



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2356/1
ARG:wlj

2017 BILL

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

Analysis by the Legislative Reference Bureau

This bill prohibits, with exceptions, the State of Wisconsin Investment Board (SWIB) from investing in securities of any company that has entered into a contract with the federal government to plan, design, or construct a wall along the southern border between the United States and Mexico pursuant to a presidential executive order. Within 30 days after the effective date of the bill, SWIB must make its best efforts to identify all companies that contract to build a border wall and make a list of these companies. SWIB must update this list at least quarterly. For each company included on this list, SWIB must send a written notice to the company informing the company that SWIB is prohibited from investing in the company and of the reason for this prohibition. SWIB may remove a company from the list one year after the company completes all work related to the border wall or one year after the contract termination date, whichever is later. After 30 days following the effective date of the bill, SWIB may not make any new investment in securities of any company included on the list. If at this time SWIB already maintains investments in companies included on the list, SWIB must divest itself of these investments within approximately six months. If SWIB later updates its list and adds a company in which SWIB already maintains an investment, SWIB must divest itself of the investment within six months after the company is added to the list. However, these

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investment prohibitions do 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. The bill also requires SWIB to include, in an annual report that under current law SWIB submits to the legislature, SWIB's most recent list and other information relating to SWIB's divestment from companies that contract to build a border wall.

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) The most recent list under s. 25.183 (4) (b) 1. and other
3 information relating to the board's efforts to satisfy the requirements under s. 25.183
4 (4), including, as applicable, the board's status of divestment from companies that
5 contract to build a border wall.

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), the board shall have authority
11 to manage the money and property of the core retirement investment trust and,
12 subject to s. 25.17 (5), the variable retirement investment trust in any manner that
13 does not violate the standard of responsibility specified in s. 25.15 (2).

14 **SECTION 3.** 25.183 (4) of the statutes is created to read:

15 25.183 (**4**) INVESTMENTS IN COMPANIES THAT CONTRACT TO BUILD A BORDER WALL.

16 (a) In this subsection:

17 1. "Company" has the meaning given for business entity in s. 13.62 (5).

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1 2. “Company that contracts to build a border wall” means a company that has
2 entered into a contract with the federal government to plan, design, or construct a
3 southern border wall pursuant to section 4 of Executive Order 13767 of the President
4 of the United States, Border Security and Immigration Enforcement Improvements,
5 January 25, 2017.

6 3. “Project completion” means the later of the following:

7 a. The date that a company that contracts to build a border wall completes all
8 work under the contract specified in subd. 2.

9 b. Any contract termination date included in the contract specified in subd. 2.

10 (b) 1. No later than the 30th day beginning after the effective date of this
11 subdivision ... [LRB inserts date], the board shall make its best efforts to identify all
12 companies that contract to build a border wall and shall make a list of such
13 companies. At least quarterly, the board shall update this list after again making
14 its best efforts to identify all companies that contract to build a border wall.

15 2. For purposes of subd. 1., the board’s best efforts to identify companies that
16 contract to build a border wall shall, at a minimum, include all of the following:

17 a. Contacting the federal Department of Homeland Security to obtain relevant
18 information regarding companies that contract to build a border wall, including, if
19 necessary, making federal Freedom of Information Act requests.

20 b. Reviewing publicly available information regarding companies that contract
21 to build a border wall, including information provided by nonprofit organizations,
22 research firms, and government entities.

23 c. Contacting other institutional investors known to the board to have
24 undertaken to identify companies that contract to build a border wall.

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1 3. The board shall send a written notice to each company included on the list
2 under subd. 1. informing the company that the board is prohibited from investing in
3 the company and of the reason for this prohibition.

4 4. The board may remove a company that contracts to build a border wall from
5 the list under subd. 1. one year after the company's project completion.

6 (c) Notwithstanding s. 25.15 (2), but subject to pars. (d) to (f), after the 30th day
7 beginning after the effective date of this paragraph ... [LRB inserts date], the board
8 may not invest any of the moneys in funds under its management in any equity or
9 debt securities of any company that contracts to build a border wall included on the
10 board's most recent list under par. (b) 1.

11 (d) 1. Notwithstanding s. 25.15 (2), but subject to pars. (e) and (f), if the board,
12 on the 30th day beginning after the effective date of this subdivision ... [LRB inserts
13 date], maintains any investment prohibited under par. (c), the board shall divest
14 itself of the investment not later than the first day of the 7th month beginning after
15 the effective date of this subdivision ... [LRB inserts date].

16 2. Notwithstanding s. 25.15 (2), but subject to pars. (e) and (f), if upon its
17 quarterly review the board updates its list under par. (b) 1. to add a company in which
18 the board maintains an investment prohibited under par. (c), the board shall divest
19 itself of the investment not later than 6 months after the company is added to the list
20 under par. (b) 1.

21 (e) In determining whether an investment is prohibited under pars. (c) and (d),
22 the board may rely on 3rd-party information about a company available from any
23 research or screening service contracted by the board or from any other pension fund
24 or investment adviser.

25 (f) This subsection does not apply to any of the following:

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

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

6 3. Investments by the board in private equity funds.

7

(END)