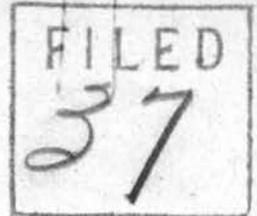


STATE COLLEGES: Vice President of Board of Regents should
serve remainder of biennium upon death of
BOARD OF REGENTS: President.



August 6, 1948

8-9

Board of Regents
Southeast Missouri State College
Cape Girardeau, Missouri

Attention: Miss Margaret Harger,
Secretary

Gentlemen:

This is in reply to your letter of recent date requesting
the opinion of this department, and reading, in part, as follows:

"At a meeting of the Board of Regents of
the Southeast Missouri State College held
on Wednesday, June 16, 1948, upon motion
of Judge I. R. Kelso, seconded by Mr.
Russell L. Dearmont, the following motion
was adopted:

"That the Secretary of the Board be and
she is hereby directed to communicate
with the Attorney-General of the State
of Missouri outlining the facts relative
to the death of members of the Board and
the appointment of their successors and
ask the question as to whether under the
State the Board should elect a president
and other officers at this time under the
above fact or whether the vice president
and other officers of the organization shall
continue to the end of the terms for which
the new members were appointed."

"The essential facts are as follows: On
April 7, 1948 Congressman Orville Zimmerman,
of Kennett, Missouri, a member of the Board
of Regents, term to expire January 1, 1949,
died; and on April 8, 1948 Honorable Ralph E.
Bailey, of Sikeston, Missouri, a member of
the Board of Regents, term to expire January 1,

1953, also died. At the meeting of the Board of Regents of the Southeast Missouri State College held June 16, 1948, Honorable Russell L. Dearmont, of St. Louis, Missouri, presented his commission from Governor Phil M. Donnelly as successor to Congressman Orville Zimmerman and Honorable C. D. Matthews, 3rd, of Sikeston, Missouri, presented his commission from Governor Phil M. Donnelly as successor to the Honorable Ralph E. Bailey. The Honorable Ralph E. Bailey was President of the Board of Regents. The Honorable Fred A. Groves, of Cape Girardeau, Missouri, is Vice President of the Board. The biennial organization of the Board was effected at its spring meeting in 1947. The normal time for the election of officers would be the spring of 1949."

Members of the Board of Regents of the Southeast Missouri State College at Cape Girardeau, Missouri, are appointed in the following manner, as provided by Section 10755, Laws of Missouri, 1945, page 1684:

"Every two years during a regular session of the general assembly, the governor shall, by and with the advice and consent of the senate, appoint two regents for each college, and whenever a vacancy occurs in either of said boards by death, resignation, removal from the district or by operation of law or otherwise, the governor shall, in a like manner immediately appoint some competent person to fill such vacancy, and communicate his action thereon to the senate at the next session of the general assembly thereafter. The person so appointed shall hold his office subject to the confirmation of the senate, for the unexpired term; Provided, that not more than three of said board, excluding the state commissioner of education shall belong to the same political party."

Said board is composed of seven members (Section 10754, Laws of Missouri, 1945, page 1684) who hold office for terms

of six years (Section 10756, R. S. Mo. 1939), and is organized by the selection of certain officers, among which are President and Vice President (Section 10757, R. S. Mo. 1939). Provision for the time and manner of selecting officers of the board is made in Section 10759, R. S. Mo. 1939, which is as follows:

"A meeting of each board of regents shall be called by the president thereof at the earliest convenient time and place following the appointment of new members in any biennial period for the purpose of selecting officers for the ensuing biennial period and the transaction of such business as may be regularly presented and as the board may direct. The board at its first meeting shall fix the date of the next annual meeting; adjourned meetings may be held at such times and places as may be determined at any previous meeting. Upon the written request of any two members of the board, or at the request of the faculty, signed by the president or vice-president and certified by the secretary thereof, the president of the board shall call a meeting, and the secretary shall notify each member of the board of such called meeting, and the object or objects thereof, and no other business shall be transacted at such meeting unless all members of the board are present and consent thereto. Each member of the board shall receive as full compensation for his services six cents per mile for each mile necessarily traveled in going to and from each meeting of the board and the actual expenses incurred during his attendance at the same, to be paid out of the contingent fund of the college."

Your attention is directed to the first part of Section 10759, supra, which provides that a meeting of each board of regents shall be called by the president thereof at the earliest convenient time and place following the appointment of new members in any biennial period for the purpose of selecting officers for the ensuing biennial period. We believe this provision contemplates the selection of the officers of said board only once during the biennial period. In reaching this conclusion, we have considered the well-settled rules of construction in effect in this

state and have attempted to ascertain the intent of the Legislature in enacting said provision, placing the plain meaning on the language in view of promoting that intention. A primary rule of construction of a statute is to ascertain from the language used the intent of the lawmakers and to put upon the language its plain and rational meaning in order to promote the object and purpose of the statute. *Turner v. Kansas City*, 191 S. W. (2d) 612, l.c. 617; *Donnelly Garment Co. v. Keitel*, 193 S. W. (2d) 577, l.c. 581; *Cummins v. Kansas City Public Service Comm.*, 66 S. W. (2d) 920, l.c. 925.

The time for the selection of said officers is limited to a specific meeting of the board in the biennial period, i.e., that meeting called following the appointment of new members. "New members," as used in this instance, can refer only to members who have been appointed in a biennial period in the place of those members whose terms have expired by operation of law. This is clearly indicated by the use of the plural "members" in Section 10759, supra, and by construing that section in relation with the other related sections. An evident purpose of said provision is to furnish incoming members of said board, who are replacing those members whose terms have expired, a voice in the organization of said board.

To hold that the Board of Regents must reorganize and select new officers every time a new member is appointed to fill a vacancy, other than one created by operation of law because of an expired term, would result in an unreasonable and absurd interpretation of the law. If such were the case, every time a member died, resigned or moved from the district the board would be required to reorganize and select new officers, for example, if one non-officer member of the board died, reorganization would nevertheless be required even though it would serve no purpose. A statute should not be construed in a way to make it unreasonable or to lead to absurd results if it can be given a reasonable construction. *State v. Public Service Commission*, 34 S. W. (2d) 486, l.c. 489; *State v. Irvine*, 72 S. W. (2d) 96, l.c. 100.

We cannot assume that such further reorganization of the board and selection of new officers is necessary or required in the absence of an indication in the terms of the law that the Legislature intended such a purpose. *Wabash R. R. Co. v. United States*, 178 Fed. 5, 101 C.C.A. 133.

Conclusion.

In view of the foregoing, it is the opinion of this department that the Board of Regents of the Southeast Missouri State College in Cape Girardeau, Missouri, should not reorganize at this time and select new officers, but that the Vice President should serve as presiding officer of said Board of Regents during the remainder of the current biennial period.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JTB

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