

Section 11.36, Stats., prohibits any officer or employee of this state from receiving from any other officer or employee of this state while on state time or engaged in his official duties any contribution or service which is primarily for a political purpose and not incidental to the officer's or employee's official duties. (Issued to Thomas S. Smith, February 18, 1976)

You have requested the Board's opinion whether "a state official violates 11.36, Stats., if he solicits, and receives from a state employee while on state time:

1. Assistance in renting a hall, ordering supplies, or addressing invitations for an event intended to raise funds for a candidate for state office?
2. The typing of a speech or brochure to be delivered at a rally (organized and sponsored by a political committee) in support of his reelection to state office?
3. Assistance in writing a speech in support of his candidacy for reelection to state office and to be delivered at a rally (organized and sponsored by a political committee) to which the candidates of only one political party have been invited to participate?
4. Assistance in writing a speech in support of his candidacy for reelection to state office and to be delivered at a forum (organized and sponsored by a non-partisan organization) to which he and another candidate opposing his reelection have been invited?
5. Assistance in the preparation or dissemination of a press release in which the state official advocates the rejection or approval of a referendum?
6. Assistance in reviewing voter registration lists in order to identify registered voters to whom materials soliciting support for his reelection to state office will be sent?"

Section 11.36, Stats., states: "No officer or employee of this state may solicit or receive or be involved in soliciting or receiving any contribution or service for any political purpose from any officer or employee of this state while on state time or engaged in his official duties as an officer or employee...." [Emphasis added].

Section 11.01 (16), Stats., states: "An act is for 'political purposes' when by its nature, intent or manner it directly or indirectly influences or tends to influence voting at any election...."

It is the Board's opinion that sec. 11.36, Stats., was intended to prohibit the solicitation or receipt, by officers or employees of this state from any other officers or employees of this state while on state time or engaged in their official duties, of contributions or services which are not incidental to the performance of the officials or employees duties and are intended primarily for political purposes. Contributions or services which are incidental to the performance of an officer's or employee's duties, even though they may, by their nature, intent or manner directly or indirectly influence or tend to influence voting at an election, should not be considered to be for a political purpose within the intent of sec. 11.36, Stats.

Hence, it is not possible for the Board to determine whether the services mentioned in your request constitute violations of sec. 11.36, Stats., without knowing the official or employee involved and the scope of his duties as imposed by the Constitution or statutes. Only with such information can the Board determine whether the services received are incidental to the performance of the official's or employee's duties and intended primarily for political purposes.