

FIRST REGULAR SESSION

HOUSE BILL NO. 443

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KALBERLOH.

1359H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 214.160, RSMo, and to enact in lieu thereof one new section relating to cemetery trust 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Section A. Section 214.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.160, to read as follows: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 may invest or loan said trust fund or funds 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 and Article IV, Section 15 of the Constitution of Missouri. ~~[They]~~ **When sufficient, the commission** 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. **If the net income from said trust fund or funds is not sufficient to support and maintain and beautify a cemetery, the commission may also use as much of the principal thereof as the commission deems necessary for such purposes.** 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.

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.

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

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

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

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

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

40 (a) The diversification of the investments;

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

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

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

48 3. As used in this section, “invest” or “investment” means utilization of moneys in the
49 expectation of future returns in the form of income or capital gain.

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