

El. Bd. Op. 77-7 (Reaffirmed 8/27/08)

Summary:

Joint solicitation by federal and state committees: Under a joint solicitation plan, in which collected contributions are allocated by an escrow agent according to a predetermined formula between a state political committee and a committee whose activity is directed exclusively toward federal campaigns, and contributors are advised of such allocation at the time of contribution, (1) the federal committee is not subject to the regulatory and reporting requirements of chapter 11, Stats., (2) the funds allocated to the federal committee are not subject to the regulatory and reporting requirements of chapter 11, and (3) the escrow agent is not subject to the registration and reporting requirements of chapter 11. §11.03, Stats., El. Bd. Op. 74-1. (Issued to Darwin Scoon, September 22, 1977)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on August 27, 2008.

Opinion:

You have described a fund-raising procedure by which a federal political action committee and state political action committee would join in a solicitation drive. Joint contributions would be initially transmitted to the state committee treasurer, in the form of a single check made out to the state committee. The state committee will deposit each joint contribution with a bank acting as escrow agent. The agent will divide each such contribution between the federal and state committees according to a predetermined allocation formula and will transfer each committee's share of each contribution to their respective campaign depository accounts. Prospective contributors will be advised of the fact that their contributions will be allocated between the committees according to a specified formula and will be advised of that formula.

You have asked three questions with regard to this procedure. The first is whether the federal committee would be subject to the regulatory and reporting requirements of ch. 11, Wis. Stats. Section 11.03 (3), Stats., provides that Ch. 11 does not apply to any committee acting exclusively in support of or in opposition to federal candidates or exclusively federal committees. Applying that statute, the federal committee would not be subject to state regulatory and reporting requirements so long as it does not engage in financial activity directed toward the support of candidates for state or local office in Wisconsin. See also El. Bd. Op. 74-7.

Your second question is whether that portion of contributions allocated to the federal committee under the above-described procedure would be subject to regulatory and reporting requirements of Ch. 11. Again, Ch. 11 does not apply to funds contributed to exclusively federal committees.

The commingling of funds destined exclusively for federal races with a state contribution in a single check by which a joint contribution is transferred does not require a reporting of the federal funds.

Your third question is whether reporting and registration requirements under Ch. 11 would be imposed on the bank acting as escrow agent in the above fact situation. In the fact situation set out

above, the bank's only participation in state campaign financing would be as an escrow agent for contributions to the state committee, exercising no discretion or control in the transfer of funds to the committee. In that role, the bank would not be required to register or report. See El. Bd. Op. 74-1.