## SENATE BILL 490 (LRB -0874)

An Act to renumber and amend 25.17 (1) (fm) and 40.02 (34); and to amend 25.14 (1) (a) 2., 25.17 (3) (a), 25.17 (3) (bh), 25.17 (4), 25.17 (6), 25.17 (14) (intro.), 25.17 (14) (g), 25.17 (15), 25.18 (1) (o), 25.18 (2) (e) 1., 25.187 (2) (c) 3. a., 40.02 (7), 40.02 (23) (a), 40.02 (23) (b), 40.02 (58), 40.03 (1) (h), 40.03 (1) (n), 40.04 (3) (intro.), 40.04 (3) (ab), 40.04 (3) (am) 1., 40.04 (3) (am) 2., 40.04 (3) (am) 3. (intro.), 40.04 (3) (am) 3. a., 40.04 (3) (am) 3. b., 40.04 (3) (am) 3. c., 40.04 (3) (b), 40.04 (3) (d), 40.04 (4) (a) 2., 40.04 (4) (a) 2g., 40.04 (4) (a) 2m., 40.04 (5) (b), 40.04 (7) (intro.), 40.04 (7) (a) (intro.), 40.04 (7) (a) 2., 40.05 (1) (a) 6., 40.05 (2) (g) 2., 40.06 (5), 40.08 (4), 40.23 (2m) (c), 40.27 (2) (intro.), 40.27 (2) (a), 40.27 (2) (b), 40.27 (2) (c), 40.28 (1) (intro.) and 40.28 (1) (b) of the statutes; relating to: changing the name of the fixed retirement investment trust to the core retirement investment trust (suggested as remedial legislation by the Department of Employee Trust Funds).

**2005**

| | | |
|---|---|---|
| 03-01. | S. | Introduced by **LAW REVISION COMMITTEE.** |
| 12-27. | S. | Read first time and referred to joint survey committee on Retirement Systems ..... 512 |

**2006**

| | | |
|---|---|---|
| 03-01. | S. | Report of joint survey committee on Retirement Systems received. |
| 03-01. | S. | Referred to committee on Senate Organization. |
| 03-01. | S. | Available for scheduling. |
| 03-01. | S. | Placed on calendar 3-2-2006 by committee on Senate Organization. |
| 03-02. | S. | Read a second time. |
| 03-02. | S. | Ordered to a third reading. |
| 03-02. | S. | Rules suspended. |
| 03-02. | S. | Read a third time and **passed.** |
| 03-02. | S. | Ordered immediately messaged. |
| 03-07. | A. | Received from Senate ..... 910 |
| 03-07. | A. | Read first time and referred to committee on Rules ..... 912 |
| 03-07. | A. | Placed on calendar 3-9-2006 by committee on Rules. |
| 03-07. | A. | Made a special order of business at 10:48 A.M. on 3-9-2006 pursuant to Assembly Resolution 51 ..... 933 |
| 03-09. | A. | Read a second time ..... 952 |
| 03-09. | A. | Ordered to a third reading ..... 952 |
| 03-09. | A. | Rules suspended ..... 952 |
| 03-09. | A. | Read a third time and **concurred in** ..... 952 |
| 03-09. | A. | Ordered immediately messaged ..... 952 |
| 03-10. | S. | Received from Assembly concurred in. |



MB

# 2005
# ENROLLED BILL

05en S B- 490

**ADOPTED DOCUMENTS:**

☒ Orig ☐ Engr ___ SubAmdt ___ 05 - 0874/1

Amendments to above (if none, write "NONE"): None

Corrections – show date (if none, write "NONE"): None

Topic Rel w/o parenthetical

3-17-06
Date

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# 2005 SENATE BILL 490

December 27, 2005 – Introduced by LAW REVISION COMMITTEE. Referred to Joint Survey Committee on Retirement Systems.

1 AN ACT ***to renumber and amend*** 25.17 (1) (fm) and 40.02 (34); and ***to amend***
2 25.14 (1) (a) 2., 25.17 (3) (a), 25.17 (3) (bh), 25.17 (4), 25.17 (6), 25.17 (14) (intro.),
3 25.17 (14) (g), 25.17 (15), 25.18 (1) (o), 25.18 (2) (e) 1., 25.187 (2) (c) 3. a., 40.02
4 (7), 40.02 (23) (a), 40.02 (23) (b), 40.02 (58), 40.03 (1) (h), 40.03 (1) (n), 40.04 (3)
5 (intro.), 40.04 (3) (ab), 40.04 (3) (am) 1., 40.04 (3) (am) 2., 40.04 (3) (am) 3.
6 (intro.), 40.04 (3) (am) 3. a., 40.04 (3) (am) 3. b., 40.04 (3) (am) 3. c., 40.04 (3) (b),
7 40.04 (3) (d), 40.04 (4) (a) 2., 40.04 (4) (a) 2g., 40.04 (4) (a) 2m., 40.04 (5) (b), 40.04
8 (7) (intro.), 40.04 (7) (a) (intro.), 40.04 (7) (a) 2., 40.05 (1) (a) 6., 40.05 (2) (g) 2.,
9 40.06 (5), 40.08 (4), 40.23 (2m) (c), 40.27 (2) (intro.), 40.27 (2) (a), 40.27 (2) (b),
10 40.27 (2) (c), 40.28 (1) (intro.) and 40.28 (1) (b) of the statutes; **relating to:**
11 changing the name of the fixed retirement investment trust to the core

retirement investment trust (suggested as remedial legislation by the Department of Employee Trust Funds).

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***Analysis by the Legislative Reference Bureau***

This bill changes the name of the fixed retirement investment trust to the core retirement investment trust.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council in the bill.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Employee Trust Funds and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 25.14 (1) (a) 2. of the statutes is amended to read:

25.14 **(1)** (a) 2. The ~~fixed~~ core retirement investment trust.

**SECTION 2.** 25.17 (1) (fm) of the statutes is renumbered 25.17 (1) (br) and amended to read:

25.17 **(1)** (br) ~~Fixed~~ core retirement investment trust (s. 40.04 (3));

**SECTION 3.** 25.17 (3) (a) of the statutes is amended to read:

25.17 **(3)** (a) Invest the ~~fixed~~ core retirement investment trust, state life fund, veterans trust fund, and injured patients and families compensation 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. Investments permitted by sub. (4) are permitted investments under this subsection.

**SECTION 4.** 25.17 (3) (bh) of the statutes is amended to read:

1 25.17 **(3)** (bh) Invest the ~~fixed~~ core retirement investment trust and state life
2 fund in loans secured by mortgages upon unencumbered and improved real property
3 in the United States or Canada when such real estate is leased to a corporation or
4 limited liability company incorporated, organized, or existing under the laws of the
5 United States or any state, district or territory thereof, or Canada or any province
6 thereof, whose income available for fixed charges for the period of 5 fiscal years next
7 preceding the date of the investment has averaged not less than 1.5 times its average
8 annual fixed charges applicable to such period, if there is pledged and assigned,
9 either absolutely or conditionally, as additional security for the loan either the lease
10 or sufficient of the rentals payable thereunder to repay the principal and interest of
11 the loan within the unexpired term of the lease. Real property and leasehold estates
12 are not encumbered within the meaning of this section by reason of the existence of
13 unpaid assessments and taxes not delinquent, mineral, oil or timber rights,
14 easements or rights–of–way for public highways, private roads, railroads, telegraph,
15 telephone, electric light and power lines, drains, sewers or other similar easements
16 or rights–of–way, liens for service and maintenance of water rights when not
17 delinquent, party wall agreements, building restrictions, or other restrictive
18 covenants or conditions, with or without a reversionary clause, or leases under which
19 rents or profits are reserved to the owner. The foregoing limitations and restrictions
20 shall not apply to real estate loans which are insured under the national housing act
21 by the federal housing administration or to real estate loans made under ch. 219, or
22 insured under policies of insurance issued by responsible mortgage insurance
23 companies.

24 **SECTION 5.** 25.17 (4) of the statutes is amended to read:

25.17 **(4)** Invest the funds of the ~~fixed~~ core retirement investment trust in loans, securities, or investments in addition to those permitted by any other statute including investments in corporations or limited liability companies which are in the venture capital stage. The aggregate of the loans, securities, and investments made under this subsection shall not exceed ~~15%~~ 15 percent of the admitted assets of that trust. Investments in corporations or limited liability companies which are in the venture capital stage shall not exceed ~~2%~~ 2 percent of the admitted assets of that trust.

**SECTION 6.** 25.17 (6) of the statutes is amended to read:

25.17 **(6)** Notwithstanding any other statute, transfers from the variable retirement investment trust to the ~~fixed~~ core retirement investment trust under s. 40.04 (7) may be made in cash or securities or both as determined by the board. The 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 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 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 board shall, at such time as it determines that 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.

**SECTION 7.** 25.17 (14) (intro.) of the statutes is amended to read:

25.17 **(14)** (intro.) As of December 31 of each year, make and file with the department of employee trust funds a report of the value of the assets of the ~~fixed~~ core 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~~ core retirement investment trust:

**SECTION 8.** 25.17 (14) (g) of the statutes is amended to read:

25.17 **(14)** (g) With respect to all securities under pars. (a) to (e), the amount of any income or any adjustment in income shall be transferred to the current income account of the ~~fixed~~ core retirement investment trust under s. 40.04 (3).

**SECTION 9.** 25.17 (15) of the statutes is amended to read:

25.17 **(15)** For purposes of the power and authority of the board to make investments, the "admitted assets" of the ~~fixed~~ core 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 under sub. (14).

**SECTION 10.** 25.18 (1) (o) of the statutes is amended to read:

25.18 **(1)** (o) Invest any of the assets of the permanent endowment fund in any investment that is an authorized investment for assets in the ~~fixed~~ core retirement investment trust under s. 25.17 (4) or assets in the variable retirement investment trust under s. 25.17 (5).

**SECTION 11.** 25.18 (2) (e) 1. of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

25.18 **(2)** (e) 1. 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, and debt and pay such advisers fees from the current income of the fund or trust being invested.

Subject to subd. 2., no more than 20 percent of the total assets of the ~~fixed~~ core retirement investment trust or 20 percent of the total assets of the variable retirement investment trust may be delivered to investment advisers to manage in accounts in which the board directly holds title to all securities purchased for the accounts. 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 12.** 25.187 (2) (c) 3. a. of the statutes is amended to read:

25.187 **(2)** (c) 3. a. Determine the total market value of the assets of the funds according to the methodology used to determine the market value of the ~~fixed~~ core retirement investment trust under s. 25.17 (14).

**SECTION 13.** 40.02 (7) of the statutes is amended to read:

40.02 **(7)** "Assumed rate" means the probable average effective rate expected to be earned for the ~~fixed~~ core annuity division on a long–term basis. The assumed rate shall be a rate of ~~8%~~ 8 percent and the actuarial assumption for across–the–board salary increases for the purpose of valuing the liabilities of the Wisconsin ~~retirement system~~ Retirement System shall be ~~3.4%~~ 3.4 percent less than the assumed rate unless due to changed economic circumstances the actuary recommends and the board approves a different rate. The assumed rate for a calendar year shall be used for all calculations of required contributions and reserves for participants, except as provided in s. 40.04 (4) (a) 2., 2g., and 2m., and the amount of any lump sum benefit paid instead of an annuity, except it shall not be used for any purpose for which the assumed benefit rate is to be used under sub. (6).

**SECTION 14.** 40.02 (23) (a) of the statutes is amended to read:

40.02 **(23)** (a) For the ~~fixed~~ core annuity division, the rate, disregarding fractions of less than one–tenth of one percent, determined by dividing the remaining ~~fixed~~ core annuity division investment earnings for the calendar year or part of the calendar year, after making provision for any necessary reserves and after deducting prorated interest and the administrative costs of the ~~fixed~~ core annuity division for the year, by the ~~fixed~~ core annuity division balance at the beginning of the calendar year as adjusted for benefit payments and refunds paid during the year excluding prorated interest.

**SECTION 15.** 40.02 (23) (b) of the statutes is amended to read:

40.02 **(23)** (b) For the variable annuity division, the rate, disregarding fractions less than one percent, which will distribute the net gain or loss of the variable annuity division to the respective variable annuity balances and reserves using the same procedure as provided in par. (a) for the ~~fixed~~ core annuity division.

**SECTION 16.** 40.02 (34) of the statutes is renumbered 40.02 (12r) and amended to read:

40.02 **(12r)** "~~Fixed~~ Core annuity" means any annuity other than a variable annuity.

**SECTION 17.** 40.02 (58) of the statutes is amended to read:

40.02 **(58)** "Variable annuity" means any annuity provided by the accumulations in the variable annuity division established under s. 40.04 (7) providing for the dollar amount of benefits or other contractual payments or values to vary so as to reflect differences which may arise between the total value of the annuity reserve for variable annuities and the reserve that would be required if the annuities were ~~fixed~~ core annuities.

**SECTION 18.** 40.03 (1) (h) of the statutes is amended to read:

40.03 **(1)** (h) May accept any gift, grant, or bequest of any money or property of any kind, for the purposes designated by the grantor if the purpose is specified as providing cash benefits to some or all of the participants, insured employees, or annuitants of this fund or for reducing employer or employee costs; or, if no purposes are designated, then for the purpose of distribution to the several accounts and reserves of the Wisconsin ~~retirement system~~ Retirement System at the end of the year as if the money or property were investment earnings of the ~~fixed~~ core annuity division.

**SECTION 19.** 40.03 (1) (n) of the statutes is amended to read:

40.03 **(1)** (n) May allow any separate retirement system for employees of one or more employers to deliver or send funds representing assets of that system to the department. If the department accepts delivery or transmission, the department shall purchase shares of the ~~fixed~~ core retirement investment trust or variable retirement investment trust or both with those funds, subject to rules under sub. (2) (q). Each retirement system shall pay as provided in s. 40.04 (2) for the costs of investing and administering any of its funds sent or delivered to the department.

**SECTION 20.** 40.04 (3) (intro.) of the statutes is amended to read:

40.04 **(3)** (intro.) A ~~fixed~~ core retirement investment trust and a variable retirement investment trust shall be maintained within the fund under the jurisdiction and management of the investment board for the purpose of managing the investments of the retirement reserve accounts and of any other accounts of the fund as determined by the board, including the accounts of separate retirement systems. Within the ~~fixed~~ core retirement investment trust there shall be maintained a transaction amortization account and a market recognition account, and any other accounts as are established by the board or the investment board. A

current income account shall be maintained in the variable retirement investment trust. All costs of owning, operating, protecting, and acquiring property in which either trust has an interest shall be charged to the current income or market recognition account of the trust having the interest in the property.

**SECTION 21.** 40.04 (3) (ab) of the statutes is amended to read:

40.04 **(3)** (ab) Beginning on December 31, 2000, the balance of the transaction amortization account shall be determined and ~~20%~~ 20 percent of the balance established on December 31, 2000, shall be distributed annually on December 31 to each participating account in the same ratio as each account's average daily balance within the ~~fixed~~ core retirement investment trust bears to the total average daily balance of all participating accounts in the trust until the balance of the transaction amortization account is entirely distributed. Notwithstanding sub. (3) (intro.), after the entire balance of the transaction amortization account has been distributed, the department shall close the account.

**SECTION 22.** 40.04 (3) (am) 1. of the statutes is amended to read:

40.04 **(3)** (am) 1. Beginning on January 1, 2000, there shall be maintained within the ~~fixed~~ core retirement investment trust a market recognition account. The department shall establish and administer the market recognition account as recommended by the actuary or actuarial firm retained under s. 40.03 (1) (d) and as approved by the board.

**SECTION 23.** 40.04 (3) (am) 2. of the statutes is amended to read:

40.04 **(3)** (am) 2. Annually, the total market value investment return earned by the ~~fixed~~ core retirement investment trust during the year shall be credited to the market recognition account.

**SECTION 24.** 40.04 (3) (am) 3. (intro.) of the statutes is amended to read:

40.04 **(3)** (am) 3. (intro.) Annually, on December 31, the sum of all of the following shall be distributed from the market recognition account to each participating account in the ~~fixed~~ core retirement investment trust in the same ratio as each account's average daily balance bears to the total average daily balance of all participating accounts in the trust:

**SECTION 25.** 40.04 (3) (am) 3. a. of the statutes is amended to read:

40.04 **(3)** (am) 3. a. The expected amount of investment return in the ~~fixed~~ core retirement investment trust during the year based on the assumed rate.

**SECTION 26.** 40.04 (3) (am) 3. b. of the statutes is amended to read:

40.04 **(3)** (am) 3. b. An amount equal to ~~20%~~ 20 percent of the difference between the total market value investment return earned by the ~~fixed~~ core retirement investment trust and the expected amount of investment return of the ~~fixed~~ core retirement investment trust during the year ending on December 31 based on the assumed rate.

**SECTION 27.** 40.04 (3) (am) 3. c. of the statutes is amended to read:

40.04 **(3)** (am) 3. c. An amount equal to ~~20%~~ 20 percent of the sum of the differences between the total market value investment return earned by the ~~fixed~~ core retirement investment trust and the expected amount of investment return of the ~~fixed~~ core retirement investment trust at the end of the 4 preceding years. For the purpose of making this calculation, the amount in the market recognition account at the end of each year that occurs before the year 2000 shall be assumed to be zero.

**SECTION 28.** 40.04 (3) (b) of the statutes is amended to read:

40.04 **(3)** (b) The assets of the ~~fixed~~ core retirement investment trust shall be commingled and the assets of the variable retirement investment trust shall be

commingled. No particular contributing benefit plan shall have any right in any specific item of cash, investment, or other property in either trust other than an undivided interest in the whole as provided in this paragraph. The department of administration shall maintain any records as may be required to account for each contributing account's share in the corresponding trust except that the employee accumulation reserve, the employer accumulation reserve and the annuity reserve shall be treated as a single account, except as provided in sub. (7).

**SECTION 29.** 40.04 (3) (d) of the statutes is amended to read:

40.04 **(3)** (d) Notwithstanding par. (a), assets of the ~~fixed~~ core retirement investment trust which are authorized to be invested in common or preferred stock may, if authorized by rule, be invested as a part of the variable retirement investment trust with that portion of the annual distributions of net gains or losses to the ~~fixed~~ core retirement investment trust from the variable retirement investment trust being credited to the market recognition account.

**SECTION 30.** 40.04 (4) (a) 2. of the statutes is amended to read:

40.04 **(4)** (a) 2. Credited as of each December 31 with interest on the prior year's closing balance at the effective rate on all employee required contribution accumulations in the variable annuity division, on all employee required contributions in the ~~fixed~~ core annuity division on December 31, 1984, on all employee required contributions in the ~~fixed~~ core annuity division of participants who are not participating employees after December 31, 1984, and on all employee and employer additional contribution accumulations and with interest on the prior year's closing balance at the assumed benefit rate on all employee required contribution accumulations in the ~~fixed~~ core annuity division for participants who

are participating employees after December 31, 1984, but who terminated covered employment before December 30, 1999.

**SECTION 31.** 40.04 (4) (a) 2g. of the statutes is amended to read:

40.04 **(4)** (a) 2g. Credited as of each December 31, with interest on the prior year's closing balance at the effective rate on all employee required contribution accumulations in the ~~fixed~~ core annuity division for participants who are participating employees on or after December 30, 1999.

**SECTION 32.** 40.04 (4) (a) 2m. of the statutes is amended to read:

40.04 **(4)** (a) 2m. Debited, if a participant terminates covered employment on or after January 1, 1990, but before December 30, 1999, and applies for a benefit under s. 40.25 (2), with an amount equal to the amount by which the ~~fixed~~ core annuity division interest credited on or after January 1, 1990, but before December 30, 1999, to employee required contributions, exceeds the interest crediting at an annual rate of ~~3%~~ 3 percent on each prior year's closing balance.

**SECTION 33.** 40.04 (5) (b) of the statutes is amended to read:

40.04 **(5)** (b) Credited, as of each December 31, all ~~fixed~~ core annuity division interest not credited to other accounts and reserves under this section.

**SECTION 34.** 40.04 (7) (intro.) of the statutes is amended to read:

40.04 **(7)** (intro.) The reserves established under subs. (4), (5), and (6) shall be divided both individually and for the purposes of sub. (3) between a ~~fixed~~ core annuity division and a variable annuity division. All required and additional contributions shall be credited to the ~~fixed~~ core annuity division except:

**SECTION 35.** 40.04 (7) (a) (intro.) of the statutes is amended to read:

40.04 **(7)** (a) (intro.) As otherwise elected by a participant prior to April 30, 1980, or on or after January 1, 2001. Any participant who was a participant prior

to April 30, 1980, and whose accounts on January 1, 1982, include credits segregated for a variable annuity shall have his or her required and additional contributions made on or after January 1, 1982, credited to the variable annuity division in a manner consistent with the participant's election prior to April 30, 1980, unless prior to January 1, 1982, the participant terminated such election under s. 40.85, 1979 stats. Any participant who elects or has elected to have any of his or her credits segregated for a variable annuity on or after January 1, 2001, shall have ~~50%~~ 50 percent of his or her required and additional contributions made on or after the date of election credited to the variable annuity division. The department shall by rule provide that any participant who elects or has elected variable participation prior to April 30, 1980, or on or after January 1, 2001, may elect to cancel that variable participation as to future contributions. The department's rules shall permit a participant who elects or has elected to cancel variable participation as to future contributions, or an annuitant, to elect to transfer previous variable contribution accumulations to the ~~fixed~~ core annuity division. A transfer of variable contribution accumulations under this paragraph shall result in the participant receiving the accrued gain or loss from the participant's variable participation. A participant may specify that election to cancel participation in the variable annuity division is conditional. If the participant so specifies the election is effective on the first date on which it may take effect on which the participant:

**SECTION 36.** 40.04 (7) (a) 2. of the statutes is amended to read:

40.04 **(7)** (a) 2. Is not an annuitant and the accumulated amount which is to be transferred to the ~~fixed~~ core annuity division is equal to or greater than the amount which would have accumulated if the segregated contributions had been originally credited to the ~~fixed~~ core annuity division.

1 **SECTION 37.** 40.05 (1) (a) 6. of the statutes is amended to read:

2 40.05 **(1)** (a) 6. Under the rules promulgated under s. 40.03 (2) (r), additional
3 contributions, other than the first $5,000 of contributions, or a beneficiary's prorated
4 share thereof, that are attributable to a death benefit paid under s. 40.73, may be
5 made to the ~~fixed~~ core annuity division by any participant by rollover contribution
6 of a payment or distribution from a pension or annuity qualified under section 401
7 of the ~~internal revenue code~~ Internal Revenue Code, subject to any limitations
8 imposed on contributions by the ~~internal revenue code~~ Internal Revenue Code,
9 applicable regulations adopted under the ~~internal revenue code~~ Internal Revenue
10 Code, and rules of the department.

11 **SECTION 38.** 40.05 (2) (g) 2. of the statutes is amended to read:

12 40.05 **(2)** (g) 2. Under the rules promulgated under s. 40.03 (2) (r), a participant
13 may, as a payout option for the deferred compensation plan established under subch.
14 VII, elect to have the entire balance in the participant's account under subch. VII
15 treated as an additional contribution to the ~~fixed~~ core annuity division, subject to any
16 limitations imposed on contributions by the ~~internal revenue code~~ Internal Revenue
17 Code, applicable regulations adopted under the ~~internal revenue code~~ Internal
18 Revenue Code, and rules of the department. Additional contributions under this
19 subdivision shall be available for all benefit purposes and shall be administered and
20 invested on the same basis as employee additional contributions, except that ss.
21 40.24 (1) (f) and 40.25 (4) do not apply to additional contributions under this
22 subdivision and s. 40.26 does not apply to an annuity received from additional
23 contributions under this subdivision.

24 **SECTION 39.** 40.06 (5) of the statutes is amended to read:

40.06 **(5)** Whenever it is determined that contributions and premiums were not paid in the year when due, the amount to be paid shall be determined at the employee and employer contribution or premium rates in effect when the payment should have been made and increased by interest at the effective rate which would have been credited if the amount had been paid and deposited in the accumulation reserves of the ~~fixed~~ core annuity division under s. 40.04 (4) and (5) at the time the contributions or premiums were due. The employer shall collect from the employee the amount which the employee would have paid if the amounts had been paid when due, plus the corresponding interest, and shall transmit the amount collected to the department together with the balance of the amount to be paid, or the employer may elect to pay part or all of the employee amounts.

**SECTION 40.** 40.08 (4) of the statutes is amended to read:

40.08 **(4)** RETENTION OF PAYMENTS. Unless voluntarily repaid and except as limited by sub. (10), the department may retain out of any annuity or benefit an amount as the department in its discretion may determine, for the purpose of reimbursing the appropriate benefit plan accounts for a balance due under s. 40.25 (5) or for any money paid, plus interest at the effective rate of the ~~fixed~~ core annuity division, to any person or estate, through misrepresentation, fraud, or error. Upon the request of the department any employer shall withhold from any sum payable by the employer to any person or estate and remit to the department any amount, plus interest at the effective rate of the ~~fixed~~ core annuity division, which the department paid to the person or estate through misrepresentation, fraud, or error. Any amount, plus interest at the effective rate, not recovered by the department from the employer may be procured by the department by action brought against the person or estate.

1 **SECTION 41.** 40.23 (2m) (c) of the statutes is amended to read:

2 40.23 **(2m)** (c) The annuity which can be provided from a sum equal to ~~200%~~
3 200 percent of the excess accruing after June 30, 1966, for teacher participants, or
4 December 31, 1965, for all other participants, of the participant's required
5 contribution accumulation reserved for a variable annuity over the amount to which
6 the contributions would have accumulated at the ~~fixed~~ core annuity division effective
7 rate if not so reserved. If the participant's required contribution accumulation
8 reserved for a variable annuity is less than the amount to which the contributions
9 would have accumulated at the ~~fixed~~ core annuity division effective rate if not
10 reserved, the annuity shall be reduced by the amount which could be provided by a
11 sum equal to ~~200%~~ 200 percent of the deficiency.

12 **SECTION 42.** 40.27 (2) (intro.) of the statutes is amended to read:

13 40.27 **(2)** ~~FIXED~~ CORE ANNUITY RESERVE SURPLUS DISTRIBUTIONS. (intro.)
14 Surpluses in the ~~fixed~~ core annuity reserve established under s. 40.04 (6) and (7)
15 shall be distributed by the board if the distribution will result in at least a 0.5 percent
16 increase in the amount of annuities in force, except as otherwise provided by the
17 department by rule, on recommendation of the actuary, as follows:

18 **SECTION 43.** 40.27 (2) (a) of the statutes is amended to read:

19 40.27 **(2)** (a) The distributions shall be expressed as percentage increases in the
20 amount of the monthly annuity in force, including prior distributions of surpluses
21 but not including any amount paid from funds other than the ~~fixed~~ core annuity
22 reserve fund, preceding the effective date of the distribution. For purposes of this
23 subsection, annuities in force include any disability annuity suspended because the
24 earnings limitation had been exceeded by that annuitant in that year.

25 **SECTION 44.** 40.27 (2) (b) of the statutes is amended to read:

1 40.27 **(2)** (b) Prorated percentages based on the annuity effective date may be
2 applied to annuities with effective dates during the calendar year preceding the
3 effective date of the distribution, as provided by rule, but no other distinction may
4 be made among the various types of annuities payable from the ~~fixed~~ core annuity
5 reserve.

6 **SECTION 45.** 40.27 (2) (c) of the statutes is amended to read:

7 40.27 **(2)** (c) The distributions shall not be offset against any other benefit being
8 received but shall be paid in full, nor shall any other benefit being received be
9 reduced by the distributions. The annuity reserve surplus distributions authorized
10 under this subsection may be revoked by the board in part or in total as to future
11 payments upon recommendation of the actuary if a deficit occurs in the ~~fixed~~ core
12 annuity reserves and such deficit would result in a 0.5 percent or greater decrease
13 in the amount of annuities in force, except as otherwise provided by the department
14 by rule.

15 **SECTION 46.** 40.28 (1) (intro.) of the statutes is amended to read:

16 40.28 **(1)** (intro.) Any annuity provided to a participant whose accounts include
17 credits segregated for a variable annuity shall consist of a ~~fixed~~ core annuity and a
18 variable annuity.

19 **SECTION 47.** 40.28 (1) (b) of the statutes is amended to read:

20 40.28 **(1)** (b) The initial amount of the ~~fixed~~ core annuity shall be the excess of
21 the total annuity payable, as determined under s. 40.23, over the amount of the
22 variable annuity.

23 **(END)**