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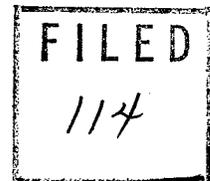
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October 18, 1984

DIRECT DIAL:

OPINION LETTER NO. 114-84

Mary-Jean Hackwood
Executive Secretary
Missouri State Employees' Retirement System
900 Leslie Boulevard
Jefferson City, Missouri 65101



Dear Ms. Hackwood:

This letter is in response to your request for an opinion of this office asking whether the Board of Trustees and the employees of the Missouri State Employees' Retirement System (hereinafter sometimes referred to as "MOSERS") are covered under the State Legal Expense Fund, Sections 105.711 to 105.726, RSMo Supp. 1983. We assume that you are referring to the regular employees of the system.

Section 105.711, RSMo Supp. 1983, provides in pertinent part as follows:

1. There is hereby created a "State Legal Expense Fund" which shall replace the "Tort Defense Fund" and which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency thereof, pursuant to section 537.600, RSMo; or

(2) Any officer or employee of the state of Missouri or any agency thereof, including, without limitation, elected officials, appointees, members of state boards or commissions

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and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency thereof, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo. [Emphasis added.]

Section 104.320, House Bill No. 1370, 82nd General Assembly, Second Regular Session, provides:

The Missouri state employees' retirement system shall be a body corporate and an instrumentality of the state. In the system shall be vested the powers and duties specified in sections 104.310 to 104.620 and such other powers as may be necessary or proper to enable it, its officers, employees, and agents to carry out fully and effectively all the purposes of sections 104.310 to 104.620.

Section 104.450 of House Bill No. 1370 provides that the Board of Trustees consists of the State Treasurer, the Commissioner of Administration, the Director of the Personnel Division, one member of the Senate, one member of the House, one member appointed by the Governor, and three elected members.

Section 104.460.5, House Bill No. 1370, provides that "[t]he secretary, assistant secretary, and all other employees of the system appointed by the board shall be both state employees and members of the system."

In our Opinion No. 10-81 to MOSERS, we concluded that MOSERS is subject to the provisions of the state purchasing law even though it was removed from the Department of Revenue.

Therefore, it is our view that such officers and employees of MOSERS are within the definitions contained in Section 105.711.2(2), RSMo Supp. 1983, and have the protection provided by the State Legal Expense Fund.

Very truly yours,



JOHN ASHCROFT
Attorney General