

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3122/P1dn
ARG:cjs:jf

September 13, 2007

Please review the attached draft carefully to ensure that it is consistent with your intent.

I have changed "Invest ..." to "Have authority to invest ..." in s. 25.17 (3) (a) and (b). Please advise if this is not consistent with your intent.

Also related to s. 25.17 (3) (b), for grammatical reasons, I modified the approach in the drafting instructions, instead creating a new subdivision under s. 25.17 (3) (b). Under current law, the "10 year maturity" in s. 25.17 (3) (b) 1. applies to each investment. I am uncertain whether you intended this limitation to continue to apply to all investments under current s. 25.17 (3) (b) 1. This limitation does not apply to the investments under s. 25.17 (3) (b) 1m. (as renumbered from s. 25.17 (3) (dg) 1.) in the attached draft. Also, I did not include "or trust" in s. 25.17 (3) (b) (intro.) because the provision does not provide authority for investment of the core trust or variable trust.

Created s. 25.182 in the attached draft revises SWIB's investment and management authority with respect to the core trust and the variable trust. If you believe that s. 25.18 (2) (e) 1. will continue to apply with respect to the core trust and the variable trust, will s. 25.18 (2) (e) 1. provide a narrower investment authority of core trust assets and variable trust assets if they are externally managed and, if so, is this consistent with SWIB's intent?

I do not believe any amendment of s. 25.17 (14m) (b) regarding derivatives reporting is necessary.

As discussed, there is some challenge to reconciling the investment authority under created s. 25.182 with the existing limited "equities" purpose of the variable trust. Given the breadth of the "notwithstanding" provision in s. 25.182, I do not believe this draft accomplishes your intent, as the "notwithstanding" language expressly overrides (and may be readily interpreted to preempt) all other language, thus allowing any composition of investments in the variable retirement investment trust. Do you want to add something like "subject to the purpose specified for the variable retirement investment trust in s. 25.17 (5)" at the end of created s. 25.182? In addition, I understand that SWIB has given significant attention to the interaction between created s. 25.182 and s. 25.18 (2) (e) and that no explicit treatment is desired in this draft.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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