



CHARLOTTESM
HUMAN RESOURCES

Union Dues Check Off

Cheryl Brown, Director of Human Resources

Bob Hagemann, City Attorney

January 7, 2013

OPTIONS

1. Maintain current practice: Allow payroll deductions for employee benefits, as well as groups of general interest in which all City or departmental employees can participate because they are employees, without additional membership requirements (e.g. credit unions).

2. Adopt policy allowing payroll deductions:

Possible options:

- A. No restriction or arbitrary approval of groups allowed.
(risk: content scrutiny)
- B. Allow certain groups based on criteria set forth in policy with value parameters, on case-by-case basis.
(less risk: content scrutiny)
- C. **Allow certain groups based on bright-line, objective criteria set forth in policy – percentage employee participation. (least risk)**

- Fraternal Order of Police
 - 1,800 eligible uniformed officers
 - 1,300 - 1,600 members (actives and re-hired retirees)
 - 88.9% of eligible employees are members
 - 23.5% of the total workforce (6,800)
 - Annual Dues: \$100.00
- North State Law Enforcement Officers Assoc.
 - 1,800 eligible uniformed officers
 - 23 members
 - 1.3% of eligible employees are members
 - .34% of the total workforce (6,800)
 - Annual Dues: \$70.00

- International Association of Fire Fighters
 - 1,050 eligible uniformed personnel
 - 675 members
 - 64% of eligible employees are members
 - 9.9% of the total workforce (6,800)
 - Annual Dues: \$299.00
- Fraternal Order of Progressive Fire Fighters
 - 1,050 eligible uniformed personnel
 - 20 members
 - 1.9% of eligible employees are members
 - .29% of the total workforce (6,800)
 - Annual Dues: \$390.00

- UE 150 – NC Public Service Workers Union
 - 650 eligible*
 - 35 members (per Steve Bader on 12/3/12)
 - 5% of eligible employees are members
 - .51% of the total workforce
 - Annual Dues: \$204.00

*Included as eligible are employees in labor and trades positions and equipment operator positions in SWS, CDOT, CMUD, CATS and Landscape Management

- State payroll deduction eligibility
 - “domiciled employees’ association that has at least 2,000 members, 500 of whom are employees of the State or a political subdivision of the State other than a local board of education” G.S. 143B-426.40A(g)

- minimum # and/or % of eligible employees?
- % of member employees request payroll deductions?
- impose \$1,000 fee (or some other amount) as paid by United Way and ASC?



CITY OF CHARLOTTE

QUESTIONS



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November 5, 2012

Describe the City's current use of payroll deduction

Review the practices of other NC cities and counties

Discuss the implications of adding payroll deduction of union dues

- Three categories of payroll deductions:
 - Benefits for employees
(Medical, Dental, Vision, Life, FSAs, 401k, 457, Aquatics Center, Critical Care, Accident, Wellness, Long Term Care, Fire Retirement Plan, Police 401k and Life Insurance Plan, Credit Unions)
 - Transportation
(Parking, Reduced Cost for Bus Passes)
 - Charitable Organizations
(United Way, Arts and Science Council)

To participate, must:

- be a federation with 20 or more member agencies
- be a non-profit tax-exempt organization under federal law
- account for its funds in accordance with generally accepted accounting principles; prepare an annual report
- devote all of their activities to providing human health & welfare services, environmental services, or arts and sciences
- be chartered or incorporated in NC; governed by an active Board, 90% living or working in the Greater Charlotte MSA; 90% of agencies have a staffed office in the MSA
- keep admin and fundraising costs below 25% of revenue
- provide promotional materials that are truthful and non-deceptive
- **submit a check for \$1,000 to help cover City admin costs**

- Allow deductions for union dues:
 - Raleigh, Chapel Hill, Durham (UE150, Police, Fire)
 - Winston Salem (Police, Fire)
 - Durham County (Sheriff's Alliance)
- Do not allow deductions for union dues:
 - Greensboro, High Point, Asheville, Fayetteville, Carrboro, Wake County, Orange County
- Many City firefighters have their dues collected through bank draft

Payroll Administration and Maintenance Costs

- \$31,358: Initial set up (staff time for setup, testing, interfaces, security)
- \$ 8,407: Processing annual changes (related to tax updates, yearly enrollments)
- \$19,593: Payroll system upgrades every three to four years (staff time)
- \$25,347: Annualized weekly payroll processing. (This annual cost could be eliminated if there was a one-time online enrollment fee of about \$70,000; process similar to open enrollment for benefits)

- First Amendment – Right of Association
- Equal Protection
- What has been upheld
- Possibilities going forward

First Amendment Right of Association

- Failure to authorize payroll deductions does not deny employees the right to associate with an organization. [*South Carolina Educ. Ass'n v. Campbell, 883 F.2d 1251 (4th Cir. 1989)*]
- No constitutional right to payroll deductions. [*City of Charlotte v. Local 660, Int'l Assoc. of Firefighters, 426 U.S. 283 (1976)*]

- Governmental benefits supporting associations cannot be based on the group's ideals or objectives.
- Government must give like treatment to similarly situated parties.
- Cannot allow payroll deduction for unions and exclude all other employee organizations without a rational reason.

- Unions = employee associational groups (Groups that employees voluntarily join).
- Churches / YMCA / Alumni groups = employee associational groups.
- Challenge faced: How to allow payroll deduction for unions while not incurring large expense of allowing all outside employee associational groups.

- Charlotte: U.S. Supreme Court
 - Deductions for programs of general interest in which all city or departmental employees can, without more, participate. E.g. taxes, credit unions, wellness center
 - Court upheld exclusion of unions – allowed Charlotte to “avoid the cumulative burden of processing deductions every time a request is made.”
- South Carolina: (Fourth Circuit)
 - Deductions allowed for certain charities and state workers’ union/association; not for teachers’ union. Reason: Not all State employees could join teachers’ union.

- Tennessee cases:

In two separate cases out of Tennessee, courts upheld allowing payroll deductions only for unions that had sufficient employee participation.

In one case, the requirement was participation of at least 2/3 of total employees. In another, 20% of all employees was sufficient as a requirement.

OPTIONS

1. Maintain current practice: Allow payroll deductions for employee benefits, as well as groups of general interest in which all City or departmental employees can participate because employees, without additional membership requirements (e.g. credit unions).

2. Adopt policy allowing payroll deductions:

Possible options:

- A. Approve employee associational groups (EAG) on an ad hoc basis without pre-established criteria.
(high risk: content/equal protection scrutiny)
- B. Approve EAG based on pre-established value-based parameters set forth in policy.
(less risk: content/equal protection scrutiny)
- C. Approve EAG based on bright-line, objective criteria set forth in policy – *e.g.*, percentage employee participation.
(least legal risk)



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