

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

Disbursement Limits For Public Financing Applicants: Application of disbursement limits on public financing applicants to pre-campaign and post-campaign disbursements clarified. §11.31 (7), Stats. (Issued to David M. Travis, May 18, 1978)

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 requested a formal opinion of the Elections Board on the application of the limitations on a candidate's disbursements in §11.31, Stats., to expenditures made prior to the commencement of the "campaign," as that term is defined in §11.31 (7)(a), Stats.

Section 11.31 limits the disbursements of candidates who apply for and receive a grant from the Wisconsin Election Campaign Fund. §11.31 (2), Stats. The disbursement limits apply per "campaign." §11.31 (2), Stats. The application of that term is clarified in §11.31 (7), Stats., which provides as follows:

CAMPAIGN DEFINED. For purposes of this section, the 'campaign' of a candidate extends from July 1 preceding the date on which the spring primary or election occurs or January 1 preceding the date on which the September primary or general election occurs for the office which the candidate seeks, or from the date of the candidate's public announcement, whichever is earlier, through the last day of the month following the month in which the election or primary is held.

(b) Disbursements which are made before a campaign period for goods to be delivered or services to be rendered in connection with the campaign are charged against the disbursement limitation for that campaign.

(c) Disbursements which are made after a campaign to retire a debt incurred in relation to a campaign are charged against the disbursement limitation for that campaign.

(d) Disbursements which are made outside a campaign period and to which par. (b) or (c) does not apply are not subject to any disbursement limitation. Such disbursements are subject to s.11.25 (2).

In the opinion of the Board, these sections should be applied to impose disbursement limits as follows: (1) during the campaign: for a candidate in the November election, to all disbursements from the time of public announcement or January 1 of the election year, whichever is earlier, through the month following the month of the primary or election; for a candidate in the spring election, to all disbursements from the time of public announcement or July 1 of the year preceding the election, whichever is earlier, through the month following the month of the primary or election; (2) prior to the campaign: to all disbursements made for goods to be delivered or used, or services

to be rendered, during the period of the campaign, as defined above; (3) after the campaign: to all disbursements to retire a debt incurred in relation to the campaign.

Application of the guideline in (2) above to examples of precampaign disbursements; i.e., disbursements made prior to the defined campaign period is as follows:

(1) pre-campaign disbursements made for campaign literature to be disseminated in the pre-campaign period are not subject to limitation, but all disbursements for literature to be disseminated during the campaign period are subject to limitation.

(2) pre-campaign disbursements for campaign staff services rendered at a time prior to the campaign period are not subject to limit, but all disbursements for staff services to be rendered during the campaign period are limited.

(3) pre-campaign disbursements for travel occurring prior to the campaign period are not subject to limits, but all disbursements for travel taking place during the campaign period are subject to limits.

Finally, the Board notes that all political expenditures, regardless of whether subject to limit, must be recorded and disclosed, per ch. 11, Stats.