

CHAPTER 25

TRUST FUNDS AND THEIR MANAGEMENT

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Cross Reference: See definitions in 24.01.

25.01 Authorized investments and loans.

(1) **WHAT FUNDS.** The moneys belonging to the common school fund, the normal school fund, the university fund and the agricultural college fund shall be invested or loaned by the the board of commissioners of public lands as such moneys accumulate in the treasury, and the board shall keep a separate account of all investments and loans from each fund.

(2) **INVESTMENTS.** Any of said funds may be invested in the purchase of county bonds issued under the authority conferred by s. 59.92 [Stats. 1953], or in the purchase of bonds or notes of the United States or in securities issued under the provisions of the federal farm loan act of July 17, 1916, or in bonds of this state or in bonds issued pursuant to law by any town, village, city, county or school district of this state. All bonds, notes and other securities so purchased shall be deposited with the state treasurer.

(3) **LOANS.** Any of said funds may be loaned to school districts or boards of education by whatever name designated, to be used for the operation and maintenance of schools, in erecting and remodeling school buildings, teacherages, in the purchase of teacherages, teacherage sites, schoolhouse sites, bus garage sites, transportation vehicles, bus garages, school equipment, or school playgrounds, or in refunding their indebtedness, and for the purposes enumerated in s. 67.04 (6) or otherwise authorized by law; or to towns, villages, cities, counties, vocational, technical and adult education districts and boards of education of any city within the state, as provided in s. 67.04 (1) to (6) or other-

wise authorized by law; and every such school district, town, village, city, county, vocational, technical and adult education district and board of education may borrow of the board, from said funds or either of them, such sum of money, for such time and upon such conditions as may be agreed upon between the board and the borrower; subject to the limitations, restrictions and conditions hereinafter set forth. In this chapter any such school district, town, village, city, county, vocational, technical and adult education district or board of education, or all of them, may be designated by the word "municipality" or "municipalities".

(4) **PREFERENCES.** So far as practicable the loans sought by school districts and boards of education shall be supplied before any other loan or investment authorized by this section is made, and such applications shall be acted upon in the order of time in which they have been filed.

(6) **REFUNDING LOANS.** Any school district may borrow from any funds described in this section to refund any indebtedness incurred for a lawful purpose and within the constitutional limitations.

History: 1971 c. 154.

25.02 Term, amount, interest rate. (1)

MUNICIPAL LOANS OTHER THAN TO SCHOOL DISTRICTS. The loans provided for by s. 25.01 (3), other than those to school districts, may be made for any term not exceeding 20 years, may be made payable in instalments, and be in such amounts as shall not, in connection with all other indebtedness of the municipality applying therefor, exceed 5% of the average valuation of the taxable property therein as equalized for

state purposes for the 3 years next preceding, except that, as to any city which is authorized to issue bonds for school purposes, such debt limitation shall not exceed an additional 10% of the average of the value of the property in such city and in the territory attached thereto for school purposes as equalized for state purposes for the 3 years next preceding. When such loan is made to pay off existing indebtedness it may be advanced to the borrower in instalments as fast as such indebtedness or the evidence thereof is canceled.

(2) **SCHOOL DISTRICT LOANS.** Every loan to a school district may be made for such time, not exceeding 20 years, as is agreed upon between said school district and the board of commissioners of public lands, and for such amount as together with all other indebtedness of such district, shall not exceed its allowable indebtedness as determined under s. 67.03 (1), except that, in determining such debt limit, such valuation of all taxable personal property in excess of 50% of such valuation of the real estate shall be disregarded. The principal shall be payable in approximately equal annual instalments.

(3) **INTEREST RATES.** All loans shall bear and draw interest at a rate not less than 2% payable annually.

(4) **REPAYMENT BEFORE DUE DATE PERMITTED.** Any municipality after March 15 and prior to August 1 of any year may repay one or more instalments in advance of the due date, and all interest upon such advance payment shall thereupon terminate.

25.03 Joint municipal loans. The board may invest the said trust funds in loans to any 2 towns, to any town and village or to any town and city jointly; and all provisions of law relative to loans of such trust funds to a single town shall also be applicable to such joint loan to such 2 towns or to such town and village. Every payment of interest or principal upon said loan shall be paid by the 2 towns, by the town and the village or by the town and city pro rata according to the last equalized assessed value thereof.

25.04 Date when interest and principal become due. The annual interest and instalments of principal of all loans from the trust funds shall be payable into the state treasury with other state taxes, or on or before August 15 of each year in accordance with s. 74.03.

25.05 The application. (1) **FOR ALL MUNICIPALITIES.** No loan shall be made under s. 25.01 (3) unless an application therefor be first made to the board as required by this section.

Such application shall state the amount of money required, the purpose to which it is to be applied, and the times and terms of repayment; and it shall be accompanied by satisfactory proof (a) of the assessed valuation for the preceding 3 years of all the taxable property within the municipality making the application; (b) of all the existing indebtedness of such municipality; and (c) of the approval of the application as required by this section.

(2) **FOR MUNICIPALITIES OTHER THAN SCHOOL DISTRICTS.** Every such application shall be approved and authorized for a town, by the signatures of all of its supervisors acknowledged as conveyances of land are acknowledged; for a village, by a vote of not less than three-fourths of its trustees; for a city, by a vote of not less than two-thirds of the members of its common council; for the board of education of any city, by a vote of not less than two-thirds of all of its members at a regular or special meeting thereof and also by a vote of not less than two-thirds of all the members of the common council of such city; for a county, by a vote of not less than two-thirds of all the members of its board of supervisors at some regular or special session thereof. Every vote so required shall be by ayes and noes duly recorded.

(3) **FOR SCHOOL DISTRICTS.** Every such application shall be approved and authorized for a school district by a vote of a majority of its legal voters voting on such question. If such vote be taken at a special meeting the objects thereof shall be clearly stated in the notice of the meeting. The application shall state the facts in detail respecting the holding of the meeting, the taking and the result of the vote required, and shall be signed by each member of the district board, and verified by the clerk. The statement accompanying the application shall contain a correct map or plat of the district and, when the district is a joint district, it shall show the assessed valuation in its several parts separately, so that the valuation of so much thereof as lies in each town or municipality of which it is a part, may be readily shown.

(4) **POPULAR VOTE, WHEN REQUIRED.** Whenever any municipality is not empowered by law to incur indebtedness for a particular purpose without first submitting the question to its electors, the application for a loan for that purpose must be approved and authorized by a majority vote of such electors at a special election called, noticed and held in the manner provided for other special elections. The notice of such election shall state the amount of the proposed loan and the purpose for which it will be used; but this subsection shall not apply to loans

made by boards of education applying as provided in sub. (2).

(5) **IRREPEALABLE TAX LEVY.** Such application shall be accompanied also by a certified copy under the hand of the proper clerk of a recorded resolution adopted by the municipality applying for or approving the loan, levying upon all the taxable property of the municipality a direct annual tax for the purpose of paying and sufficient to pay the interest on such proposed loan as it falls due, and also to pay and discharge the principal thereof within 20 years from the making of such loan. Such a levy shall become void and of no effect if the board declines to make the loan; otherwise it shall remain valid and irrevocable until the loan and all interest thereon shall be fully paid.

(5a) **LIQUIDATION AND PAYMENT OF TAXES NOT YET DUE.** Any owner of lands situated within such town, village, city, county or school district who intends to convey such lands to the U. S. government or to other tax-exempt body, may apply to the department of revenue to have the amount of such loan which is a lien on his property on account of such irrevocable tax levy, ascertained by finding the proportion which the assessed valuation of his property according to last assessment bears to the assessed valuation of the whole property of the town, village, city or school district, and upon payment of such sum so ascertained to the board of commissioners of public lands such board shall issue to such owner a certificate showing that such lands so conveyed are free and clear of any lien on account of such tax levy, and upon receipt of such payment the amount thereof shall be credited as a partial repayment of such loan. Such application to the department of revenue shall be accompanied by a copy of the contract to convey such lands to such tax-exempt body, and after the filing of such application and proof of recording of a deed of conveyance of such lands to such tax-exempt body such lands shall not be subject to any tax.

(6) **PROCEEDINGS TO BE RECORDED AND BECOME CONCLUSIVE EVIDENCE.** The aforesaid application, statement and all accompanying exhibits and documents shall be recorded in the office of the board and thereupon be filed in the office of the secretary of state, and shall, together with the record thereof, be conclusive evidence of the facts therein stated.

25.06 Certificates of indebtedness. If the application is approved by the board it shall cause certificates of indebtedness to be prepared in proper form and transmitted to the municipality submitting the same. Every such certifi-

cate shall be executed and signed for a school district by its president, for a town by its chairman, for a village by its president, for a city by its mayor, for a board of education by its president, for a vocational, technical and adult education district by its district board chairman and for a county by the chairman of its board, shall be countersigned by the clerk of the municipality or, in the case of a vocational, technical and adult education district, by the district board secretary executing the same, returned to the board, and deposited with the department of revenue, which shall certify that fact to the department of administration. The department of administration shall thereupon draw a warrant upon the state treasurer for the amount of the loan, payable to the treasurer of the municipality making the loan or as he directs. The certificate of indebtedness shall then be conclusive evidence of the validity of such indebtedness and that all the requirements of law concerning the application for the making and acceptance of such loan have been complied with.

History: 1971 c. 154.

25.07 State loan a special charge. All the taxable property in any municipality which has obtained or shall obtain any loan from the state or from any of its trust funds shall stand charged for the payment of the principal and interest thereof. The annual tax levied as provided by s. 25.05 (5) shall be a special charge to be paid next after the state tax out of any moneys collected as taxes within said municipality.

25.08 Collection from municipalities other than school districts. (1) **STATEMENT.** The department of administration, upon information certified by the department of revenue, shall furnish a statement annually to the county clerk of each county in which any special charge for principal or interest is due or will become due in the next succeeding 12 months. This statement shall detail the special charges due or to become due from the county and from any town, village or city in the county.

(2) **APPORTIONMENT BY COUNTY CLERKS.** Such clerk on receiving such statement shall apportion and include the amount to be paid by the county in his apportionment of the state taxes to the several towns, villages and cities in his county, and add to the amount thus apportioned to each town, village or city all special charges, if any, that are to be paid thereby on account of any loan thereto from the state or any of its trust funds. The amounts thus apportioned and included shall be stated in separate sums and carried out in all tax rolls and reports in separate columns; but otherwise the same shall be levied,

charged and inserted in the several tax rolls and collected and paid over with and in the same manner as the state tax until paid into the treasury; and in case of neglect or refusal to pay any sum or sums when due, the same shall be subject to all the provisions of law applicable to cases of default in payment of state taxes.

25.09 Collections from school districts.

(1) This section applies to all outstanding trust fund loans to school districts, as defined in s. 115.01 (3).

(2) When a school district makes a loan under ss. 25.01 and 25.02 (2), the board of commissioners of public lands shall notify in writing the department of revenue and the state superintendent of public instruction of the loan and the terms thereof. Thereafter, the state superintendent shall, on or before August 1 of each year until the loan is paid, transmit to the school district clerk a statement certified by him under s. 121.06 (2).

(3) Annually, by August 1, the department of revenue shall furnish to the state superintendent the total amount to be levied in any school district for any payment due under this section. Immediately after receipt thereof, the state superintendent shall certify to the clerk of each such school district, a statement of the amount of the tax and the proportion of that amount which is to be assessed upon taxable property of each municipality or part thereof comprising the school district. The state superintendent shall furnish a copy of each certification to the state treasurer and the department of administration.

(4) The school district clerk shall notify each appropriate city, village or town clerk of the amount certified by the state superintendent for collection in accordance with the amount certified to him by the state superintendent. The tax levied pursuant to s. 25.05 (5) shall be added to the school district levy and collected in the same manner as the school district tax.

(5) The school district treasurer shall transmit to the state treasurer on his own order the full amount levied for state trust fund loans within 15 days after March 15. The school district treasurer shall notify the state superintendent when he makes payment to the state treasurer.

(6) If the school district treasurer fails to remit the amounts due under sub. (5), the state superintendent shall deduct the amount due from any school aid payments due the school district, shall remit such amount to the state treasurer and no later than June 15 shall notify the school district treasurer to that effect.

History: 1971 c. 262.

25.10 Use of funds. No money obtained by any school district, school board, vocational, technical and adult education district, town, village, city or county by such loan shall be applied to or paid out for any purpose except that specified in the application therefor without the consent of the board.

History: 1971 c. 154.

25.11 Extension of loan. All loans made or which may be made from any of such funds to any municipality may be extended for such time and upon such terms as may be agreed upon by and between the board and such borrower; provided, however, that no loan shall be extended upon which there is any default in the payment of interest at the time of making application therefor, nor to any period beyond 20 years from its inception, nor at any rate of interest less than the minimum established by law.

25.12 Duty of attorney general and revenue department. If any officer neglects or refuses to perform any duty required of him by law in relation to the levy or collection of any tax required to be raised to make any payment of principal or interest on any loan from the state, the attorney general shall apply to the supreme court for a mandamus to compel the performance of such duty; and the department of revenue may do or cause to be done the duty required of such officer with the same effect as if done by him.

25.13 Interest, how accounted for. Every sum of money collected as interest upon any loan from either of the trust funds specified in s. 25.01 shall be paid into the state treasury and be credited to the income of the fund from which the loan was made.

25.14 State investment fund. (1) There is created a state investment fund under the jurisdiction and management of the investment board (hereinafter referred to as "board") to be operated as an investment trust for the purpose of managing the securities of all the state's funds consisting of the funds specified in s. 25.17 (1) except the conservation wardens pension fund, state insurance fund, state life fund, state teachers retirement fund, Milwaukee teachers retirement fund, Wisconsin retirement fund, capital improvement fund, bond security and redemption fund, state building trust fund, the trust funds of the historical society, funds which by the constitution are required to be controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be con-

trolled and invested by any other authority, the university trust funds and the trust funds of the state universities except that the respective authorities controlling the investment of any such excluded fund or funds may authorize the transfer of any temporary cash assets of any such excluded fund or funds to the state investment fund in accordance with subs. (2) and (3).

(2) At such time as the board determines, all of the securities held by any of the state's funds, except those specifically excluded in sub. (1), shall be transferred, at the market value plus accrued interest as of the date of transfer, to the state investment fund together with such amounts of cash as may be required to provide each contributing fund an equity in the state investment fund which may be expressed in terms of even thousands of dollars. Thereafter, the department of administration shall make such subsequent transfers of money between the individual funds and the state investment fund as in its judgment is advisable and in accordance with cash requirements of the individual funds, such transfer to be made on the basis of even thousands of dollars, and it shall furnish to the board such information with respect to daily balances of individual funds within the investment fund as may be required.

(3) All earnings, profits or losses of the state investment fund shall be distributed to each participating fund in the same ratio as each such fund's average daily balance within the state investment fund bears to the total average daily balance of all participating funds. Such distribution shall be made at such times as the department of administration may determine, but must be made at least semiannually in each complete fiscal year of operation.

(4) The department of administration shall maintain such records as may be required to account for each contributing fund's share in the state investment fund.

(5) The assets of the state investment fund shall be invested as prescribed by s. 25.17 (3) (b) and (ba).

25.156 Powers and duties of members of the board. (1) The members of the board shall be the governing body of the investment board and shall prescribe rules and formulate policies deemed necessary and appropriate to carry out its functions.

(2) The members of the board shall employ an executive director, who shall serve outside the classified service, at the pleasure of the members of the board. Such director shall be qualified by training and prior experience to manage, administer and direct the investment of funds.

(3) The members of the board shall appoint an investment director to act as executive director pro tem, except that until such appointment is made by the members of the board, the executive director may temporarily designate such director pro tem.

(4) The members of the board shall adopt rules restricting the executive director, investment directors and employes from having financial interest, directly or indirectly, in firms or corporations providing services to the department and governing the receipt of gifts or favors therefrom, and also governing personal investments of all employes including the executive director and investment directors to prevent conflicts of interest.

(5) The members of the board shall be the trustees of the state investment fund.

25.16 Executive director. (1) The executive and administrative functions of the investment board shall be vested in an executive director, who shall perform his functions in conformity with the requirements of the members of the board and in accordance with policies, principles and directives determined by the members of the board.

(2) The executive director shall appoint the employes necessary to perform the duties of the board under the classified service. These shall include investment directors. The members of the board shall participate in the selection of such directors. Such investment directors shall serve a probationary period of not less than 6 months nor more than 2 years as determined by the members of the board. Neither the executive director, any investment director nor any employe shall have any financial interest, either directly or indirectly, in any firm engaged in the sale or marketing of real estate or investments of any kind, nor shall any of them render investment advice to others for remuneration.

(3) The executive director shall take the official oath and the executive director and each investment director shall file a bond for the faithful performance of his duties in such amount and with such sureties as the members of the board require.

(4) The director pro tem shall act in place of the executive director in his absence or disability. The director pro tem shall take and file the official oath required of the executive director.

(5) All documents which must be executed by or on behalf of the board shall be signed only by the executive director or, in the event of his absence or disability, by the director pro tem unless the members of the board or the executive director require the countersignature of an in-

vestment director or an investment supervisor on certain documents.

25.17 Powers and duties of board. The "State of Wisconsin Investment Board" shall be a body corporate with power to sue and be sued in said name. The board shall have a seal with the words, "State of Wisconsin Investment Board" The board shall:

(1) Have exclusive control of the investment and collection of the principal and interest of all moneys loaned or invested from any of the following funds:

- (a) Benevolent fund (s. 25.31);
- (ag) The bond security and redemption fund (s. 18.09);
- (ar) The capital improvement fund (s. 18.08);
- (b) Conservation fund (s. 25.29);
- (c) Conservation wardens pension fund (subch. II of ch. 41);
- (d) Death benefit fund (s. 102.49);
- (e) Deposit fund (s. 34.08);
- (f) Emergency disaster fund (s. 25.39);
- (g) General fund (s. 25.20), including trust funds of the historical society (s. 44.015);
- (h) Highway fund (s. 25.40);
- (i) Injuries and indemnity fund (s. 102.59);
- (j) Insurance security fund (s. 646.05);
- (k) Veterans trust fund (s. 25.36), except loans to veterans;
- (l) Public employe trust fund (s. 40.01);
- (n) Reforestation fund (s. 25.30);
- (o) School fund income (s. 25.22);
- (s) State insurance fund (ss. 210.02 to 210.04);
- (t) State life fund (s. 210.05);
- (v) State teachers retirement fund system (subch. I of ch. 42 and s. 42.223);
- (wm) Milwaukee teachers retirement fund (subch. II of ch. 42);
- (x) Unemployment administration fund (s. 108.20 (1));
- (z) Wisconsin retirement fund (subch. I of ch. 41);
- (zl) State building trust fund except for the purpose and extent of loans to the Wisconsin state public building corporation, the Wisconsin university building corporation, and the Wisconsin state colleges building corporation, which shall be subject to sub. (2) (b); and
- (zm) All other funds of the state or of any state department or institution, except funds which by the constitution are required to be controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be controlled and invested by any other authority, and moneys in

the university of Wisconsin trust funds, and in the trust funds of the state universities.

(2)(a) Invest any of the funds specified in sub. (1), except operating funds, the capital improvement fund and the bond security and redemption fund, in loans to the Wisconsin university building corporation, state colleges building corporation or the Wisconsin state public building corporation, but only if such loans are secured by mortgages upon property owned by the respective corporations producing sufficient income to retire the mortgage over the term of the loan or are secured by the pledge of rentals sufficient in amount to retire the indebtedness. The investment board shall make no loans to any building corporation described in this subsection except under the conditions herein prescribed, or except as otherwise provided in par. (b). These loans shall be made only when in the judgment of the investment board it is to the interest of the funds to do so, except that loans made under par. (b) shall be made at the direction of the building commission.

(b) Invest the state building trust fund in loans to the Wisconsin state public building corporation, to the Wisconsin university building corporation, and to the Wisconsin state colleges building corporation. Except for interim loans for construction, or other temporary financing for the purchase of lands, planning (including both engineering and financing) and all other expenses incidental to any of the foregoing, such loans shall be secured by a pledge and assignment of net revenues derived from the operation of buildings by said corporations on lands leased or conveyed to said corporations. Any such loan shall be made upon the direction of the state building commission.

(3) (a) Invest any of the following funds: 1. conservation wardens pension fund; 2. state life fund; 3. state teachers retirement fund system; 4. Milwaukee teachers retirement fund; 5. Wisconsin retirement fund; 6. veterans trust fund, in loans, securities and any other investments authorized by s. 206.34 of the 1969 statutes, 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, provided such investments meet all other requirements of s. 206.34 of the 1969 statutes. Such investments previously permitted by s. 206.34 (1) (m) or sub. (4) are deemed to be permitted investments under this subsection.

(b) Invest the funds included in the state investment fund created by s. 25.14 and the surplus funds of the state building trust fund not

currently invested under sub. (2) (b) and not in the state investment fund in the bonds or other evidences of indebtedness of the United States and agencies thereof provided that the maturity of such investments shall not exceed 5 years from the date of the respective investment and in notes of domestic financial and industrial corporations, maturing in not more than 12 months, provided that any debt securities of such financial corporations are rated A or higher by 2 nationally recognized bond rating services and that any debt securities of such industrial corporations are rated higher than A by 3 nationally recognized bond rating services.

(ba) Invest the funds included in the state investment fund created by s. 25.14 in loans upon collateral security in the form of direct obligations of the U. S. government having a maturity of 5 years or less where the principal amount of each such loan does not exceed 98% of the market value of such collateral security.

(bf) 1. Subject to subd. 2, make sums available, at the request of the higher educational aids board, for the purpose of making additional loans to needy students under s. 39.32. Such sums shall be made available notwithstanding sub. (61) and shall not exceed \$40,000,000 outstanding at any one time of the balances of the general fund. Such loans shall initially be made by the higher educational aids board from the appropriations under s. 20.235 (1) (g). Despite the specific provisions of sub. (1), the responsibility for collection of the interest and principal on such loans to students shall rest in the higher educational aids board and the function of the investment board shall be limited to advancing funds to the higher educational aids board, based upon the certificates of the higher educational aids board as to the current status of the student loans made, due and collectible under s. 39.32, and to periodically receiving from the appropriations made by s. 20.235 (1) (fa), (g), (h) and (m) payments of principal and interest on the advances made to the higher educational aids board, interest to be computed monthly at 4% per annum on the unpaid principal balance of the advances, made prior to July 1, 1966, and at the maximum rate allowable under P.L. 89-329 and P.L. 89-287, or 4%, whichever is the greater, on all loans made on or after July 1, 1966, computed as of January 1 and July 1 of each year and payable within 90 days thereafter.

2. A cumulative total of not more than \$40,000,000 may be advanced under this section upon the request of the higher educational aids board. However, the investment board shall advance such funds only when the board on government operations determines that the liquidity

of the general fund is not in danger to a point which will not permit this state to pay its obligations as they arise, and subsequently approves advance of such funds based upon such determination.

(bg) Make sums available, at the request of the department of veterans affairs, for the purpose of making additional housing loans to veterans under s. 45.352. Such sums shall be made available notwithstanding ss. 25.156 to 25.18 and shall not exceed \$6,500,000 outstanding at any one time of the balances of the general fund. Such loans shall initially be made by the department of veterans affairs from the appropriations under s. 20.485 (2) (y). Despite the specific provisions of sub. (1), the responsibility for collection of the interest and principal on such loans to veterans shall rest in the department of veterans affairs and the functions of the investment board shall be limited to advancing funds to the department of veterans affairs and to periodically receiving from the appropriations made by s. 20.485 (2) (b), (x) and (xm) payments of principal and interest on the advances made to the department of veterans affairs.

(bh) Invest the conservation wardens pension fund, state life fund, state teachers retirement fund, Milwaukee teachers retirement fund and Wisconsin retirement fund in loans secured by mortgages upon unincumbered and improved real property in the United States or Canada when such real estate is leased to a corporation incorporated or existing under the laws of the United States or any state, district or territory thereof, or Canada or any Province thereof, whose income available for fixed charges for the period of 5 fiscal years next preceding the date of the investment has averaged not less than one and one-half times its average annual fixed charges applicable to such period, if there is pledged and assigned, either absolutely or conditionally, as additional security for the loan either the lease or sufficient of the rentals payable thereunder to repay the principal and interest of the loan within the unexpired term of the lease. Real property and leasehold estates are not incumbered within the meaning of this section by reason of the existence of unpaid assessments and taxes not delinquent, mineral, oil or timber rights, easements or rights of way for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements or rights of way, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or

profits are reserved to the owner. The foregoing limitations and restrictions shall not apply to real estate loans which are insured under the national housing act by the federal housing administration or to real estate loans made under ch. 219.

(c) Have exclusive control of the investment and collection of the principal and interest of all funds of the historical society which are available for investment as determined by said society. The board may dispose of said investments and any other securities placed under its control by the historical society when in the judgment of the board it is for the best interest of the society to do so. The board may invest those funds of the society which are available for investment under ch. 881.

(d) Invest the funds of the state insurance fund in investments permitted by s. 201.25 of the 1969 statutes.

(dg) Have authority to invest in:

1. Direct obligations of the United States and of agencies of and corporations wholly owned by the United States, and direct obligations of federal land banks, federal home loan banks, central bank for cooperatives and banks for cooperatives, international bank for reconstruction and development and inter-American development bank, in each case maturing within one year or less from the date of investment.

2. Commercial paper maturing within one year or less from the date of investment and rated prime by the national credit office, if the issuing corporation has one or more long-term senior debt issues outstanding, each of which has one of the 3 highest ratings issued by Moody's investors service or Standard & Poor's corporation.

3. Certificates of deposit maturing within one year or less from the date of investment, issued by banks located in the United States and having capital and surplus of at least \$50,000,000.

(dr) Invest the funds of the bond security and redemption fund only in direct obligations of the United States maturing in amounts and at times sufficient to pay the principal and interest payable from such fund during the calendar year.

(e) Sell investments from one fund to another when the board determines that it is necessary and desirable, and dispose of any investments when in their judgment it is to the best interest of these funds to do so.

(f) Every investment shall be held as an asset of the fund by which purchased and, except as otherwise provided by law, the loss or gain shall inure thereto.

(g) All loans, securities and other investments

in which moneys of any such fund, including the general fund, are invested shall be under the management and control of the board.

(4) Invest the funds of the state teachers retirement system, the Wisconsin retirement fund and each teachers annuity and retirement fund created under subch. II of ch. 42 in loans, securities or investments in addition to those permitted by any other section of the statutes, but the aggregate of the loans, securities and investments made under this subsection shall not exceed 15% of the admitted assets of each of said funds.

(5) The limitations upon the percentage of the assets of any fund which are imposed by sub. (4) or any other statute shall not be applicable to investments made by the investment board of funds in the variable annuity divisions created under s. 41.01 (2), 42.243 or 42.76, respectively, and said investments shall be excluded in computing the assets to which any such limitations apply. Assets of said variable annuity divisions shall be invested primarily in equity securities which shall include common stocks, real estate or other recognized forms of equities whether or not subject to indebtedness, including securities convertible into common stocks except that the investment board temporarily may invest such assets in investments which are authorized under sub. (3), but the assets so temporarily invested shall be replaced by equity securities at the earliest time deemed by the board to be practicable considering the then existing condition of the securities market and other influential factors.

(7) Make all loans and investment purchases from any funds under its control in the name of the board, except that:

(a) Mortgages on real estate outside of Wisconsin may be made to, and the title to real estate outside of Wisconsin may be acquired in the name of, a trustee under a trust agreement between the board and a bank or trust company organized under the laws of the United States or any state thereof having a combined capital and surplus of at least \$25,000,000; and any such mortgages or real estate acquired prior to June 24, 1966 may be assigned or conveyed to such trustee under an appropriate trust agreement between it and the board.

(b) Loans, securities and investments may be purchased or held in the name of, or transferred to nominees of one or more banks or trust companies meeting the requirements of this section under a custodial agreement between the board and each such bank or trust company. Any such bank or trust company shall be organized under the laws of the United States or any state thereof and any such bank or trust company not located

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in Wisconsin shall have a combined capital surplus and undivided profits of at least \$100,000,000.

(8) Accept when necessary to protect a mortgage loan, a quitclaim deed or warranty deed to the mortgaged property in full satisfaction of the mortgage debt, and manage, operate, lease, exchange, sell and convey, by land contract, quitclaim deed or warranty deed, and grant easement rights in, any real property acquired by said board. Any lease, land contract, quitclaim deed, warranty deed, easement, satisfaction of mortgage, partial release of mortgage, or any other instrument relating to real property in which said board has an interest shall be executed on behalf of said board by the executive director.

(9) Give such advice and assistance as may be requested by the board of commissioners of public lands or the board of regents of the university of Wisconsin system in the investment of any moneys which under sub. (1) are excepted from the moneys to be loaned or invested by the investment board, and assign, sell, convey and deed to them such investments made by the said board as may be mutually agreeable. The cost of any services rendered to the board of commissioners of public lands or the board of regents of the university of Wisconsin system pursuant to this section shall be charged to the fund to which the moneys invested belong and shall be added to appropriation to the investment board in s. 20.536.

(10) Notwithstanding s. 206.34 (1) (c) of the 1969 statutes whenever a building constitutes any part of the security for a loan made by the investment board under either s. 25.17 (3) (bh) or 206.34 (1) (c) of the 1969 statutes, such building shall be kept insured for at least the unpaid amount of the loan or such larger amount as may be necessary to comply with any coinsurance clause inserted in or attached to the policy. When the full insurable value of the building is less than the unpaid amount of the loan, such building shall be kept insured for the full insurable value thereof.

(12) Succeed to all of the duties, functions, and powers, property, documents, records, assets, liabilities and obligations of:

(a) The annuity board of the state teachers retirement system in the investment of the several funds of the state teachers retirement system;

(b) The commissioner of insurance in the investment of the state insurance fund;

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

(d) The state treasurer, the secretary of state and the attorney general in the investment of the soldiers' rehabilitation fund;

(g) All other state boards, commissions, departments, institutions and officers in the investment of any funds which under sub. (1) are hereafter to be loaned and invested by the investment board.

(13) Succeed to all of the property, documents, records and assets of the state annuity and investment board in the investment of the several funds which were under the control of said board.

(14) The state teachers retirement system, the Wisconsin retirement fund, and each teachers retirement fund in cities of the 1st class shall annually, within a reasonable time after the respective fiscal year end of each, make and file with the investment board a report of the value of the assets of such fund determined as of the last preceding fiscal year end upon the following basis:

(a) Bonds or other evidences of debt, having a fixed term and rate, if amply secured and not in default as to principal or interest, shall be valued:

1. If purchased at par, at the par value.

2. If purchased above or below par, at the purchase price adjusted, as of said fiscal year end, so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made.

(b) The accrued liability as of said fiscal year end of all participating municipalities under the Wisconsin retirement fund, as certified by the board of trustees of the Wisconsin retirement fund after determination by the actuary for said fund.

(c) All other investments, except real property included under par. (d), at the current market value thereof.

(d) Real property which is leased to others by long term lease shall be valued at the cost of the property adjusted, as of said fiscal year end, so as to bring the cost at the end of the primary term of the lease to such amount as was determined and established by the investment board at the time of making the investment, or subsequently, or if no such amount was so determined and fixed (at the time of making the investment or subsequently) then to zero, and so as to yield in the meantime the effective rate of interest at which the investment was made.

(e) Cash on deposit.

(15) For purposes of the power and authority of the investment board to make investments the "admitted assets" of a fund shall be the total

valuation of the assets of such fund, other than common stocks, as set forth in the last report made and filed by said fund with the investment board pursuant to sub. (14), plus the purchase price of any investments, other than common stocks, made for said fund by said board subsequent to the last fiscal year end for which a valuation report has been filed by the fund with the board, minus the admitted asset value of any investment sold, other than common stocks, of said fund by said board subsequent to the last fiscal year end for which a valuation report has been filed by the fund with the board, plus the market value of the common stocks of the fund on the last day of the preceding month. Any percentage limitation or permission respecting the power and authority of the investment board to make investments shall be calculated as each occasion for investment occurs and upon the "admitted assets" of the fund at that time.

(51) Have the records and accounts of the board audited at least annually by the legislative audit bureau.

(52) Maintain records from which it can determine the particular investments of the sinking funds of the bond security and redemption fund made under sub. (3) (dr) and the fair market value of such investments, and report this information to the department of administration at its request.

(61) Designate public depositories for the deposit of public moneys, as defined in s. 34.01 (5), coming into the hands of the state treasurer; allocate the deposits of all public moneys coming into the hands of the state treasurer, and limit the amount of such public moneys, as determined from the state treasurer's records, which may be deposited in any public depository so designated. It shall have all the powers and duties with relation to the state treasurer and state moneys that are herein granted and imposed upon other governing boards by ch. 34, and only such banks as have been named by the investment board as working banks shall carry state deposits on which checks are drawn to conduct the daily business of the state, all of which deposits shall be payable on demand. The board may designate banks as special depositories in which the state treasurer may make special deposits of funds, not exceeding the amount limited by the board, which are not currently needed for the conduct of the daily business of the state as determined by the board, which special deposits shall be deposited subject to such bank's rules and regulations relative to either savings accounts, time certificates of deposit or open time accounts; as the case may be. Public depositories heretofore designated as state depositories

shall continue as such until further action by the board.

(62) Prescribe rules in connection with payment of federal income taxes required to be deducted and withheld by any state agency from wages and salaries pursuant to section 1622 of the internal revenue code and the dates on which such payments shall be made, and designate any qualified depositories for federal taxes as depositories of such funds.

(63) Fix the rates of interest to be paid by public depositories on active deposits and special deposits of the state treasurer. Such rates of interest shall be based upon the size and activity of public deposits and shall take into consideration the net return to banks on sound investments. Rates of interest fixed as provided herein shall be paid uniformly by all public depositories on all public deposits unless the payment of interest on such deposits is prohibited under any act of congress or any rule or regulation of any federal agency having supervision over such public depository, and such public deposits shall be subject to no charge other than the amount required to be paid into the state deposit fund. Any public depository which refuses, neglects or by subterfuge avoids payment of interest on public deposits in accordance with the fixed rates shall be excluded from the right to receive and hold public deposits. Inactive deposits other than special deposits of the state treasurer shall bear the same rates of interest as are paid by such public depository on time accounts.

History: 1971 c. 41 s. 12; 1971 c. 74; 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1971 c. 164; 1971 c. 214 s. 147; 1971 c. 260 s. 92 (3) to (5).

State deposits in a working bank must be payable on demand and withdrawn only by check issued on a warrant authorized by the department of administration. A proposal for the use of "check float" to purchase short-term securities is unauthorized. 58 Atty. Gen. 107.

Commingling of common stocks of various employe trust funds is not prohibited by sub. (3) (f). 59 Atty. Gen. 149.

25.18 Additional powers of board. (1) In addition to the powers and duties enumerated in s. 25.17 the investment board may:

(a) Employ special legal or investment counsel in any matters arising out of the scope of its investment authority. The employment of special legal counsel shall be with the advice and consent of the attorney general whenever such special counsel is to be compensated by the board. Any expense of counsel so employed shall be borne by the fund for which the services shall be furnished.

(b) Execute instruments in which it agrees 1. to indemnify against its failure to indorse payments of any kind which may be made upon notes, bonds, debentures or other securities or 2. to indemnify the issuer of securities, whether it

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be the obligor thereon or a trustee or agent, against any loss which might be incurred as the result of the issuance or reissuance of securities to replace securities which have been lost, stolen, mutilated or destroyed.

(c) Secure insurance against burglary, robbery or theft on any of the securities owned or held by the board or any of the funds under its management.

(d) Liquidate or cause to be liquidated any corporation 100% of whose common stock is owned by the board, or operate such corporation until it can be liquidated to recoup the investment of the board, but such period shall not exceed 5 years.

(e) Take such action as may be necessary to make investments in mortgage loans or in the purchase of interests in real estate in any other state or in Canada, including but not excluding because of enumeration, qualifying to do business, filing reports, paying franchise, license or other fees and taxes, designating agents, designating an office and subjecting itself to suit.

(f) Maintain and repair any building or other structure or premises which it owns in fee or in which it owns the beneficial interest and, notwithstanding the provisions of any other statutes, it shall have exclusive authority to make such agreements and enter into such contracts as it deems necessary for such purpose.

(g) To engage in financial transactions whereby bearer securities issued or guaranteed by the U.S. government or any of its agencies, which are owned by the board, are delivered to reputable and financially responsible dealers in such securities under an agreement which provides a) for the replacement thereof with securities of the same kind and amount upon demand therefor by the board, b) for the payment to said board by said dealer of a commission, based upon the amount of said securities, for the period of time between the delivery of the securities to such dealer and his replacement thereof, and c) for the pledge and delivery by said dealer to said board of other securities issued or guaranteed by the U.S. government or any of its agencies, having a market value at the time of such pledge equal to at least the market value of the securities so delivered, to guarantee the replacement of such securities.

(h) Sell stock, debentures or other securities which it has the right to acquire upon the exercise of conversion rights then owned by it.

25.19 State treasurer, ex officio treasurer; bond; deposit of securities. The state treasurer shall be ex officio treasurer of the investment board and shall give an additional

bond in such amount and with such corporate sureties as shall be required and approved by the board, the cost of which shall be borne by the board. Any of the securities purchased by the investment board for any of the funds whose investment is under the control of the board may be deposited by the board or the state treasurer in vaults or other safe depositories outside of the office of the state treasurer, and either in or outside of this state, but a safe-keeping receipt shall be delivered to the state treasurer for all securities so deposited. Every such safe-keeping receipt shall describe the securities covered thereby and be payable on demand, without conditions, to the investment board or to any designated fund under the control of the board or to the state treasurer.

25.20 General fund. All moneys in the state treasury not specifically designated in any statute as belonging to any other funds constitute the general fund.

25.21 Common school fund. All moneys accruing to the state by virtue of section 2 of article X of the constitution, and all other moneys paid into the state treasury on account of the capital of the school fund, constitute the school fund. All of said fund, except that portion set apart for state universities by s. 25.25, having been found necessary for the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor, is set apart for those objects and denominated the "Common School Fund" which is a separate and perpetual fund.

25.22 Common school fund income. The common school fund income is constituted of the interest derived from the common school fund and from unpaid balances of purchase money on sales of common school lands; and all other revenues derived from the common school lands.

25.23 Distribution of the common school fund income. Pursuant to section 5 of article X of the constitution, the common school fund income shall be distributed to the school districts among the several towns, villages and cities of the state for the support of common schools therein, as provided in s. 43.70.

History: 1971 c. 152 s. 38.

25.235 Swamp land grants. All swamp and overflowed lands and moneys in lieu thereof received from the United States by virtue of the act of congress approved September 28, 1850, entitled "an act to enable the state of Ar-

kansas and other states to reclaim the swamp lands within their limits;" and all moneys received as purchase money for such lands, including loans and investments and moneys due upon certificates of sale thereof; and all swamp lands and moneys in lieu thereof received subsequent to the enactment of chapter 537, laws of 1865, or which are hereafter received, from the United States; and the proceeds of the sale of all lands conveyed to this state pursuant to the act of congress approved March 2, 1865, entitled "an act for the relief of purchasers and locators of swamp and overflowed lands," are trust lands and moneys, to be applied, exclusively, as provided in s. 25.25.

25.25 Normal school fund. The lands and moneys described in s. 25.235, not being granted for any other specified purpose, accrue to the school fund by virtue of section 2 of article X of the constitution; and having been found unnecessary for the support and maintenance of common schools, are appropriated to the support and maintenance of state universities and suitable libraries and apparatus therefor, and to that end are set apart and denominated the "Normal School Fund". All lands, moneys, loans, investments and securities heretofore set apart to the normal school fund and all swamp lands and moneys that may hereafter be received on account of the capital of such fund constitute a separate and perpetual fund. All receipts from earnings on the normal school fund shall be paid into the general fund as general purpose revenue.

25.26 University fund. All moneys accruing to the state pursuant to section 6 of article X of the constitution, and all other moneys paid into the state treasury on account of the capital of the university fund, constitute the university fund, which is a separate and perpetual fund.

25.27 Agricultural college fund. All moneys derived from the sale of the lands and land scrip accruing to the state by virtue of the act of congress approved July 2, 1862, entitled "an act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and the mechanic arts," and all other moneys paid into the state treasury on account of the capital of the agricultural college fund, constitute the agricultural college fund, which is a separate and perpetual fund and shall remain forever undiminished. If said fund shall by any action or contingency be impaired a state tax is hereby levied sufficient to replace the same, to be collected with the state taxes for the next ensuing year and paid into said fund.

25.29 Conservation fund. Except for fines and moneys payable to the reforestation fund and except as otherwise provided by law, all moneys accruing to the state for or in behalf of the department of natural resources under chs. 23, 26, 27, 28, 29 and 77, including grants received from the federal government or any of its agencies, shall constitute the "Conservation Fund" and, unless otherwise provided by law, shall be paid, within one week after receipt into the state treasury and credited to said fund.

(1) License fees and other state moneys collected by each field employe of the department shall be remitted to the department within one month after receipt together with a report of the number of licenses issued and details covering the type and the amount of money remitted.

(2) Funds accruing to the conservation fund from license fees paid by hunters and from sport and recreation fishing license fees shall not be diverted for any other purpose than those provided by the department, except:

(a) As necessary to carry out civil disorder responsibilities under s. 22.165;

(b) As provided in s. 20.370 (1) (uh); and

(c) That the department shall spend for acquisition and leasing of public hunting and fishing grounds not less than an amount equal to the revenue received from that portion of the fee paid for each sportsman's license which exceeds \$7.50.

(3) No money shall be expended or paid from the conservation fund except in pursuance of an appropriation by law.

(4) A gift or bequest shall be used in accordance with the directions of the donor.

(5) All moneys received from the United States for fire prevention and control, forest planting and other forestry activities, and for wildlife restoration projects and for other purposes, and as provided in s. 29.174 (13), shall be devoted to the purposes for which these moneys are received.

(6) All of the proceeds of the tax which is levied under s. 70.58 (2), and all moneys paid into the state treasury as the counties' share of compensation of emergency fire wardens pursuant to s. 26.14 shall be used for acquiring, preserving and developing the forests of the state, including the acquisition of lands owned by counties by virtue of any tax deed and of other lands suitable for state forests, and for the development of lands so acquired and the conduct of forestry thereon, including the growing and planting of trees; for forest and marsh fire prevention and control; for compensation of emergency fire wardens; for maintenance, permanent property and forestry improvements; for other

forestry purposes authorized by law and for the payment of aid for county forests as authorized in s. 28.11.

(a) Eight per cent of the tax which is levied under s. 70.58 (2) or of the funds provided for in lieu of such levy shall be used to acquire and develop state forest lands within areas approved by the department and the governor and located within the region composed of Manitowoc, Calumet, Winnebago, Sheboygan, Fond du Lac, Ozaukee, Washington, Dodge, Milwaukee, Waukesha, Jefferson, Racine, Kenosha, Walworth, Rock and Outagamie counties.

(b) Four per cent of the tax levied under s. 70.58 (2), or of the funds provided in lieu of such levy shall be used for the purchase of state forest lands within areas approved by the department and the governor and located within the region specified above.

History: 1971 c. 125.

25.30 Reforestation fund. All moneys received from state forest lands as defined in ch. 28 shall be paid into the reforestation fund and are appropriated to the department for the improvement of state forests or the purchase of additional lands.

25.31 Benevolent fund. The benevolent fund, amounting to the principal sum of \$13,500, transferred to the state by chapter 636, laws of 1917, constitutes a separate trust fund and shall be conserved and applied as follows:

First: The principal of said trust fund shall be held by the state treasurer, and be invested and reinvested as provided in ch. 25.

Second: The income of said trust fund shall be used and expended exclusively for the benefit of girls committed to the Wisconsin school for girls, or such other institutions as the state may hereafter establish and maintain for the care, custody and education of girls of the classes now or hereafter authorized by law to be committed to said institution, in providing healthful and instructive recreation and amusements, furnishing advance educational facilities for such of them as show special fitness therefor, providing needed medical or surgical care in exceptional cases, and other similar purposes; but no part of said income shall be used for defraying any of the ordinary expenses of any such institution.

Third: Said income shall be disbursed from the state treasury only upon warrants issued on certifications by the department of health and social services upon the recommendation of the superintendent or other managing officer of such school or other institution.

25.36 Veterans trust fund. All moneys appropriated or transferred by law shall constitute the veterans trust fund which shall be used exclusively for veterans and administered by the department of veterans affairs, including all moneys received from the federal government for the benefit of veterans or their dependents; all moneys paid as interest on and repayment of loans under the post-war rehabilitation fund; soldiers rehabilitation fund, veterans housing funds as they existed prior to July 1, 1961; all moneys paid as interest on and repayment of loans under this fund; and all gifts of money received by the board of veterans affairs for the purposes of this fund.

25.39 Emergency disaster fund. (1) All moneys appropriated to this fund shall be transferred to it on July 1, 1951 and on January 1, 1953, as provided in s. 20.07 (19) [Stats. 1951] and together with all other moneys appropriated or transferred thereto by law shall constitute the emergency disaster fund.

25.40 Highway fund. (1) The separate non-lapsible trust fund designated as the state highway fund shall consist of the following:

(a) All collections of the department of transportation except sales taxes and other revenues specified in ch. 218 which shall be paid into the general fund.

(b) Motor carrier fees and taxes collected by the public service commission;

(c) Motor fuel taxes and other revenues collected under ch. 78;

(d) All revenues collected by the highway commission;

(e) All moneys paid into the state treasury by any local unit of government or other source for highway purposes;

(f) All federal aid for highways in this state made available by any act of congress, subject to applicable federal regulations;

(g) The investment income of the highway fund.

(2) Payments from the highway fund, except for appropriations made by ss. 20.155 (1) (u), 20.255 (1) (q), 20.292 (1) (u), 20.355 (1) (u), 20.370 (4) (z), 20.395 (3) and (8), 20.505 (3) (q), 20.566 (1) (u) and 20.765 (2) (u) or authorized by ss. 25.17 and 196.85 (2) (b) shall be made only on the order of the highway commission, from which order the secretary of administration shall draw his warrant in favor of the payee and charge the same to the state highway fund.

History: 1971 c. 125, 211.