



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

August 20, 1973

OPINION LETTER NO. 227

Honorable Jack E. Gant
Missouri Senate, District 16
9517 East 29th Street
Independence, Missouri 64052

Dear Senator Gant:

This opinion letter is issued in response to your request for a ruling from this office as to the proper construction of the following underlined portion of Section 70.745, RSMo 1969, regulating the Missouri Local Government Employees' Retirement System:

"The board shall be the trustees of the funds of the system. The board shall have full power to invest and reinvest the moneys of the system, and to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys; except that such investment and re-investment shall be subject to all the terms, conditions, limitations and restrictions imposed by law upon life insurance and casualty companies in the state of Missouri in making and disposing of their investments; except that the percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply; and except that the system shall not increase its common stock investments by more than four percent of its assets in any one fiscal year after its first fiscal year."
(Emphasis added.)

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One interpretation of the underlined portion of the statute would be to limit the increase in common stock investments from fiscal year to fiscal year to "four percent of its assets". For example, at the end of the fiscal year on June 30, 1970, the fund totaled \$5,284,337.56, with some \$1,273,099.30 (29.52%) invested in common stock. On June 30, 1971, total assets of the funds stood at \$9,602,841.76. Following this interpretation, the fund could have increased its common stock investment on June 30, 1971 only by a maximum of \$384,113.67 (4% of \$9,602,841.76). This would only allow a total of \$1,657,212.97 to be invested in common stocks on June 30, 1971. A different construction would be that the percentage of assets invested in common stocks on January 30, 1970 could be increased by 4% in the ensuing year. Thus, following this construction, the fund could have had \$3,218,872.50 (33.52% of \$9,602,841.76) invested in common stocks on June 30, 1971, instead of the \$1,657,212.97 as permitted by the other construction.

After reviewing the statute and applying the standard precepts of statutory construction, it is the opinion and conclusion of this office that the first construction placed upon the statute is the correct interpretation. The basic rule of statutory construction is to seek the legislative intention which should be ascertained from the words used, if that is possible, and in so doing, words should be given their plain and ordinary meaning so as to promote the object and manifest purpose of the statute. State ex rel. State Highway Commission v. Wiggins, 454 S.W.2d 899 (Mo. banc 1970); State ex rel. MFA Insurance Company v. Rooney, 406 S.W.2d 1 (Mo. banc 1966). Statutes should not receive strained, unnatural, or unreasonable constructions. Schroeder v. Davis, 32 F.2d 454 (8th Cir. 1929). Statutes must be construed as they stand. England v. Eckley, 330 S.W.2d 738 (Mo. banc 1959).

It is clear that the legislature in enacting Section 70.745, RSMo, intended to place a limit on the board's power to invest and reinvest the moneys and the assets of the system. Had the legislature intended that the overall common stock percentage could be increased up to 4% a year, the legislature could have specifically so provided. To read such a construction into the present statute would be strained and unnatural. The 4% allowable increase relates to "assets" not to common stock percentage. The word "assets" is to be given its plain and natural meaning. Placing this construction on the statute does not defeat the legislative intent and the statute is construed as it stands.

The decision as to the wisdom behind one approach or another approach with regard to limitations on the board's broad power to invest funds rest with the legislature. If the board of trustees

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feels that Section 70.745, RSMo, unreasonably restricts its power of investment so as to be economically and administratively unsound, new legislation should be sought.

For the foregoing reasons, it is the opinion and conclusion of this office that the legislature in enacting Section 70.745, RSMo 1969 relating to common stock investments, requires that the common stock increase from fiscal year to fiscal year be only 4% of the fund's assets and not a 4% common stock percentage increase.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General