

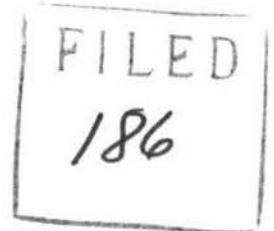
UNIVERSITIES:  
APPROPRIATIONS:

The General Assembly may authorize the expenditure of state funds for capital improvement purposes on the campuses of Missouri Western State College and Missouri Southern State College.

OPINION NO. 186

May 17, 1973

Honorable James Russell  
Representative, District 58  
Room 306, Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Russell:

This is in response to your request for an opinion from this office as follows:

"May the General Assembly authorize the expenditure of funds of the state for capital improvement purposes on the campuses of Missouri Western University and Missouri Southern University?"

"A request was made in House Bill #9 of the 77th General Assembly, First Regular Session, for funds of the state for capital improvement purposes. The buildings and facilities at these two universities belong to the junior college districts and not to the state. Before appropriating money to the universities for the prescribed purposes, it is necessary to determine whether the General Assembly can legally do so."

We assume the Missouri Western University, to which you refer, is Missouri Western State College established under Section 174.250, RSMo, in St. Joseph, Missouri, and Missouri Southern University, to which you refer, is Missouri Southern State College established under Section 174.230, RSMo, in Jasper County, Missouri.

Section 174.260, RSMo, provides for the appointment of a board of regents consisting of five members appointed by the Governor with the advice and consent of the Senate who are responsible for the administration of the Missouri Western State College and the Missouri Western Junior College. It further provides as follows:

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"2. The state shall provide the funds necessary to provide the staff for and operation of the state senior college. The board of trustees of the junior college district shall levy a tax within the district, as provided in sections 178.770 to 178.890, RSMo, which, together with state aid provided for junior colleges and funds available from any other sources, will be sufficient to pay the costs of the operation of the junior college and the costs of any capital improvements for both the junior and senior college." (Emphasis added)

Section 174.240, RSMo, provides for a board of regents consisting of five members appointed by the Governor with the advice and consent of the Senate who shall be responsible for the administration of the Missouri Southern State College and the Jasper County Junior College. It further provides as follows:

"2. The state shall provide the funds necessary to provide the staff for and operation of the state senior college. The board of trustees of the junior college district shall levy a tax within the district as provided in sections 178.770 to 178.890, RSMo, which, together with state aid provided for junior colleges and funds available from any other sources, will be sufficient to pay the costs of the operation of the junior college and the costs of any capital improvements for both the junior and senior college." (Emphasis added)

Under the above statutes, the state is required to provide the funds necessary to provide the staff for the operation of the state senior college. Such statutes further require the board of trustees to levy a tax within the district which, together with state aid provided for junior colleges and funds available from other sources, will be sufficient to pay the costs of the operation of the junior college and the cost of any capital improvements for both the junior and senior colleges.

Under Sections 174.260 and 174.240, the state is obligated only to provide funds for the staff for the operation of the state senior colleges. The boards of trustees of the junior college districts have the obligation of levying a tax within the districts which, together with state aid provided for junior colleges and funds available from any other sources, is sufficient to pay the costs of the operation of the junior college and the costs of any

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capital improvements of both the junior and senior colleges. It is clear from such statutes that funds may be available from other sources than the junior college district tax levy to provide for all or a part of the costs of capital improvements. If no other funds are available then the entire cost of the capital improvements must be raised by a tax levy by the boards of trustees of the junior college districts.

There are, however, no constitutional or statutory provisions prohibiting the use of state funds for capital improvements for the senior colleges. Missouri Southern College and Missouri Western College, as pointed above, are state colleges and appropriations may be made for the benefit of such colleges just as appropriations are made for the other state colleges or universities that have been in existence for many years. The state of Missouri has obligated itself only to provide funds necessary to provide the staff for an operation of state senior colleges designated Missouri Southern and Missouri Western but we find no provision prohibiting the appropriating of state money for capital improvements for Missouri Southern and Missouri Western Colleges. The question of whether or not appropriations for capital improvements for Missouri Southern or Missouri Western are to be made is one to be determined by the legislature in assessing the needs for capital improvements for such institutions after taking into consideration the total amount of state money available for appropriations and the requirements of other state institutions and offices.

#### CONCLUSION

It is the opinion of this office that the General Assembly may authorize the expenditure of state funds for capital improvement purposes on the campuses of Missouri Western State College and Missouri Southern State College.

Very truly yours,



JOHN C. DANFORTH  
Attorney General