

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

Labor organizations which have incorporated are prohibited by §11.38, Stats., from making political contributions or engaging in political activities other than as expressly permitted therein. (Issued to John A. Lawton, March 17, 1976)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on October 6, 2008. The G.A.B. directed an annotation be added alerting the public that statutory changes subsequent to the opinion's issuance have made its holding inapplicable to labor unions incorporated prior to January 1, 1978. 1977 Wisconsin Act 427; §11.38(2)(c), Stats. The opinion still applies to other corporations. With the addition of the aforementioned annotation, the opinion below fully incorporates the revisions directed by the G.A.B.

Opinion:

You have requested the Board's opinion whether labor organizations which are nonstock, nonprofit corporations may make political contributions and engage in other political activities that are legal for unincorporated labor organizations. You indicate that the purpose of incorporation is unclear although the sole function of these organizations "is to work for the economic and social benefit of the members and in some cases to improve their occupational proficiency."

As you know, §11.38 (1)(a) 1., Stats., prohibits any foreign or domestic corporation from making political contributions. In El. Bd. Op. 75-8, the Board ruled "that a non-profit corporation created expressly and exclusively to engage in political activities which has incorporated for liability purposes only is essentially a political committee and, therefore, does not come within the prohibition of §11.38 (1) (a) 1., Stats."

In the situation you present, however, the labor organizations have not been created expressly and exclusively to engage in political activities although may have incorporated for liability purposes only. As such, they fall within the prohibition of §11.38 (1)(a) 1., Stats., and may not make political contributions or engage in political activities aside from those expressly permitted by §11.38, Stats.