



MISSOURI ETHICS COMMISSION

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Julie A. Allen
Executive Director

March 12, 2010

Opinion No. 2010.03.CF.002

At the March 11, 2010 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

A Missouri city which is a political subdivision of the State has requested an advisory opinion on whether it is an "employer" under §130.028.3, RSMo in which it would be required to make payroll deductions available, upon written request of ten or more employees, to make contributions to a continuing committee as defined in §130.011, RSMo.

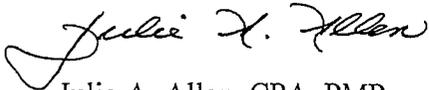
§130.028.3, RSMo, provides as follows:

An employer shall, upon written request by ten or more employees, provide its employees with the option of contributing to a continuing committee as defined in section 130.011 through payroll deduction, if the employer has a system of payroll deduction. No contribution to a continuing committee from an employee through payroll deduction shall be made other than to a continuing committee voluntarily chosen by the employee. Violation of this section shall be a class A misdemeanor.

In MEC Opinion No. 2002.11.107, the Commission stated that the State of Missouri is not an employer under §130.028, RSMo and is not required to establish an employer deduction program for voluntary contributions to a continuing committee. The Commission relied on the Missouri Supreme Court opinion of *Carpenter v. King*, 679 S.W. 2d 866, 868 (Mo. banc 1984) which held that a general statute will not be considered to be applicable to the state and its agencies "unless an intention to include them is clearly manifest, as where they are expressly named therein, or included by necessary implication." *See also, Kraskey v. Curators of the Univ. of Mo.*, 765 S.W. 2d 646, 650 (Mo. App. W.D. 1989.) The words "employer and employee" are not defined in Chapter 130, RSMo.

While political subdivisions of the state are expressly included in the definition of "person" under §130.011(22), RSMo and are therefore subject to some provisions of the Campaign Finance Disclosure Law under Chapter 130, it is the opinion of the Commission that a Missouri city is not considered to be an employer for purposes of §130.028.3, RSMo because political subdivisions are not expressly named in that subsection. While political subdivisions are expressly defined as "persons" in Chapter 130, they are not defined to be "employers" anywhere in Chapter 130.

Sincerely,



Julie A. Allen, CPA, PMP
Executive Director

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