

El. Bd. Op. 75-3 (Reaffirmed 5/5/08)

Summary:

A non-resident political committee is subject to the same registration and reporting requirements as a resident committee but may maintain its campaign depository outside of this state. The term "solicitation" as used in §11.38 (2), Stats., includes those activities which have as their sole purpose and which by their nature or manner result solely in the raising of funds. (Issued to M. Scott Cisney, November 19, 1975)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008.

Opinion:

You have requested the Board's opinion on three questions: First, is it permissible for a non-resident political committee established pursuant to §11.38 (2), Stats., to have its campaign depository located outside of Wisconsin? Second, to what reporting requirements would such a committee be subject? Third, what activities are encompassed by the term "solicitation" as used in §11.38 (2), Stats?

A resident committee is required to designate as its single campaign depository any bank or trust company authorized by law to transact business in this state. §11.01 (1), Stats. However, there is no such requirement for a non-resident committee, namely, a committee which does not maintain an office or street address within this state, §11.07 (6), Stats., and, therefore, it is the Board's opinion that such a committee is permitted to have its campaign depository located outside of Wisconsin. However, a non-resident committee is required to file its name, mailing address and the name and street address of a designated agent, within this state with the office of the Wisconsin Secretary of State. Id.

Non-resident committees are subject to the same registration and reporting requirements as resident committees. El. Bd. Op. 74-7. That is, a non-resident committee must register pursuant to §11.05, Stats., and must file periodic financial disclosure reports on the dates indicated in §11.20, Stats. However, a non-resident committee need not report contributions received from a non-resident and given to a non-resident committee, if they are specifically designated for non-resident use nor disbursements which are made outside this state for the purpose of influencing an election other than a contest for national, state or local office or a referendum within this state. Id.

A corporation organized under ch. 180 or 181, Stats., is permitted to establish and administer a separate segregated fund. §11.38 (2), Stats. In addition, such a corporation is permitted to expend not more than \$500 annually to solicit contributions from individuals to such fund. Id. Such a corporation is not restricted regarding the amount it may expend to establish and administer such a fund. Establishment and administration would include those activities necessary to create and maintain the fund, to wit: registering and reporting and those activities incidental thereto such as providing office space and secretarial assistance. Solicitation of contributions would include those activities which have as their sole purpose and which by their nature or manner result solely

in the raising of funds for the fund, such as: mail solicitations, telephone solicitations, door to door soliciting, fund raising efforts, etc.

In response to your specific examples it is the Board's opinion that a secretary employed by the corporation could spend part of her time assisting the political committee, provided such assistance did not include soliciting contributions, without part of her salary being counted towards the \$500 limit on solicitation expenses since this would properly qualify as administration of the fund. Likewise, the expenses involved in deducting contributions from employee paychecks would be considered part of the administration of the fund and would not count against the \$500 limit on solicitation expenses.

Before closing, I would be remiss if I did not point out that earmarking contributions, to which you refer, is not permitted under Wisconsin law except in the case of a contribution made to a personal campaign committee. §11.16 (4), Stats. This subject, however, will be treated in detail in a subsequent opinion.