

1979 WL 43011 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1979

***1 Subject: Employees: Public; Education: School (Districts:)**

School Districts may not deduct dues from employees' compensation for the purpose of paying dues to organizations to which the employees belong. Statutory authorization is required in order to validly make such deductions.

Robert A. Kohn
Member
House of Representatives

Question:

May a school district lawfully make payroll deductions from employees' salaries for dues to employees' professional associations?

Statutes and Cases:

Article X, § 8, Constitution of the State of South Carolina, 1895; § 59-17-10, et seq., § 8-11-80, § 8-11-90, § 9-1-1020, § 9-3-510, Code of Laws of South Carolina, 1976; 67 C.J.S. Officers, § 107; 63 Am. Jur. Public Funds, § 45 et seq. 48 Am. Jur., Labor and Labor Relations § 273; 31 A.L.R. 2d 1142.

Discussion:

You have requested the opinion of this office as to whether local school district Boards of Trustees may authorize payroll deductions from teacher's paychecks for dues to teacher organizations such as the South Carolina Education Association. There is no statute in South Carolina specifically authorizing such deductions.

School districts are political subdivisions of the State created by Act of the General Assembly. See § 59-17-10, et seq. The powers and authority of boards, commissions and other public bodies are defined and limited by law. Moreover, the courts have held that boards have, by implication, such additional powers as are necessary for the due and efficient exercise of expressly granted duties and powers. However, under this additional authority, boards may not abridge or enlarge their authority or exceed the powers given them by statute. 67 C.J.S., Officers, § 107, p. 378.

The General Assembly has, by statute, authorized certain deductions from payrolls of employees of agencies and institutions of State government. Examples of authorized deductions for State employees are U. S. Savings Bonds (§ 8-11-70), group life, hospital and other insurance (§ 8-11-80), Federal taxes (§ 8-11-90), retirement (§ 9-1-1020), and social security (§ 9-3-510). Not only is there no statutory authority for other deductions, the rule of law money cannot be drawn from a treasury of a political subdivision except in pursuance of a specific appropriation made by law. See Article X, § 8, Constitution of the State of South Carolina, 1895, and 63 Am. Jur. Public Funds, § 45 et seq.

Except for the foregoing itemization of authorized deductions, there is no statutory authority for the deduction from public payrolls of dues for organizations to which the employees may belong. In one instance, the General Assembly

has, by statute, authorized deductions of income from the public payrolls of school districts for the purpose of enabling the employees to participate in a deferred income annuity program, generally characterized as 'Tax Sheltered Annuities'. [Section 9-15-10, Code of Laws, 1976](#). The fact that the General Assembly has specifically authorized certain deductions for certain purposes indicates clearly that there is no intent to authorize deductions for other purposes. Those courts which have upheld such deductions generally predicate their conclusion upon specific statutory authority granted by the State or resort to the construction of a statutory provision as the basis upon which validating such deductions. In view of the legislative treatment of deductions, there is, in the opinion of this Office, no room to doubt that where the Legislature has considered that governmental agencies may make deductions from the public payrolls, it has so specifically authorized. With regard to deductions of dues from organizations to which employees belong, it has not made such an authorization.

Conclusion:

***2** School districts may not deduct dues from employees' compensation for the purpose of paying dues to organizations to which the employees belong. Statutory authorization is required in order to validly make such deductions.

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