

El. Bd. Op. 74-7 (Reaffirmed 5/5/08)

Summary:

Nonresidents designating an agent in Wisconsin are not exempted from political registration and reporting. Certain transactions by nonresident committees and groups are not reportable if they can be segregated. Section 11.07 (5), Stats., does not prevent the acceptance of a contribution from any unregistered individual under §11.07 (1), Stats. (Issued to Raymond Majerus, August 28, 1974)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008. The G.A.B. directed an annotation be added alerting the public that statutory changes have codified the reporting requirements for nonresident committees at §11.06(3), Stats.

Opinion:

You ask a number of questions regarding the reporting and registering requirements of nonresident committees and groups.

First, you inquire whether nonresidents who register under §11.07 are exempted from registration under §11.05 and reporting under §11.06. The ruling of the board is that the answer is no. (See Wis. Adm. Code section GAB 1.10 (1)). Section 11.07, Stats., concerns registration for purposes of designating a resident agent only. It does not provide for political registration or reporting. The definitions of "committee" and "group" as provided in §§11.01 (3) and (9) do not exclude nonresidents. Such a construction would afford virtually unlimited opportunity to escape state reporting requirements simply by establishing an office just over the state line. The board concludes that such an interpretation was not intended by the legislature.

Second, you inquire whether the phrase "all (emphasis added) contributions or disbursements made, and obligations incurred" in §11.06 (1), Stats., refers to transactions in the state of Wisconsin only. It is the opinion of the board that if transactions can be segregated as to origin or destination within Wisconsin, only these need be reported. It is unlikely that the legislature would have desired the reporting of a contribution which is received from a nonresident committee which is to be used outside the state, merely because the same committee makes contributions in Wisconsin. This information is presumably of little interest to Wisconsin residents and can probably be obtained by inspecting the reports required by other states. However, if there is no specific disposition for a contribution received from outside the state, and the recipient places it in an account which is used to make a contribution in Wisconsin, the name of the real contributor would be undisclosed unless it were reported. To adopt the distinction that nonresident contributions to a nonresident committee which are used in part to make contributions in this state need not be reported or itemized would work a substantial discrimination against resident committees and would further provide a means of avoidance of the law which could not have been intended. The board therefore concludes that only if a contribution is received from a nonresident and given to a nonresident committee, and it is specifically designated for nonresident use, it need not be reported. Further, a disbursement which is made outside the state by a nonresident

committee for the purpose of influencing an election other than a contest for national, state or local office or a referendum within this state need not be reported. In addition, obligations incurred to make contributions or disbursements which are non-reportable need not be reported.

Third, you ask whether §11.07 (5), Stats., refers only to nonresident committees and groups in its prohibition against intentional receipt of contributions from nonresidents who are required to register under §11.07 (1). It is the opinion of the board that the answer is "yes." Section 11.07 (1) provides that only nonresident individuals who make disbursements exceeding \$25 within the state must designate an agent. Those individuals making contributions only need not register and designate an agent. However, a registered individual who makes disbursements may also make contributions. §11.07 (5) applies to "contributions made by an unregistered nonresident in violation of this section." Since the making of a contribution by an unregistered nonresident individual would not violate §11.07 (1), Stats., even if the individual were making disbursements in violation of that subsection, §11.07 (5) would not preclude the acceptance of a contribution from any unregistered nonresident individual.

I should mention that the board has adopted an Administrative rule (GAB 1.10) which authorizes certain nonresident committees to satisfy their reporting requirements differently than resident committees. This rule may be studied for further clarification of this question.