



MISSOURI ETHICS COMMISSION
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James Klahr
Executive Director

August 25, 2017

Re: Advisory Opinion No. 2017.08.CF.016

Dear '

At the August 25, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation of campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter.

The question presented and the Commission's opinion are as follows:

Article VIII, §23 states a labor organization "may establish a continuing committee which may accept contributions or dues from members." § 23.3(3)(a).

§130.029, RSMo, allows a corporation, labor organization, cooperative association, and mutual association, to make contributions and expenditures, provided:

(1) That the board of directors of any corporation by resolution has authorized contributions or expenditures, or by resolution has authorized a designated officer to make such contributions or expenditures; or

(2) That the members of any labor organization, cooperative association or mutual association have authorized contributions or expenditures by a majority vote of the members present at a duly called meeting of any such labor organization, cooperative association or mutual association or by such vote has authorized a designated officer to make such contributions or expenditures.

§130.029, RSMo, further provides:

2. No provision of this section shall be construed to authorize contributions or expenditures otherwise prohibited by, or to change any necessary percentage of vote otherwise required by, the articles of incorporation or association or bylaws of such labor organization, corporation, cooperative or mutual association.

3. Authority to make contributions or expenditures as authorized by this section shall be adopted by general or specific resolution. This resolution shall state the total amount of contributions or expenditures authorized, the purposes of such contributions or expenditures and the time period within which such authority shall exist.

§ 130.029, RSMo.

Assuming a labor organization complies with Supreme Court and National Labor Relations Board decisions concerning the collection and use of collected dues monies for purposes not germane to collective bargaining (including the ability of individual employees to have their collected dues monies only used for bargaining purposes and not for political purposes); and assuming a labor organization complies with the requirements of § 130.029, RSMo:

May a labor organization contribute treasury money traceable to collected membership dues from individual members to a connected political action/continuing committee?

Supporting Analysis

Art. VIII, §23.3(3)(a) and (b) provide prohibitions on corporate and labor organization contributions as follows:¹

(3) (a) It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders.²

(b) The prohibition contained in subdivision (a) of this subsection shall not apply to a corporation that:

(i) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(ii) Has no security holders or other persons with a claim on its assets or income; and

(iii) Was not established by and does not accept contributions from business corporations or labor organizations.

§23.3(12), however, provides that political action committees/continuing committees are authorized to receive contributions from “unions” and “corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time...”

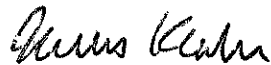
¹ In 2017.02.CF.002, the Commission opined that continuing committees and political action committees are the same type of committee. Likewise, the Commission interprets “unions” and “labor organizations” to be the same type of entity despite the fact that the constitutional provision refers to these in separate subsections and the term “union” is not defined.

² In *Free and Fair Election Fund, et al. v. Missouri Ethics Commission, et al. & Missouri Electric Cooperatives, et al. v. State of Missouri, et al.*, Consolidated Case No. 16-04332-CV-C-ODS (Western District of Missouri, Central Division), the Court entered a permanent injunction against the prohibition that corporations or labor organizations give to campaign committees. The state did not appeal that finding, therefore, corporations or labor organizations can give to campaign committees.

In MEC Opinion No. 2017.03.CF.010, the Commission stated that a corporation or labor organization may not contribute its own funds to its connected political action/continuing committee. In MEC Opinion No. 2017.07.CF.014, the Commission gave additional guidance to the definition of connected organizations.

The current request assumes that the labor organization is a connected organization. Because the labor organization may place membership dues from individuals in its treasury fund, it is the Commission's opinion that the labor organization may transfer the dues to its connected PAC from its treasury account. The labor organization might consider segregation of funds to ensure that only funds derived from membership dues are transferred to the organization's connected PAC, and it is important to keep accurate records of the source of the funds from dues pursuant to §130.036, RSMo.

Sincerely,



James Klahr
Executive Director