



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2774/1
ARG:klm

2021 SENATE BILL 460

July 21, 2021 - Introduced by Senator JACQUE, cosponsored by Representatives THIESFELDT, ARMSTRONG, BALDEH, BRANDTJEN, GUNDRUM, ROZAR and STEFFEN. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT** *to amend* 25.182; and *to create* 25.17 (14m) (d) and 25.183 (4) and (5)
2 of the statutes; **relating to:** prohibiting the Investment Board from making
3 certain investments relating to China and Iran.

Analysis by the Legislative Reference Bureau

This bill prohibits the State of Wisconsin Investment Board from engaging in securities transactions involving certain companies associated with China and Iran.

Under current law, federal Executive Order 14032 of June 3, 2021, imposes certain restrictions related to the purchase or sale of securities in specified Chinese companies.

This bill prohibits SWIB from purchasing or selling any publicly traded security of a Chinese military-industrial complex company. The bill defines "Chinese military-industrial complex company" as a company listed in the Annex to Executive Order 14032 or later identified by the federal Secretary of the Treasury as such a company. However, the bill allows SWIB, for specified periods, to divest from prohibited securities already held by SWIB.

The bill also generally prohibits SWIB from investing in securities of any company that 1) has outstanding loans or other commitments of credit to the government of Iran; 2) maintains property or personnel, or has business operations, in Iran; 3) contracts with the government of Iran or provides goods or services in Iran; or 4) sells weapons, military technology, oil-production or mineral-extraction equipment, or related goods with reasonable knowledge that they will be resold to the government of Iran or redistributed into Iran. For purposes of the bill, the

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government of Iran includes any company owned or controlled by Iran. If SWIB maintains a prohibited investment on the effective date of the bill, SWIB must divest itself of the investment within approximately one year. However, the investment prohibition does not apply to investments made by external managers with whom SWIB has contracted, investments in mutual funds and other commingled instruments, and investments in private equity funds. In determining whether an investment is prohibited, SWIB may rely on information about a company available from a third-party screening service that utilizes criteria reasonably similar to the criteria described in items 1 to 4 above.

The bill also requires SWIB to include, in an annual report that under current law SWIB submits to the legislature, information relating to SWIB's efforts to satisfy the requirements under the bill, including identification of companies in which investment is prohibited and, as applicable, SWIB's status of divestment from these companies.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 25.17 (14m) (d) Information relating to the board's efforts to satisfy the
3 requirements under s. 25.183 (4) and (5), including identification of companies in
4 which investment is prohibited and, as applicable, the board's status of divestment
5 from these companies.

6 **SECTION 2.** 25.182 of the statutes is amended to read:

7 **25.182 Management authority for certain funds.** In addition to the
8 management authority provided under any other provision of law, and
9 notwithstanding any limitation on the board's management authority provided
10 under any other provision of law except s. 25.183 (4) and (5), the board shall have
11 authority to manage the money and property of the core retirement investment trust
12 and, subject to s. 25.17 (5), the variable retirement investment trust in any manner
13 that does not violate the standard of responsibility specified in s. 25.15 (2).

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1 **SECTION 3.** 25.183 (4) and (5) of the statutes are created to read:

2 25.183 (4) INVESTMENTS IN CHINESE MILITARY-INDUSTRIAL COMPLEX COMPANIES. (a)

3 In this subsection:

4 1. “Chinese military–industrial complex company” means any of the following:

5 a. A company listed in the Annex to the executive order.

6 b. A company determined by the federal secretary of the treasury, as provided
7 in section 1 (a) (i) of the executive order, to operate or have operated in the defense
8 and related materiel sector or the surveillance technology sector of the economy of
9 the People’s Republic of China.

10 c. A company determined by the federal secretary of the treasury, as provided
11 in section 1 (a) (ii) of the executive order, to own or control, or to be owned or controlled
12 by, directly or indirectly, a company listed or identified as provided in subd. 1. a. or
13 b.

14 2. “Executive order” means executive order 14032 of June 3, 2021, 86 Fed. Reg.
15 30145 to 30149 (June 7, 2021).

16 3. “Publicly traded security” means any “security,” as defined in 15 U.S.C. 78c
17 (a) (10), denominated in any currency that trades on a securities exchange or through
18 the method of trading that is commonly referred to as “over–the–counter,” in any
19 jurisdiction.

20 (b) Notwithstanding s. 25.15 (2), and except as provided in pars. (c) and (d), the
21 board may not engage in any of the following activities:

22 1. Beginning on the effective date of this subdivision ... [LRB inserts date], the
23 purchase or sale of any publicly traded security, or any publicly traded security that
24 is derivative of or designed to provide investment exposure to such a security, of any
25 Chinese military–industrial complex company, as defined in par. (a) 1. a.

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1 2. Beginning on the 60th day after a determination by the federal secretary of
2 the treasury as described in par. (a) 1. b. or c., the purchase or sale of any publicly
3 traded security, or any publicly traded security that is derivative of or designed to
4 provide investment exposure to such a security, of any Chinese military-industrial
5 complex company, as defined in par. (a) 1. b. or c.

6 (c) The board may engage in any of the following activities:

7 1. The purchase or sale of any publicly traded security described in par. (b) 1.
8 made solely to divest, in whole or in part, from the security if the purchase or sale
9 occurs before June 3, 2022.

10 2. The purchase or sale of any publicly traded security described in par. (b) 2.
11 made solely to divest, in whole or in part, from the security if the purchase or sale
12 occurs before the 365th day after the date of the federal secretary of the treasury's
13 determination described in par. (a) 1. b. or c.

14 (d) Paragraph (b) does not apply with respect to any Chinese
15 military-industrial complex company that, under authority of section 6 of the
16 executive order, the federal secretary of the treasury has removed from the executive
17 order's prohibition.

18 **(5) INVESTMENTS RELATING TO IRAN.** (a) In this subsection, "government of Iran"
19 includes any political subdivision or instrumentality of Iran and any company owned
20 or controlled, in whole or in part, by the government of Iran.

21 (b) Notwithstanding s. 25.15 (2), but subject to pars. (c) to (e), after the effective
22 date of this paragraph [LRB inserts date], the board may not invest any of the
23 moneys in funds under its management in any equity or debt securities of any of the
24 following:

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1 1. Any company that has outstanding loans or other commitments of credit to
2 the government of Iran.

3 2. Any company that maintains property or personnel, or has business
4 operations, within Iran.

5 3. Any company that contracts with the government of Iran or provides goods
6 or services within Iran.

7 4. Any company that sells weapons, military technology, oil-production or
8 mineral-extraction equipment, or related goods with reasonable knowledge that
9 they will be resold to the government of Iran or redistributed into Iran.

10 (c) Notwithstanding s. 25.15 (2), but subject to pars. (d) and (e), if the board,
11 on the effective date of this paragraph [LRB inserts date], maintains any
12 investment prohibited under par. (b), the board shall divest itself of the investment
13 not later than the first day of the 13th month beginning after the effective date of this
14 paragraph [LRB inserts date].

15 (d) In determining whether an investment is prohibited under pars. (b) and (c),
16 the board may rely on 3rd party information about a company available from any
17 research or screening service contracted by the board, or from any other pension fund
18 or investment adviser, if the 3rd party information utilizes criteria reasonably
19 similar to the criteria specified in par. (b) 1. to 4.

20 (e) This subsection does not apply to any of the following:

21 1. Investments made for the board by investment advisers with which the
22 board has contracted to manage and control board assets under s. 25.18 (2) (e).

23 2. Investments by the board in mutual funds, index funds, or similar
24 commingled investment instruments in which the board does not directly hold a
25 company's security in its own name or as nominee.

