

## 2007 DRAFTING REQUEST

### Bill

Received: **09/26/2007**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Investment Board**

By/Representing: **Sandy Drew**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **State Finance - investment board**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sandy.Drew@swib.state.wi.us**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

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### Topic:

SWIB modernization changes; core and variable trust investment authority under SWIB standard of responsibility

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### Instructions:

See Attached

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/2			jfrantze	_____	sbasford	sbasford	

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				_____	mbarman		
				_____	11/19/2007		

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↪ Not Needed

mbarman  
11/19/2007

e-mail requested by Sandy D.

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*to Selb  
10/22*

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*for Senate per Sandy Drew*

*Jacketed*

*mbarman 09/27/2007*

*e-mail only*

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1 gys 9/26/07

agary

FE Sent For:

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Wanted by 9/27

-3236/1

in 9/26

RMNR

### 2007 BILL

No changes - edited already today 9/26

stamps

Repeal Cab

1 AN ACT *to repeal* 25.47 (3) (b) 7., 25.17 (3) (bh) and (d), 25.17 (3) (dg) (intro.),  
 2 25.17 (3) (dg) 3., 25.17 (3) (dm), 25.17 (4), 25.17 (12) (c) and (13), 25.17 (15) and  
 3 25.17 (65); *to renumber and amend* 25.01, 25.17 (3) (b) 4., 25.17 (3) (dg) 1. and  
 4 25.17 (3) (dg) 2.; *to amend* 25.14 (1) (a) 1., 25.14 (5), 25.15 (2) (intro.), 25.15 (2)  
 5 (a), 25.15 (3), 25.16 (4), 25.17 (1) (r), 25.17 (2) (a) to (e), 25.17 (3) (a), 25.17 (3)  
 6 (b) (intro.) and 3., 25.17 (3) (b) 5., 25.17 (3) (ba), 25.17 (3) (bd), 25.17 (3) (f), 25.17  
 7 (3) (g), 25.17 (5), 25.17 (6), 25.17 (7) (a) and (b), 25.17 (10), 25.17 (12) (a) and (b),  
 8 25.17 (70) (intro.), 25.17 (70) (b) (intro.), 25.17 (70) (d), 25.18 (1) (e), 25.18 (1)  
 9 (o), 25.183 (1) (a) 6e., 25.183 (1) (a) 6m. a. and 560.08 (2) (m); and *to create* 25.01  
 10 (2), 25.14 (1) (a) 19. to 23., 25.156 (10), 25.17 (1) (eq), 25.17 (1) (jt), 25.17 (1) (vb),  
 11 25.17 (2) (g), 25.17 (3) (b) 4. b., 25.17 (63) and 25.182 of the statutes; **relating**  
 12 **to:** investments and operations of the State of Wisconsin Investment Board.

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

This bill makes all of the following changes with respect to the State of Wisconsin Investment Board (SWIB):



**BILL**

1. Under current law, 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 (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.

2. The bill 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 that the standard of responsibility described above applies to SWIB with two exceptions and that, with one exception, the statutory investment standard for a personal representative, trustee, conservator, or guardian of an estate (estate standard) does not apply to SWIB. Under one exception, the estate standard rather than SWIB's statutory standard of responsibility applies in investing historical society funds. Under another exception, in certain instances where SWIB has management authority over an entity's assets but that entity has authority to direct the terms and conditions of SWIB's investments, SWIB is relieved of its statutory standard of responsibility.

3. 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.

4. The bill requires SWIB, if requested by the the Health Insurance Risk-Sharing Plan Authority (HIRSP Authority), to invest funds of the HIRSP Authority in the state investment fund (SIF).

5. Under current law, SWIB may invest the funds included in the SIF in loans secured by U.S. government obligations having a maturity of five years or less if the principal amount of each loan does not exceed 98 percent of the market value of the

**BILL**

collateral. This bill modifies this investment authority and authorizes SWIB to invest the funds included in the SIF in loans, including repurchase agreements, that are collateralized by certain classes of authorized investments if the market value of the collateral security is at least 102 percent of the principal amount of the loan or an amount established by SWIB by rule.

6. The bill specifies that SWIB may invest in certain instruments of financial institutions that are “doing business” in this state or the United States, rather than “located” in this state or the United States. The bill also makes other minor modifications to SWIB’s investment authority.

7. The bill specifies that provisions of current law related to lawsuits against public officers and employees also apply to the members of SWIB (SWIB trustees), including provisions related to payment of judgments against public officers or employees acting in their official capacity or carrying out public duties.

8. The bill clarifies that certain statutorily created funds are not included in the SIF.

9. Current law requires SWIB’s executive director, chief investment officer, and each investment director to file a bond for the faithful performance of that person’s duties in an amount required by the SWIB trustees. This bill clarifies that SWIB’s trustees may decide not to require a bond in any amount.

10. The bill modifies the schedule for a certain biennial reporting requirement of SWIB relating to investments in this state.

11. The bill includes additional changes to clarify and modernize certain statutory provisions, as well as nonsubstantive and technical changes.

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

1           **SECTION 1.** 25.01 of the statutes is renumbered 25.01 (intro.) and amended to  
2 read:

3           **25.01 Definition Definitions.** (intro.) In this chapter, unless the context  
4 requires otherwise, “board”:

5           **(1) “Board”** means the investment board.

6           **SECTION 2.** 25.01 (2) of the statutes is created to read:

7           25.01 (2) “Fund,” when referring generally to funds included under s. 25.17 (1),  
8 includes a trust.

9           **SECTION 3.** 25.14 (1) (a) 1. of the statutes is amended to read:

10          25.14 (1) (a) 1. The state life insurance fund.

**BILL****SECTION 4**

1           **SECTION 4.** 25.14 (1) (a) 19. to 23. of the statutes are created to read:

2           25.14 **(1)** (a) 19. The local government property insurance fund.

3           20. All funds of the historical society that are available for investment as  
4 determined by the society under s. 25.17 (3) (c).

5           21. The environmental improvement fund.

6           22. The transportation infrastructure loan fund.

7           23. The veterans trust fund.

8           **SECTION 5.** 25.14 (5) of the statutes is amended to read:

9           25.14 **(5)** The assets of the state investment fund shall be invested as  
10 prescribed authorized by s. ss. 25.17 (3) (b), (ba), and (bd), 25.18, as applicable, and  
11 25.183.

12           **SECTION 6.** 25.15 (2) (intro.) of the statutes is amended to read:

13           25.15 **(2)** STANDARD OF RESPONSIBILITY. (intro.) Except as provided in s. 25.17  
14 (2) ~~(f)~~ and (3) (c), the standard of responsibility applied to the board when it invests  
15 manages money or and property shall be all of the following:

16           **SECTION 7.** 25.15 (2) (a) of the statutes is amended to read:

17           25.15 **(2)** (a) To invest, sell, reinvest and collect income and rents manage the  
18 money and property with the care, skill, prudence and diligence under the  
19 circumstances then prevailing that a prudent person acting in a similar capacity,  
20 with the same resources, and familiar with like matters exercises in the conduct of  
21 an enterprise of a like character with like aims.

22           **SECTION 8.** 25.15 (3) of the statutes is amended to read:

23           25.15 **(3)** EXEMPTION. ~~Section 881.01~~ Except as provided in s. 25.17 (3) (c), ch.  
24 881 does not apply to investments by the board.

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

**BILL**

1           25.156 (10) The provisions of s. 895.46 (1) apply to the members of the board.

2           **SECTION 10.** 25.16 (4) of the statutes is amended to read:

3           25.16 (4) The executive director shall take the official oath and the executive  
4 director, chief investment officer, and each investment director shall file a bond for  
5 the faithful performance of that person's duties if, and in such amount and with such  
6 sureties as the members of the board require.

7           **SECTION 11.** 25.17 (1) (eq) of the statutes is created to read:

8           25.17 (1) (eq) Environmental improvement fund (s. 25.43), but subject to sub.  
9 (2) (d);

10          **SECTION 12.** 25.17 (1) (jt) of the statutes is created to read:

11          25.17 (1) (jt) Mediation fund (s. 655.68);

12          **SECTION 13.** 25.17 (1) (r) of the statutes is amended to read:

13          25.17 (1) (r) State housing authority reserve fund (s. 25.41), but subject to sub.  
14 (2) (c);

15          **SECTION 14.** 25.17 (1) (vb) of the statutes is created to read:

16          25.17 (1) (vb) Transportation infrastructure loan fund (s. 25.405), but subject  
17 to sub. (2) (e);

18          **SECTION 15.** 25.17 (2) (a) to (e) of the statutes are amended to read:

19          25.17 (2) (a) ~~Invest~~ Have authority to invest any of the funds specified in sub.  
20 (1), except operating funds, the capital improvement fund ~~and~~ the bond security and  
21 redemption fund, the industrial building construction loan fund, and any  
22 redemption fund established under s. 18.561 (5) or 18.562 (3), in loans to the  
23 Wisconsin University Building Corporation, the Wisconsin State Colleges Building  
24 Corporation or the Wisconsin State Public Building Corporation, but only if the loans  
25 are secured by mortgages upon property owned by the respective corporations

**BILL****SECTION 15**

1 producing sufficient income to retire the mortgage over the term of the loan or are  
2 secured by the pledge of rentals sufficient in amount to retire the indebtedness. The  
3 board shall make no loans to any building corporation described in this subsection  
4 except under the conditions prescribed in this paragraph, or except as otherwise  
5 provided in par. (b). These loans shall be made only when in the judgment of the  
6 board it is to the interest of the funds to do so, except that loans made under par. (b)  
7 shall be made at the direction of the building commission.

8 (b) ~~Invest~~ Have authority to invest the state building trust fund in loans to the  
9 Wisconsin State Public Building Corporation, to the Wisconsin University Building  
10 Corporation, and to the Wisconsin State Colleges Building Corporation. Except for  
11 interim loans for construction, or other temporary financing for the purchase of  
12 lands, planning, including both engineering and financing, and all other expenses  
13 incidental to any of the foregoing, loans under this paragraph shall be secured by a  
14 pledge and assignment of net revenues derived from the operation of buildings by the  
15 borrowing corporation on lands leased or conveyed to the corporation. Any loan  
16 under this paragraph shall be made upon the direction of the building commission,  
17 and the board is relieved of any obligations relevant to prudent investment of the  
18 fund, including those set forth under s. 25.15 (2).

19 (c) Invest the State Housing Authority reserve fund as directed by the  
20 Wisconsin Housing and Economic Development Authority in housing rehabilitation  
21 loan program bonds of the authority including subordinated bonds that may also be  
22 special obligations of the authority. In making the investment, the board shall accept  
23 the terms and conditions as the authority specifies and is relieved of any obligations  
24 relative relevant to prudent investment of the fund, including those set forth under  
25 ~~ch. 881 s. 25.15 (2).~~

**BILL**

1 (d) Invest the environmental improvement fund, and collect the principal and  
2 interest of all moneys loaned or invested from the environmental improvement fund,  
3 as directed by the department of administration under s. 281.59 (2m). In making  
4 investments under this paragraph, the board shall accept any reasonable terms and  
5 conditions that the department of administration specifies and is relieved of any  
6 obligations relevant to prudent investment of the fund, including those set forth  
7 under ~~ch. 881 s. 25.15 (2)~~.

8 (e) Invest the transportation infrastructure loan fund, and collect the principal  
9 and interest of all moneys loaned or invested from the transportation infrastructure  
10 loan fund, as directed by the department of administration under s. 85.52 (4m). In  
11 making investments under this paragraph, the board shall accept any reasonable  
12 terms and conditions that the department of administration specifies and is relieved  
13 of any obligations relevant to prudent investment of the fund, including those set  
14 forth under ~~ch. 881 s. 25.15 (2)~~.

15 **SECTION 16.** 25.17 (2) (g) of the statutes is created to read:

16 25.17 (2) (g) Notwithstanding any other provision of this chapter, invest any  
17 funds that the building commission directs the board to invest by resolution under  
18 s. 18.04 (6) (c) as specified by such resolution. In making investments under this  
19 paragraph, the board shall accept the terms and conditions specified in the  
20 resolution and is relieved of any obligations relevant to prudent investment of the  
21 fund, including those set forth under s. 25.15 (2).

22 **SECTION 17.** 25.17 (3) (a) of the statutes is amended to read:

23 25.17 (3) (a) ~~Invest the core retirement investment trust, Have authority to~~  
24 invest the state life insurance fund, local government property insurance fund,  
25 veterans trust fund, and injured patients and families compensation fund in loans,

**BILL****SECTION 17**

1 securities, and any other investments authorized by s. 620.22, and in bonds or other  
2 evidences of indebtedness or preferred stock of companies engaged in the finance  
3 business whether as direct lenders or as holding companies owning subsidiaries  
4 engaged in the finance business. ~~Investments permitted by sub. (4) are permitted~~  
5 ~~investments under this subsection.~~

6 **SECTION 18.** 25.17 (3) (b) (intro.) and 3. of the statutes are amended to read:

7 25.17 (3) (b) (intro.) ~~Invest~~ Subject to par. (dr), have authority to invest any of  
8 the funds over which it has investment authority, including but not limited to the  
9 state investment fund and surplus funds of the state building trust fund not invested  
10 under sub. (2) (b) and not in the state investment fund, in:

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

17 **SECTION 19.** 25.17 (3) (b) 4. of the statutes is renumbered 25.17 (3) (b) 4. (intro.)  
18 and amended to read:

19 25.17 (3) (b) 4. (intro.) Certificates of deposit issued by banks located any of the  
20 following:

21 a. Banks doing business in the United States and by savings and loan  
22 associations, savings banks, and credit unions located doing business in this state.

23 **SECTION 20.** 25.17 (3) (b) 4. b. of the statutes is created to read:

**BILL**

1           25.17 (3) (b) 4. b. Solvent financial institutions doing business in this state.  
2           The board shall establish guidelines that a financial institution must meet to qualify  
3           as solvent under this subd. 4. b.

4           **SECTION 21.** 25.17 (3) (b) 5. of the statutes is amended to read:

5           25.17 (3) (b) 5. Bankers acceptances accepted by banks located doing business  
6           in the United States.

7           **SECTION 22.** 25.17 (3) (b) 7. of the statutes is repealed.

8           **SECTION 23.** 25.17 (3) (ba) of the statutes is amended to read:

9           25.17 (3) (ba) ~~Invest~~ Have authority to invest the funds included in the state  
10          investment fund created by s. 25.14 in loans upon collateral security in the form of  
11          direct obligations of the U.S. government having a maturity of 5 years or less where,  
12          including repurchase agreements, that are collateralized by investments authorized  
13          by sub. (3) (b) where the market value of the collateral security is not less than 102  
14          percent of the principal amount of each such loan does not exceed 98% of the market  
15          value of such collateral security or such other amount as the board may establish by  
16          rule.

17          **SECTION 24.** 25.17 (3) (bd) of the statutes is amended to read:

18          25.17 (3) (bd) Have authority to invest any funds ~~includable~~ included in the  
19          state investment fund in loans, securities, or investments which are in addition to  
20          those permitted under any other statute but within the board standard of  
21          responsibility under s. 25.15 (2). The total amount of loans, securities, and  
22          investments made under this paragraph may not exceed 10% 10 percent of the  
23          aggregate value of all funds ~~includable~~ included in the state investment fund under  
24          s. 25.14 (1) at the time that the investment is made.

25          **SECTION 25.** 25.17 (3) (bh) and (d) of the statutes are repealed.



**BILL**

1           **SECTION 26.** 25.17 (3) (dg) (intro.) of the statutes is repealed.

2           **SECTION 27.** 25.17 (3) (dg) 1. of the statutes is renumbered 25.17 (3) (b) 1m. and  
3 amended to read:

4           25.17 (3) (b) 1m. Direct obligations of the United States and of agencies of and  
5 corporations wholly owned by the United States, and direct obligations of federal  
6 land banks, federal home loan banks, the central bank for cooperatives, and banks  
7 for cooperatives or unincorporated cooperative associations, international bank for  
8 reconstruction and development, the international finance corporation,  
9 inter-American development bank, African development bank and Asian  
10 development bank, in each case maturing within one year or less from the date of  
11 investment.

12           **SECTION 28.** 25.17 (3) (dg) 2. of the statutes is renumbered 25.17 (3) (b) 7m. and  
13 amended to read:

14           25.17 (3) (b) 7m. Commercial paper maturing within one year or less from the  
15 date of investment and rated prime by the national credit office a nationally  
16 recognized statistical rating organization, if the issuing corporation has one or more  
17 long-term senior debt issues outstanding, each of which has one of the 3 highest  
18 ratings issued by Moody's investors service or Standard & Poor's corporation a  
19 nationally recognized statistical rating organization.

20           **SECTION 29.** 25.17 (3) (dg) 3. of the statutes is repealed.

21           **SECTION 30.** 25.17 (3) (dm) of the statutes is repealed.

22           **SECTION 31.** 25.17 (3) (f) of the statutes is amended to read:

23           25.17 (3) (f) Every Hold every investment shall be held as an asset of the fund  
24 by which it is purchased and, except as otherwise provided by law, the loss or gain  
25 shall inure thereto.

**BILL**

1           **SECTION 32.** 25.17 (3) (g) of the statutes is amended to read:

2           25.17 (3) (g) All Have under its management and control all loans, securities,  
3 and other investments in which moneys of any such fund, including the general fund,  
4 are invested ~~shall be under the management and control of the board.~~

5           **SECTION 33.** 25.17 (4) of the statutes is repealed.

6           **SECTION 34.** 25.17 (5) of the statutes is amended to read:

7           25.17 (5) ~~The limitations upon the percentage of the assets of any fund that are~~  
8 ~~imposed by sub. (4) or any other statute shall not be applicable to investments made~~  
9 ~~by the board of funds in the variable retirement investment trust created under s.~~  
10 ~~40.04 (3) and those investments shall be excluded in computing the assets to which~~  
11 ~~the limitations imposed by sub. (4) apply. Assets~~ Invest the assets of the variable  
12 retirement investment trust shall be invested created under s. 40.04 (3) primarily in  
13 equity securities that shall may include common stocks, real estate or other  
14 recognized forms of equities whether or not subject to indebtedness, including  
15 securities convertible into common stocks and securities of corporations in the  
16 venture capital stage. The board may, however, temporarily invest assets of the  
17 variable retirement investment trust in investments that are authorized under sub.  
18 (3), but the assets so temporarily invested shall be replaced by equity securities at  
19 the earliest time considered by the board to be practicable considering the then  
20 existing condition of the securities market and other influential factors. ~~Investments~~  
21 ~~in securities of corporations that are in the venture capital stage shall not exceed 2%~~  
22 ~~of the admitted assets of the variable retirement investment trust.~~

23           **SECTION 35.** 25.17 (6) of the statutes is amended to read:

24           25.17 (6) Notwithstanding any other statute, have authority to make transfers  
25 from the variable retirement investment trust to the core retirement investment

**BILL****SECTION 35**

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

14 **SECTION 36.** 25.17 (7) (a) and (b) of the statutes are amended to read:

15 25.17 (7) (a) Mortgages on real estate outside of this state may be made to, and  
16 the title to real estate outside of this state may be acquired in the name of, a trustee  
17 under a trust agreement between the board and a bank, credit union, savings and  
18 loan association, savings bank, or trust company organized under the laws of the  
19 United States or any state having a combined capital and surplus of at least  
20 \$25,000,000; ~~and any such mortgages or real estate acquired prior to June 24, 1966,~~  
21 may be assigned or conveyed to the trustee under an appropriate trust agreement  
22 between it and the board.

23 (b) Loans, securities, and investments may be purchased or held in the name  
24 of, or transferred to nominees of, one or more banks or trust companies meeting the  
25 requirements of this section paragraph under a custodial agreement between the

**BILL**

1 board and each such bank or trust company. Any such bank or trust company shall  
2 be organized under the laws of the United States or any state thereof and any such  
3 bank or trust company not located doing business in Wisconsin shall have a combined  
4 capital surplus and undivided profits of at least \$100,000,000. Foreign loans,  
5 securities, and investments may be purchased or held in the name of, or transferred  
6 to nominees of, foreign sub-custodians of any such bank or trust company.

7 **SECTION 37.** 25.17 (10) of the statutes is amended to read:

8 25.17 (10) If a building constitutes any part of the security for a loan made by  
9 the board under ~~s. ss. 25.17 (3) (b) or (a) and 620.22 (2), or under s. 25.182,~~ keep the  
10 building ~~shall be kept~~ insured for at least the unpaid amount of the loan or any larger  
11 amount that may be necessary to comply with any coinsurance clause inserted in or  
12 attached to the policy. When the full insurable value of the building is less than the  
13 unpaid amount of the loan, the building shall be kept insured for the full insurable  
14 value of the building.

15 **SECTION 38.** 25.17 (12) (a) and (b) of the statutes are amended to read:

16 25.17 (12) (a) The commissioner of insurance in the investment of the state  
17 local government property insurance fund;

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

20 **SECTION 39.** 25.17 (12) (c) and (13) of the statutes are repealed.

21 **SECTION 40.** 25.17 (15) of the statutes is repealed.

22 **SECTION 41.** 25.17 (63) of the statutes is created to read:

23 25.17 (63) If requested by the Health Insurance Risk-Sharing Plan Authority,  
24 invest funds of the Health Insurance Risk-Sharing Plan Authority in the state  
25 investment fund.

**BILL****SECTION 42**

1           **SECTION 42.** 25.17 (65) of the statutes is repealed.

2           **SECTION 43.** 25.17 (70) (intro.) of the statutes is amended to read:

3           25.17 **(70)** (intro.) No later than ~~June 30~~ December 31 of every ~~odd-numbered~~  
4 even-numbered year, after receiving a report from the department of commerce  
5 under s. 560.08 (2) (m) and in consultation with the department of commerce, submit  
6 to the governor and to the presiding officer of each house of the legislature a plan for  
7 making investments in this state. The purpose of the plan is to encourage the board  
8 to make the maximum amount of investments in this state, subject to s. 25.15 and  
9 consistent with the statutory purpose of each trust or fund managed by the board.  
10 The plan shall discuss potential investments to be made during the ~~first to 5th fiscal~~  
11 years following 5 calendar years beginning with the year after submittal, and shall  
12 include, but not be limited to, the following:

13           **SECTION 44.** 25.17 (70) (b) (intro.) of the statutes is amended to read:

14           25.17 **(70)** (b) (intro.) Nonbinding management objectives for each fiscal  
15 calendar year stated, as appropriate, as a dollar amount or as a percentage of the  
16 total amount of all investments made by the board, for the following:

17           **SECTION 45.** 25.17 (70) (d) of the statutes is amended to read:

18           25.17 **(70)** (d) Comments solicited from the secretary of commerce and received  
19 by the board on or before ~~May 31~~ November 30 of the year of submittal.

20           **SECTION 46.** 25.18 (1) (e) of the statutes is amended to read:

21           25.18 **(1)** (e) Take such action as may be necessary to make investments in  
22 mortgage loans or in the purchase of interests in real estate in any other state or in  
23 Canada any other developed country in which investment is authorized, including  
24 but not excluding because of enumeration, qualifying to do business, filing reports,

**BILL**

1 paying franchise, license or other fees and taxes, designating agents, designating an  
2 office and subjecting itself to suit.

3 **SECTION 47.** 25.18 (1) (o) of the statutes is amended to read:

4 25.18 (1) (o) Invest any of the assets of the permanent endowment fund in any  
5 investment that is an authorized investment for assets in the core retirement  
6 investment trust under s. 25.17 (4) or assets in the variable retirement investment  
7 trust under s. ~~25.17 (5)~~ 25.182.

8 **SECTION 48.** 25.182 of the statutes is created to read:

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

16 **SECTION 49.** 25.183 (1) (a) 6e. of the statutes is amended to read:

17 25.183 (1) (a) 6e. Any collateralized mortgage obligation or other asset-backed  
18 security which either has one of the 2 highest ratings given by a nationally  
19 recognized statistical rating service organization or is backed or collateralized by  
20 insured instruments, guarantees or pledges of the federal government, this state or  
21 an agency of the federal government or this state.

22 **SECTION 50.** 25.183 (1) (a) 6m. a. of the statutes is amended to read:

23 25.183 (1) (a) 6m. a. The counterparty to the transaction is rated in, or has  
24 outstanding long-term debt which is rated in, one of the 2 highest ratings given by  
25 a nationally recognized statistical rating service organization.



**Gary, Aaron**

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**From:** Sandy.Drew [sandy.drew@swib.state.wi.us]  
**Sent:** Monday, October 22, 2007 12:02 PM  
**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB 07-3122/2 Topic: SWIB modernization changes; core and variable trust investment authority under SWIB standard of responsibility

It's a GO. I'll wait to hear when the redraft of LRB-3236 is ready and then pick up the jackets for both.

Sandy Drew  
Legislative & Beneficiary Liaison  
State of Wisconsin Investment Board  
608-261-0182

-----Original Message-----

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]  
**Sent:** Monday, October 22, 2007 11:16 AM  
**To:** Sandy.Drew  
**Cc:** Jane.Hamblen  
**Subject:** RE: Draft review: LRB 07-3122/2 Topic: SWIB modernization changes; core and variable trust investment authority under SWIB standard of responsibility

Sandy,

The redraft, 3122/3, was just sent out. If you can let me know when you review it and that it looks good, I will then use that as the base document for redrafting the other bill (LRB-3236). Thanks. Aaron

Aaron R. Gary  
Legislative Attorney  
Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Sandy.Drew [mailto:sandy.drew@swib.state.wi.us]  
**Sent:** Friday, October 19, 2007 5:04 PM  
**To:** Gary, Aaron  
**Cc:** Jane.Hamblen  
**Subject:** FW: Draft review: LRB 07-3122/2 Topic: SWIB modernization changes; core and variable trust investment authority under SWIB standard of responsibility

Dear Aaron,

I've got another amendment for you. OCI is going to include the language regarding the Local Government Property Insurance Fund in their remedial bill, so will you please remove it from ours? We may make it to a one-pager yet. When you do that, will you please make the same changes to the draft for the second house? I really hope to get the jackets to the authors on Monday if possible, but I know the budget may interfere as it sounds like they are making a little headway.



TODAY if possible

3236/2

in 10/22

R M N R

stays

2007 BILL

Editors of LRSes: Note that the base doc is 3122/3 NOT the prior version of this draft

Reger Cat

No changes

1 AN ACT to amend 25.15 (2) (intro.) and 25.15 (2) (a); and to create 25.156 (10),
2 25.17 (2) (g) and 25.182 of the statutes; relating to: investments and
3 operations of the State of Wisconsin Investment Board.

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

**BILL**

(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.

The bill specifies that provisions of current law related to lawsuits against public officers and employees also apply to the members of SWIB (SWIB trustees), including provisions related to payment of judgments against public officers or employees acting in their official capacity or carrying out public duties.

---

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

12          25.156 (10) The provisions of s. 895.46 (1) apply to the members of the board.



**Gary, Aaron**

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**From:** Sandy.Drew [sandy.drew@swib.state.wi.us]  
**Sent:** Monday, October 22, 2007 2:38 PM  
**To:** Gary, Aaron  
**Subject:** RE: Mea culpa

Yes, plus the last paragraph of the analysis.

Sandy Drew  
Legislative & Beneficiary Liaison  
State of Wisconsin Investment Board  
608-261-0182

-----Original Message-----

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]  
**Sent:** Monday, October 22, 2007 2:10 PM  
**To:** Sandy.Drew  
**Subject:** RE: Mea culpa

That's OK. You just want bill section 3 taken out, right?

Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Sandy.Drew [mailto:sandy.drew@swib.state.wi.us]  
**Sent:** Monday, October 22, 2007 1:46 PM  
**To:** Gary, Aaron  
**Subject:** Mea culpa

Aaron,

There were so many emails flying back and forth last week about the indemnity and insurance provisions in the bill. Somehow I thought you had gotten the word to pull the indemnity provision as well as the insurance language. But, I discovered a short while ago that you hadn't. So, we will need one more draft free of the indemnity language. I promise - no more draft requests after this one.

Thanks.

Sandy Drew  
Legislative & Beneficiary Liaison

10/22/2007



State of Wisconsin  
2007 - 2008 LEGISLATURE

in 10/22  
Wanted  
10/23

LRB-3236/2 3

ARG:cjs:jf

RMK

Stays

2007 BILL

Repeal

1 AN ACT to amend 25.15 (2) (intro.) and 25.15 (2) (a); and to create 25.156 (10),  
2 25.17 (2) (g) and 25.182 of the statutes; relating to: investments and  
3 operations of the State of Wisconsin Investment Board.

*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

**BILL**

(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.

The bill specifies that provisions of current law related to lawsuits against public officers and employees also apply to the members of SWIB (SWIB trustees), including provisions related to payment of judgments against public officers or employees acting in their official capacity or carrying out public duties. ✓

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

12          25.156 (10) The provisions of s. 895.46 (1) apply to the members of the board.

