

Advisory Opinion

IECDB AO 2000-11

July 20, 2000

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11), the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on the issue of the use of public resources to advocate for or against an issue that has not been placed on the ballot. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351. Whether some other statutory system, common law theory or agency rule applies to this issue is not covered by this opinion.

OPINION:

Iowa Code section 56.12A in pertinent part states:

"The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue...."

Iowa Code section 56.2(19) defines "political purposes" as the following:

"'Political purpose' or 'political purposes' means the express advocacy of a candidate or ballot issue."

Iowa Code section 56.2(1) defines "ballot issue" as the following:

"'Ballot issue' means a question, other than the nomination or election of a candidate to a public office, which has been approved by a political subdivision or the general assembly or is required by law to be placed before the voters of the political subdivision by a commissioner of elections, or to be placed before the voters by the state commissioner of elections."

In applying this language, Iowa Code section 56.12A prohibits the use of public resources for political purposes. "Political purposes" is defined, in part, as "advocacy for a ballot issue". An issue does not become a "ballot issue" until it has been approved to be on the ballot or is required by law to be on the ballot. Therefore, the prohibition in Iowa Code section 56.12A would not apply to conduct or activities done using public resources to advocate for or against an issue not yet a "ballot issue". Once the issue is approved to be placed on the ballot or is otherwise required by law to be placed on the ballot, then the prohibition would be triggered.

BY DIRECTION AND VOTE OF THE BOARD

Bernard McKinley, Board Chair

1st Vice-Chair Geraldine Leinen

2nd Vice-Chair James Albert

Gwen Boeke

Mark McCormick

Phyllis Peters

-Submitted by: W. Charles Smithson, Board Legal Counsel