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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES M. CONDON  
ATTORNEY GENERAL

June 27, 2002

Paul Kemp, Commissioner  
Saint Andrews Public Service District Commission  
Post office Box 30305  
Charleston, South Carolina 29417

Dear Commissioner Kemp:

You have asked "whether the St. Andrews Public Service District Commission, a local government employer, is barred or prohibited under any provision of the South Carolina Code Ann. from deducting association membership dues from an employee's wages where the employee voluntarily requests such a deduction from his/her paycheck." You note that you

... are aware of Section 8-11-83 (entitled "payroll deduction for dues of State Employees' Association") and Section 8-11-92 which addresses the criteria for the Secretary of State to determine which nonprofit charitable organizations are eligible to participate in payroll deductions for state-employee contributions. We are also aware of the holding in Branch v. City of Myrtle Beach, 532 S.E.2d 289 (2000) that the state's right-to-work statute does not apply to public employment, and the comment in that decision which states: "Public employers are specifically forbidden from this [association membership dues deductions] practice by S.C. Code Ann. §§ 8-11-83 and -92 (1976)." The state code sections cited in the quotation are the same code provisions referred to above regarding employees of the state. We want to know whether these sections of the State law (or other statutory sections) impose a legal prohibition preventing the local St. Andrews Public Service District and our employees from voluntarily deciding to allow association dues to be deducted from employees' paychecks.

**Law / Analysis**

It is well recognized that statutes relating to the compensation of public officers or employees must be strictly construed in favor of the government, and such officers or employees are entitled only to that which is clearly given. Op. Atty. Gen., June 21, 1988. Section 8-11-83 provides in pertinent part as follows:

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[t]he Comptroller General and all other state agencies, upon request of employees of the State, shall make deductions from the compensation of employees for the membership dues for the South Carolina State Employees' Association and for the South Carolina Troopers' Association. The Comptroller General and state agencies shall pay over to the respective associations all amounts so collected or withheld. Retirees from a state agency also may have withheld from their state retirement benefits their membership dues for the South Carolina State Employees' Association and for the South Carolina Troopers' Association. No deduction is permitted if the associations at any time engage in collective bargaining or encourage their members to strike.

No membership dues or any portion thereof deducted pursuant to this Section may be paid to any national or multi-state association or group.

Dues from the South Carolina Law Enforcement Officers' Association may also be deducted from the compensation of state employees and retirees and paid over to this association in the same manner and other dues under this section are deducted and paid over. The same restrictions and conditions as apply to the other deductions under this Section apply to the deductions of dues for the South Carolina Law Enforcement Association.

The foregoing statute, of course, relates to state employees. The question here, however, is whether the St. Andrews Public Service District Commission is prohibited from allowing its employees to voluntarily have association dues deducted from their paycheck.

First of all, it should be noted that the powers of a public service district are construed strictly. Op. Atty. Gen., June 29, 1979. Public service districts have only such powers as are specifically granted by statute or which may be reasonably implied therefrom. Moreover, statutory authorization is required in order to validly deduct public employees' dues contributions from their paycheck. Op. Atty. Gen., June 27, 1979.

Here, the General Assembly has granted specific authority for certain payroll deductions with respect to certain types of employees. The Legislature has the same power with respect to local employees to put into effect the same statutory scheme that applies to state employment. California State Employees' Assn. v. Regents of Univ. of California, 267 Cal.App. 667, 73 Cal. Repr. 449 (1969). A cardinal rule of statutory construction is "expressio unius est exclusio alterius" or "the enumeration of particular things excludes the idea of something else not mentioned." See, Pa. Natl. Mut. Cas. Ins. Co. v. Parker, 282 S.C. 546, 320 S.E.2d 458 (Ct. App. 1984).

I am unaware of any statute specifically authorizing payroll deductions for St. Andrews Public Service District employees. The St. Andrews Public Service District was originally created by Act No. 443, 1949 Acts and Joint Resolutions, 1015 as a body politic, to exercise and enjoy all

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of the rights and privileges of such. Several subsequent statutes have modified the original legislation in various particulars. See, e.g. 1961 Acts and Joint Resolutions, p. 917; 1974 Acts and Joint Resolutions, p. 3211; 1978 Acts and Joint Resolutions, No. 726; 1982 Acts and Joint Resolutions, No. 522; 1983 Acts and Joint Resolutions, No. 218; 1984 Acts and Joint Resolutions, No. 583; 1988 Acts and Joint Resolutions, No. 764; 1989 Acts and Joint Resolutions, No. 273; 1990 Acts and Joint Resolutions, No. 717. Nowhere in these various enactments is there provided any authority for the kinds of deductions which you reference. Thus, in my opinion, such authority is not present.

In conclusion, it is my opinion that there currently exists no statutory authority to deduct association dues from the paychecks of employees of the St. Andrews Public Service Commission.<sup>1</sup>

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



Robert D. Cook  
Assistant Deputy Attorney General

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<sup>1</sup> You reference the case of Branch v. City of Myrtle Beach, supra wherein the South Carolina Supreme Court recognized that § 8-11-83 and -92 prohibit public employers from deducting union membership dues from the paychecks of public employees. Of course, these statutes relate to state employees as opposed to local employees. Moreover, § 8-11-83 forbids deduction of membership dues which will be paid to "any national or multi-state association or group." You do not indicate what "association" is involved here. In any event, since there is no statutory authorization for deduction for any purpose with respect to St. Andrews Public Service District employees, we need not reach the issue of whether this particular association is covered by § 8-11-83.