

COPY



MEC  
OPINION NO.

2003.07.105

**STATE OF MISSOURI**

MISSOURI ETHICS COMMISSION  
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**NOTICE**

July 16, 2003

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.

re. 300

At the July 10, 2003 meeting of the Missouri Ethics Commission, your requests for opinions were discussed. The following is the Commission's response to those requests:

*If the reimbursement of mileage to an employee would cause a violation of section 115.646 since the employee used the vehicle to support a political campaign, does the forwarding of employee wages directly to a third party for political purposes also violate section 115.646?*

Public funds are defined in Blacks Law Dictionary as monies belonging to government or any department of it in the hands of public officials. Blacks Law Dictionary defines wages as compensation given to a hired person for his or her services. In light of these definitions, the money in question would not be public funds, but would be wages and not subject to section 115.646, RSMo.

*Does the MEC hold that if the actual costs to the District for the "flower fund" withholdings are billed to the IAFF and the IAFF reimburses the District for those costs, that this practice would protect the District from a claim that it is expending public funds in a manner that violated section 115.646?*

The cost of withholding wages is a cost of business. If the union agreement repays these costs, the fact that they do, does not change the fact that the money is wages and were not public funds. This is an accounting agreement with the union and public funds are not being used for political purposes.

*Will the use by the Union of a portion of the funds withheld for political contributions nevertheless violate section 115.646 despite the withheld funds being characterized as "union dues"?*

No. The wages are paid to the individuals. At that time they are not public funds. He/she may designate how these wages are spent.

*How does the District reconcile its apparent obligation under section 130.028.3 with section 115.646's prohibition against the expenditure of public funds to advocate, support, or oppose any ballot measure or candidate?*

The requirement to make such deposit in an account is not making an expenditure of public funds to advocate, support or oppose any measure or ballot issue.

*How does section 130.028.3 impact upon the MEC's analysis of the three scenarios discussed in this letter?*

This requirement does not charge the analysis of the prior questions.

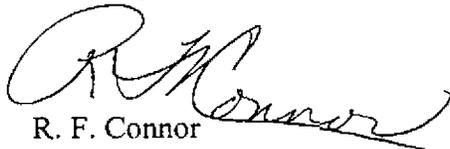
*We are requesting an opinion as to whether section 115.646 applies when an employee requests to use paid "union business" leave and our client knows that the employee is going to use this paid leave to advocate, support or oppose any ballot measure or candidate for public office in an election involving our client; if so, does it prohibit paid "union business" leave used for these purposes?*

If an employee has requested union leave and such leave is granted, if that person campaigns for or against a person or issue, the employer has no responsibility or control over the individual and such activity is not using district funds to support or oppose a ballot measure or candidate.

*Does section 115.646 apply when an employee requests to use paid union business leave and our client knows that the employee is going to use this paid leave to advocate, support, or oppose any ballot measure or candidate for public office in an election unrelated to our client. For example, this could be "working the polls" at an election for board members at another public entity such as a neighboring fire district. If so, does it prohibit paid union busies leave used for these purposes?*

The answer to this question is the same as stated above. The individual is on leave. The employer has no control over the individual and such leave is granted for various reasons.

Sincerely,



R. F. Connor  
Executive Director

RFC:bd

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