceeding 270 days.

3. Any contract of sale of a commodity, as defined under 7 USC 2, for future delivery, or any option on such a contract, traded or executed on a designated contract market and subject to regulation under 7 USC 1 to 26.

4. Any security of an open–end management investment company or investment trust, if the investment company or investment trust is registered under 15 USC 80a–1 to 80a–64.

5. Any deposit held by a financial institution.

6. Any investment specifically authorized under s. 25.17 (3) (b) and (ba).

6e. Any collateralized mortgage obligation or other asset–backed security which either has one of the 2 highest ratings given by a nationally recognized rating service or is backed or collateralized by insured instruments, guarantees or pledges of the federal government, this state or an agency of the federal government or this state.

6m. Any transaction permitted under s. 25.18 (1) (n), if all of the following conditions are met at the time the transaction is entered into:

a. The counterparty to the transaction is rated in, or has outstanding long–term debt which is rated in, one of the 2 highest ratings given by a nationally recognized rating service.

b. The transaction is used only for specified hedging or interest rate risk reduction purposes.

c. All of the board’s payment obligations under the transaction are fully backed by distinctly identified assets held in the state investment fund.

7. Any financial contract or instrument that the board determines, by rule, is not a derivative.

(b) “Reverse repurchase agreement” means an agreement for the sale of securities by the board under which the board will repurchase those securities on or before a specified date and for a specified amount.

(2) DERIVATIVE INVESTMENTS. After the effective date of this subsection [revisor inserts date], the board may not purchase or acquire any derivative in the state investment fund except in accordance with rules promulgated by the board. Rules promulgated under this subsection may not permit the purchase or acquisition of derivatives in the state investment fund unless the purchase or acquisition is made for the purpose of reducing risk of price changes or of interest rate or currency exchange rate fluctuations with respect to investments held or to be held by the board.

(3) REVERSE REPURCHASE AGREEMENTS. After the effective date of this subsection [revisor inserts date], the board may not enter into any reverse repurchase agreement unless the repurchase of securities under the agreement is required to occur no later than the next business day.

SECTION 27. 25.50 (5) of the statutes is renumbered 25.50 (5) (intro.) and amended to read:

25.50 (5) INVESTMENT POLICIES. (intro.) 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. The board shall provide a copy of the investment policies, together with any guidelines adopted by the board to direct staff investment activity, to each local government having an investment in the fund upon the local government’s request and at least annually to all investors. The board shall distribute at least annually performance information over the preceding one–year, 5–year and 10–year periods, compared with appropriate indices or benchmarks in the private sector. The investment policies shall include all of the following:

SECTION 28. 25.50 (5) (a) to (d) of the statutes are created to read:

25.50 (5) (a) Any types of prohibited investments.

(b) Any restrictions on allocation of assets among various asset types.

(c) Credit standards for private companies in which the fund may invest.

(d) Dollar or percentage limits on investments in a single company or bank.

SECTION 29. 25.50 (5m) of the statutes is created to read:

25.50 (5m) MONTHLY REPORTING REQUIREMENTS. (a) The board, in cooperation with the department of administration, shall provide information necessary for the state treasurer to provide a monthly report to each local government having an investment in the fund. The board shall use all reasonable efforts to provide the information to the state treasurer in time to allow the treasurer to mail or electronically transmit the report to the local government no later than 6 business days after the end of the month covered by the report. The report shall include information on the fund's earnings for the month, with comparison to appropriate indices or benchmarks in the private sector.

(b) Upon request of any local government having an investment in the fund, the board shall provide a summary of securities held by the fund, including for each type of security, its cost, current value and, in the case of debt instruments, the average maturity. The board shall provide the information as soon as practicable after receiving the request.

SECTION 30. Nonstatutory provisions.

(1) ALTERNATIVE INSURANCE ARRANGEMENTS FOR THE LOCAL GOVERNMENT-POOLED INVESTMENT FUND. No later than the first day of the 2nd month beginning after publication, the investment board shall report to the joint legislative audit committee and to the joint committee on finance on alternative insurance arrangements for the local government pooled-investment fund under section 25.50 of the statutes.

(2) SUBMISSION OF INVESTMENT BOARD REPORTS.

(a) Notwithstanding the deadline for the submission of the report of the investment board's annual investment goals and long-term investment strategies that is specified in section 25.17 (14g) of the statutes, as created by this act, the investment board, for the 1996 calendar year, shall submit the report on or before the first day of the 2nd month beginning after publication.

(b) Notwithstanding the deadline for the submission of the report of the investment board that is specified in section 25.17 (14m) of the statutes, as affected by this act, the investment board shall submit the report for 1995 on or before March 31, 1996, or on or before the first day of the 2nd month beginning after publication, whichever is later.

(3) INVESTMENT BOARD OFFICERS. The officers of the investment board designated by the governor under section 15.07 (2) (a), 1993 stats., shall cease to hold the designated offices on the effective date of this subsection.

SECTION 31. Appropriation changes.

(1) INTERNAL AUDITOR. In the schedule under section 20.005 (3) of the statutes for the appropriation to the investment board under section 20.536 (1) (k) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$72,000 for fiscal year 1995-96 and the dollar amount is increased by \$210,900 for fiscal year 1996-97 to increase the authorized FTE positions for the investment board by 3.0 PR positions on April 1, 1996, for the performance of the functions of the internal auditor.

(2) CHIEF INVESTMENT OFFICER. In the schedule under section 20.005 (3) of the statutes for the appropriation to the investment board under section 20.536 (1) (k) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$42,500 for fiscal year 1995-96 and the dollar amount is increased by \$144,100 for fiscal year 1996-97 to increase the authorized FTE positions for the investment board by 1.0 PR position on April 1, 1996, for the performance of the functions of the chief investment officer.

(3) INVESTMENT OPERATIONS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the investment board under section 20.536 (1) (k) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$42,600 for fiscal year 1995-96 and the dollar amount is increased by \$118,600 for fiscal year 1996-97 to increase the authorized FTE positions for the investment board by 2.0 PR positions on April 1, 1996, for the performance of certain investment operations.

(4) INVESTMENT TECHNOLOGY. In the schedule under section 20.005 (3) of the statutes for the appropriation to the investment board under section 20.536 (1) (k) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$21,300 for fiscal year 1995-96 and the dollar amount is increased by \$59,300 for fiscal year 1996-97 to increase the authorized FTE positions for the investment board by 1.0 PR position on April 1, 1996, for the development of a comprehensive strategic information systems plan.