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October 11, 1978

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ATTORNEY GENERAL OPINION NO. 78- 328

The Honorable Patrick J. Hurley
Majority Leader of the House
Kansas House of Representatives
3rd Floor - State Capitol
Topeka, Kansas 66612

Re: State Officers and Employees--Employee Organizations--
-Dues Deduction

Synopsis: Under ch. 373, § 3(b), L. 1978, the authorized dues deduction plan for members of employee organizations provides for the deduction of dues for all members of such organizations who are state officers and employees, including those members for whom the organization is not the certified or recognized employee organization under K.S.A. 75-4327 and including members for whom another employee organization is the certified or recognized employee organization thereunder.

* * *

Dear Representative Hurley:

You inquire concerning section 3(b) of 1978 Senate Bill No. 857, found at ch. 373. The 1978 legislature authorized a payroll deduction plan to be adopted as follows:

"(b) The director of accounts and reports shall provide, as a part of the system of payroll accounting, a plan for the deduction from the salary or wages of an amount equal to regular membership dues for state officers and employees in any *employee organization*

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which has filed an annual report pursuant to K.S.A. 75-4337 or which has a business agent registered pursuant to K.S.A. 75-4336."
[Emphasis supplied.]

The referenced statutes are part of the Public Employer-Employee Relations Act, K.S.A. 75-4321 *et seq.* K.S.A. 75-4322(i) defines "employee organization" as

"any organization which includes employees of a public agency and which has as one of its primary purposes representing such employees in dealing with that public agency over conditions of employment and grievances."

Ch. 373, § 3(b), L. 1978, authorizes a payroll deduction for regular membership dues for state officers and employees in any "employee organization" which has filed an annual report under K.S.A. 75-4337. That statute requires every "employee organization operating in the state of Kansas and having one hundred (100) or more members" to file an annual report with the Secretary of State.

The question arises concerning an employee organization the membership of which may include, *e.g.*, several hundred state officers and employees, but which is not the recognized employee organization, for the purpose of meeting and conferring and for the execution of memoranda of agreement, for all the officers and employees in its membership. Certain of its membership may be represented in their units by another recognized employee organization. The question is raised whether the dues deduction plan authorized by ch. 373, § 3(b) must provide for the authorized deduction of dues by all of the members of an employee organization, or for only those of its members for which it is the certified or recognized employee organization under K.S.A. 75-4327.

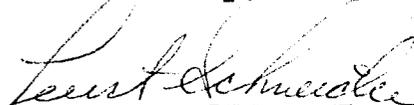
It may be argued that if it were the legislative purpose to restrict the authorized dues deduction plan to only employees for which the organization is the recognized or certified employee organization under K.S.A. 75-4327, the legislature might well have been more explicit. In considering whether the dues deduction plan includes members of an employee organization other than those for which it is the recognized or certified employee

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organization, it is helpful to review the definition of "employee organization," *supra*. By definition, such an organization is one which includes employees of one or more public agencies and which has as one of its primary purposes the representation of those employees in dealing with that agency or agencies over conditions of employment and grievances. The membership of employee organization A, e.g., may include employees of twenty state agencies. It may be certified or recognized, however, pursuant to K.S.A. 75-4327, for its members in only some of those agencies. Its members in other of those 20 agencies may be represented for the purposes of meeting and conferring by another employee organization, which is duly certified or recognized pursuant to K.S.A. 75-4327. Because it is not the certified or recognized employee organization for its employees in the remaining agencies, it is not engaged in representing those employees in dealing with those agencies over conditions of employment and grievances.

In describing the scope of the authorized dues deduction plan, the legislature did not restrict the deductions to only those state officers and employees who are members of an employee organization for which it is the recognized or certified organization under K.S.A. 1977 Supp. 75-4327. Instead, it authorized deductions for any state officers and employees in any employee organization which has filed an annual report as required by K.S.A. 75-4337 or which has a business agent registered under K.S.A. 75-4336. In my judgment, I am not justified in implying a restriction upon the dues deduction plan which the legislature itself chose not to impose. Apparently, the legislature intended to authorize a dues deduction plan of fairly broad scope, for it specifically did not restrict the authorized dues deduction plan to only those members of an employee organization for which it is the certified or recognized organization. In my opinion, to recapitulate, the dues deduction plan authorized under this program must provide for such deductions by all members of an employee organization as defined by K.S.A. 75-4322(i), including members who are also members of another employee organization for whom the latter is the recognized or certified organization, and including members for whom no employee organization is recognized or certified.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj