

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

A committee may make maximum contributions to a candidate in a primary calculated from his total disbursement limitation in both the primary and election, provided that no further contributions are made after the primary. (Issued to Alfred G. Goldberg, July 24, 1974)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on June 9, 2008.

Opinion:

You inquire whether a political committee such as an AFL-CIO affiliate may contribute to a particular candidate in a primary campaign a total amount consisting of the candidate's entire disbursement limitation for both the primary and election campaign, factored by the appropriate per centum under §11.26 (2)(a) or (b), Stats.

It is the opinion of the board that the answer to your question is "yes."

Note that §11.26 (2) (intro.), Stats., limits contributions by committees "to the extent of more than a total (emphasis added) of the amounts specified per candidate." Section 11.26 (2)(a) and (b), Stats., then establish limitations based on percentages of disbursement limitations under §11.31 Stats. The disbursement limitations in §11.31, Stats., in some cases may be partially or wholly shifted from the primary segment to the election segment of the campaign. It would therefore be difficult to determine in some instances what the contribution limit would be for each segment of the campaign were the wording to be interpreted to impose separate contribution limit time segments. The word "total" would most plausibly be construed to combine the disbursement limitations wherever necessary in order to obtain a definite figure for each office in question. The words in §11.26(2) (intro.), Stats., which restrict contributions to candidates "for election or nomination" may therefore be interpreted to assure that the entire segment prior to the primary is counted within the contribution limitation notwithstanding the fact that a candidate is not successful in the primary and never becomes a candidate in the election.

It also may be observed that §11.26 (3), Stats., specifies that the committee contribution limitation in §11.26 (2), Stats., applies "cumulatively (emphasis added) to the primary and election campaign in which a candidate participates, whether or not there is a contested primary election." If there is no contested primary, the entire amount is effectively given for the election campaign, and there is nothing to indicate the legislative purpose not to authorize the reverse, i.e., the contribution of the entire limitation for the primary campaign. The last sentence in §11.26 (3), Stats., again specifies: "All moneys cumulate regardless of the time of contribution." This would include a contribution received before or after the primary in the cumulative total.

If a committee elected, as you suggest, to make its entire contributions during the primary campaign, it could then make no further contributions in the election campaign.