

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 51
99TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Elections, March 30, 2017, with recommendation that the Senate Committee Substitute do pass.

0481S.02C

ADRIANE D. CROUSE, Secretary.

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Section A. Section 214.160, RSMo, is repealed and one new section
2 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**
2 **not prohibited under Article VI, Section 23 of the Constitution of**
3 **Missouri**, the county commission [shall] **may** invest or loan said trust fund or
4 funds [only] in United States government, state, county or municipal bonds,
5 certificates of deposit, first real estate mortgages, or deeds of trust **and may**
6 **utilize investment managers to invest, reinvest, and manage assets,**
7 **subject to the terms, conditions, and limitations provided in this**
8 **section and Article IV, Section 15 of the Constitution of Missouri.** They
9 shall use the net income from said trust fund or funds or **such investments or**
10 so much thereof as is necessary to support and maintain and beautify any public
11 or private cemetery or any particular part thereof which may be designated by
12 the person, persons or firm or association making said gift or bequest. In
13 maintaining or supporting the cemetery or any particular part or portion thereof
14 the commission shall as nearly as possible follow the expressed wishes of the
15 creator of said trust fund.

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

47 (a) The diversification of the investments;

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

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

52 (5) Give appropriate consideration to investments that would
53 enhance the general welfare of this state and its citizens if those
54 investments offer the safety and rate of return comparable to other
55 investments available to the investment fiduciary at the time the

56 investment decision is made.

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

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