

## 2007 SENATE BILL 351

December 10, 2007 – Introduced by Senators SULLIVAN, RISSER, WIRCH, OLSEN, DARLING, BRESKE, ROESSLER, LASSA, TAYLOR and SCHULTZ, cosponsored by Representatives NEWCOMER, A. OTT, CULLEN, VOS, ALBERS, ZEPNICK, HAHN and PETROWSKI, by request of State of Wisconsin Investment Board. Referred to Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions.

1     **AN ACT** *to amend* 25.15 (2) (intro.) and 25.15 (2) (a); and *to create* 25.17 (2) (g)  
2             and 25.182 of the statutes; **relating to:** investments and operations of the State  
3             of Wisconsin Investment Board.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the State of Wisconsin Investment Board (SWIB) has authority to manage and invest Wisconsin Retirement System contributions, which comprise the public employee trust fund. A core retirement investment trust (core trust) and a variable retirement investment trust (variable trust) are maintained in the public employee trust fund. SWIB may invest assets of the core trust and the variable trust in specific classes of investments enumerated by statute (authorized lists).

Under this bill, instead of its investment authority being limited to the authorized lists, SWIB may manage the money and property of the core trust and the variable trust in any manner that does not violate SWIB's standard of responsibility. However, SWIB must continue to invest assets of the variable trust primarily in equity securities. SWIB's standard of responsibility is: (1) to manage the money and property 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; (2) 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; and

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(3) 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.

The bill also makes minor modifications to SWIB's statutory standard of responsibility with respect to terminology and interaction with other statutory provisions. In so doing, the bill clarifies two exceptions when the standard of responsibility described above does not apply to SWIB.

Under current law, the building commission may direct that moneys resulting from certain public debt be deposited in funds or accounts created or designated by a building commission resolution. Moneys deposited or held in these funds or accounts may be invested in any obligations specified by a building commission resolution. This bill explicitly authorizes SWIB to manage these funds and specifies that SWIB must invest these funds as provided by the building commission resolution and, in doing so, is relieved of its statutory standard of responsibility.

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

1           **SECTION 1.** 25.15 (2) (intro.) of the statutes is amended to read:

2           25.15 **(2)** STANDARD OF RESPONSIBILITY. (intro.) Except as provided in s. 25.17  
3           (2) ~~(f)~~ and (3) (c), the standard of responsibility applied to the board when it invests  
4           manages money ~~or~~ and property shall be all of the following:

5           **SECTION 2.** 25.15 (2) (a) of the statutes is amended to read:

6           25.15 **(2)** (a) To ~~invest, sell, reinvest and collect income and rents~~ manage the  
7           money and property with the care, skill, prudence and diligence under the  
8           circumstances then prevailing that a prudent person acting in a similar capacity,  
9           with the same resources, and familiar with like matters exercises in the conduct of  
10          an enterprise of a like character with like aims.

11          **SECTION 3.** 25.17 (2) (g) of the statutes is created to read:

12          25.17 **(2)** (g) Notwithstanding any other provision of this chapter, invest any  
13          funds that the building commission directs the board to invest by resolution under  
14          s. 18.04 (6) (c) as specified by such resolution. In making investments under this

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1 paragraph, the board shall accept the terms and conditions specified in the  
2 resolution and is relieved of any obligations relevant to prudent investment of the  
3 fund, including those set forth under s. 25.15 (2).

4 **SECTION 4.** 25.182 of the statutes is created to read:

5 **25.182 Management authority for certain funds.** In addition to the  
6 management authority provided under any other provision of law, and  
7 notwithstanding any limitation on the board's management authority provided  
8 under any other provision of law, the board shall have authority to manage the  
9 money and property of the core retirement investment trust and, subject to s. 25.17  
10 (5), the variable retirement investment trust in any manner that does not violate the  
11 standard of responsibility specified in s. 25.15 (2).

12 (END)