

MEMORANDUM OF LAW

DATE: May 20, 1996

TO: Bob Lawrence, Payroll Manager, Office of the Auditor and
Comptroller

FROM: City Attorney

SUBJECT: Union Control of Length of Dues Payments

QUESTION PRESENTED

Can American Federation of State, County and Municipal Employees Local 127 ("Local 127") force the City to deduct union dues from members' wages for a period beyond that for which the members have authorized the City to deduct dues?

SHORT ANSWER

Employees control the length of time during which the City may deduct their wages to pay union dues, and the City may only deduct wages

during that period. If employees decide to discontinue their deduction authorization, the City must recognize the discontinuance, ceasing further deductions for the union dues.

DISCUSSION

Article 18 of Local 127's Memorandum of Understanding ("MOU") covers payroll deductions for union dues. Section (A) requires bi-weekly deductions of membership dues from member wages, and section (B) allows the deductions only when the City receives an employee's formal authorization. Specifically, it provides: "Dues deduction shall be for a specified amount and shall be made only upon the voluntary written authorization of the member."

Under section (E) of Article 18, Local 127 may elect to designate a specific term during which a member's authorization would remain effective and irrevocable. It has, however, failed to do so. The current authorization form, the Payroll Deduction Notice, gives each member discretion in deciding how long he or she wishes to have the City deduct union dues from his or her pay check. Members select start and stop dates that control the City Auditor and Comptroller and Treasurer's authority to deduct dues from employee wages. The express language of the Payroll Deduction Notice states that the "authorization applies to any increase or decrease in the amount due the . . . payee and is to continue in effect until canceled by written notice served by the undersigned the employee." (Emphasis added.) Thus, upon signing the notice, employees expressly reserve the power to cancel their deduction authorization and may do so at any time. After the City processes any changes in an employee's authorization, its only

obligation to Local 127 is to notify the union of the changes and to provide it with a copy of the employee authorization form.

Nothing beyond the Payroll Deduction Notice and Article 18 controls employee payroll deductions. Local 127's current position appears to be that its members impliedly consented to have the City deduct wages to pay union dues for the two years during which its MOU is in effect with the City. Because the MOU explicitly grants Local 127 the power to specify a term during which member authorization would be irrevocable, there is not an implied default period of two years, and Local 127 may not unilaterally enforce its own period outside of the MOU. If Local

127 contemplated having a two-year default period at the time of the negotiations, it had the opportunity to have specific language placed in the MOU. There is no mention of any such time frame in the MOU and the union cannot now attempt to enforce a time frame that is not authorized.

In sum, because its members expressly reserve the power to cancel their dues payments at any time under the current authorization form, Local 127 cannot force its members to pay involuntarily beyond the time frame they select. It has, thus far, failed to incorporate a specified term duration into the payroll notice/authorization form under section (E), and there is no implied period. Consequently, Local 127 must abide by the terms of the Payroll Deduction Notice form until steps are taken to designate a specific term.

CONCLUSION

The City may deduct dues only for the length of time the authorization form contains or the time the employee chooses. Unions cannot bind their members to pay dues beyond the time the members desire and for which they have given the City authorization.

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By
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cc Bill Lopez, Labor Relations
Representative
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