

El. Bd. Op. 79-5 (Reaffirmed 10/6/08)

Summary:

A corporation which establishes and administers a separate segregated fund under §11.38 (1)(a)2., Stats., may purchase and pay premiums on officers' and directors' liability insurance, general liability insurance and fidelity bonds for the fund (Issued to Thomas J. Sobota, December 13, 1979)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on October 6, 2008.

Opinion:

You represent a corporation which wishes to establish and administer a separate segregated fund pursuant to §11.38 (1)(a)2., Stats. You are concerned with the possible liability of the officers, directors and members of such fund. You have asked if the sponsoring corporation of the separate segregated fund may purchase and pay the premiums for directors' and officers' liability insurance for the fund, general liability insurance for the fund, fidelity bonds for the fund and treat those expenditures as valid expenses of administering the fund. You have indicated in your letter that some individuals are reluctant to act as officers or directors unless adequate liability coverage is available.

A corporation which establishes and administers a separate segregated fund may make expenditures to establish and administer the fund and solicit contributions from individuals, but a corporation may not make any contributions to such fund. §11.38 (1)(a)2., Stats. The amount of money which a corporation may spend on administrative expenses is not limited by statute. El. Bd.Ops. 75-3, 75-6.

Some political committees have incorporated as non-profit corporations under Chapter 181, Stats., in order to limit the liability of their members. This would not eliminate the liability imposed by chapter 11, Stats., on the treasurer or agent of a political committee or a candidate. Liability insurance is a means of protecting the funds assets as well as the officers and directors.

The Elections Board is of the opinion that payment by the sponsoring corporation of the proposed insurance premiums and fidelity bonds are valid expenses of administering a separate segregated fund and do not constitute a corporate contribution prohibited by §11.38 (1) (a)2., Stats.

You have also raised the question whether the separate segregated fund itself could obtain such insurance and bonds and pay the premiums from its own assets. The Elections Board is of the opinion that there is no prohibition under the Wisconsin campaign finance law which would prevent the PAC from obtaining the insurance and bonds and paying the premiums from its own assets.