



To: Members, Senate Committee on Agriculture, Financial Institutions, and Insurance

From: Senator Dale Schultz, Chairman

Date: March 3, 2003

Re: SB 492 – The Uniform Prudent Investor Act

Dear members,

Thank you for your consideration of SB 492, which will replace the uniform prudent person rule with the Uniform Prudent Investor Act.

The Uniform Prudent Investor Act sets general standards for fiduciaries (including personal representatives, trustees, conservators, or guardians of estates), which will:

1. Allow the fiduciary greater flexibility in choosing investments
2. Specify that their work be judged based on the performance of the trust as a whole, rather than judging the performance of each individual investment.
3. Allow them to delegate investment decisions to certain individuals that are appropriately qualified and supervised, and
4. Require them to consider the tax consequences of investments.

The change from uniform prudent person rule to the Uniform Prudent Investor Act will essentially free the trustees from outdated restrictions and allow them to consider the specific needs of each account. Not only will the change provide uniform protection for trusts and estates, but will likely result in earning greater returns for the beneficiary.

Again, thank you for your consideration. I encourage the committee to support this legislation to update standards and provide uniformity of law.

MEMORANDUM

TO: Senate Committee on Agriculture, Financial Institutions and Insurance

FROM: Wisconsin Bankers Association

Real Property, Probate & Trust Law Section
(State Bar of Wisconsin)

DATE: March 3, 2004

RE: Uniform Prudent Investors Act – Senate Bill 492

The Wisconsin Bankers Association and the Real Property, Probate & Trust Law Section of the State Bar of Wisconsin appreciate the opportunity to testify today in support of SB 492, the Uniform Prudent Investors Act. SB 492 makes no substantive changes to the model uniform law as recommended by the National Conference of Commissioners on Uniform State Laws (NCCUSL). To date, over 40 states have adopted this uniform law.

SB 492 removes much of the common law restriction upon the investment authority of trustees of trusts and like fiduciaries. It allows such fiduciaries to utilize modern portfolio theory to guide investment decisions. A fiduciary's performance is measured on the performance of the whole portfolio, not upon the performance of each investment singly. SB 492 allows the fiduciary to delegate investment decisions to qualified and supervised agents. It requires sophisticated risk-return analysis to guide investment decisions.

What are the specific advantages of the Uniform Prudent Investor Act? There are many as suggested by NCCUSL, including the following. Trusts are likely to achieve a better return for beneficiaries than is the case under the common law rules. Trustees can protect the trust corpus better through diversification of assets than is the case under the common law rules. Trustees can invest to counter the effects of inflation, something that the common rules do not allow. Trustees can take into account the changing character and kinds of assets available for investment, free of archaic restrictions. Trustees are judged on overall performance of the assets in a trust, rather than on the performance of specific assets. The specific needs of each trust can be taken into account in devising investment strategy, rather than be subordinate to generic investment rules treating all trusts as the same.

Both organizations respectfully request your support of this change, and we urge the Committee to act favorably on SB 492. Passage of the bill will provide uniformity of law, necessary in an interstate investment environment and will update the standard in Wisconsin from the Prudent Person Rule to the Prudent Investor Rule.

For more information contact:

Rose Oswald Poels, Wisconsin Bankers Association, at (608) 441-1205 or ropoels@wisbank.com.

Jason Westphal, State Bar of Wisconsin, at (608) 250-6077 or jwestphal@wisbar.org.

Vote Record

Committee on Agriculture, Financial Institutions and Insurance

Date: 03-03-04 Type: EXEC

Bill Number: SB-492

Moved by: Schultz

Seconded by: Kedzie

Motion: PASSAGE

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried

Motion Failed