

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2143

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KALBERLOH.

4491H.01P

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Section A. Section 214.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.160, to read as follows: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 only use as much of the principal thereof as the commission deems necessary for the purpose of the basic maintenance to control the growth of grass and weeds.** 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.

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

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

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

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

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

41 (a) The diversification of the investments;

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

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

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

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

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