

FIRST REGULAR SESSION

HOUSE BILL NO. 51

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDREWS.

0481H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 214.160, RSMo, and to enact in lieu thereof one new section relating to cemetery funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 214.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.160, to read as follows:

214.160. 1. **Under sections 214.140 to 214.180, and as otherwise not prohibited under Article VI, section 23 of the Constitution of Missouri,** the county commission ~~[shall]~~ **may** invest or loan said trust fund or funds ~~[only]~~ in United States government, state, county or municipal bonds, certificates of deposit, first real estate mortgages, or deeds of trust **and may utilize investment managers to invest, reinvest, and manage assets, subject to the terms, conditions, and limitations provided in this section.** They shall use the net income from said trust fund or funds or **such investments or** so much thereof as is necessary to support and maintain and beautify any public or private cemetery or any particular part thereof which may be designated by the person, persons or firm or association making said gift or bequest. In maintaining or supporting the cemetery or any particular part or portion thereof the commission shall as nearly as possible follow the expressed wishes of the creator of said trust fund.

2. **An investment manager shall discharge his or her duties in the interest of the public or private cemetery and the interest of the person, persons, or firm making the gift or bequest and shall:**

(1) **Act with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (2) Act with due regard for the management, reputation, and stability of the issuer
19 and the character of the particular investments being considered;

20 (3) Make investments for the purpose of supporting, maintaining, and beautifying
21 any public or private cemetery or any particular part thereof, which may be designated by
22 the person, persons, or firm or association making said gift or bequest, and of defraying
23 reasonable expenses of investing the assets;

24 (4) Give appropriate consideration to those facts and circumstances that the
25 investment fiduciary knows or should know are relevant to the particular investment or
26 investment course of action involved, including the role the investment or investment
27 course of action plays in that portion of the investments for which the investment fiduciary
28 has responsibility. For purposes of this subdivision, "appropriate consideration" shall
29 include, but is not limited to, a determination by the investment fiduciary that a particular
30 investment or investment course of action is reasonably designed to further the purposes
31 of supporting, maintaining, and beautifying any public or private cemetery or any
32 particular part thereof, which may be designated by the person, persons, or firm or
33 association making said gift or bequest, while considering the risk of loss and the
34 opportunity for gain or other return associated with the investment or investment course
35 of action and considering the following factors as they relate to the investment or
36 investment course of action:

37 (a) The diversification of the investments;

38 (b) The liquidity and current return of the investments relative to the anticipated
39 cash flow requirements; and

40 (c) The projected return of the investments relative to the funding objectives; and

41 (5) Give appropriate consideration to investments that would enhance the general
42 welfare of this state and its citizens if those investments offer the safety and rate of return
43 comparable to other investments available to the investment fiduciary at the time the
44 investment decision is made.

45 3. As used in this section, "invest" or "investment" means utilization of moneys in
46 the expectation of future returns in the form of income or capital gain.

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