



OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

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Advisory Opinion No 75-003

January 28, 1975

Syllabus by the Ohio Ethics Commission:

The requirement to file a financial disclosure statement, Section 102.02 of the Revised Code, does not apply during the then current term of office to any elected official or any person who was appointed to an elective office and was serving in such capacity prior to December 19, 1973.

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Your request for an advisory opinion asks whether elected officials, other than those who have been elected or appointed subsequent to the effective date of Chapter 102 of the Revised Code, are exempt during their existing term of office from its provisions concerning the filing of financial disclosure statements.

Section 102.02 Division (A), of the Revised Code specifies who must file a financial disclosure statement:

"Every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office, and the director and deputy directors of any department or agency of the state, all members of the board of commissioners on grievances and discipline of the supreme court and of the ethics commission created under Section 102.05 of the Revised Code, and every other public official or employee who is designated by the ethics commission pursuant to division (B) of this section, excluding any presidential elector or delegate to a national convention shall file with the appropriate commission on a form prescribed by the commission, a statement disclosing . . ."

Section 4 of Amended Substitute House Bill No. 55, which is the Act which became Chapter 102 of the Revised Code, creates a "grandfather" exemption for persons elected or appointed to elective office and serving in such capacity prior to the effective date of the Act, which is December 19, 1973:

"Section 102.02 does not apply during the current term of office to any elected official or any person who is appointed to an elective office and is serving in such capacity prior to the effective date of this act." (Emphasis added)

Article II, Section (1) (C) of the Constitution of Ohio provides that:

"No law passed by the general assembly shall go into effect until ninety days after it shall have been filed by the governor in the office of the secretary of state . . ."

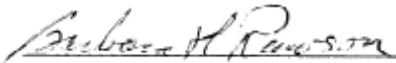
For that reason, the effective date of the Act is ninety days after the date the Governor files it in the office of the Secretary of State. The Act was signed by the governor and filed on September 19, 1973. The effective date, therefore, is December 19, 1973. It is that effective date which is referred to in Section 4 of the Act.

Thus, Section 4 indicates that a "grandfather clause" is to be applied to Section 102.02 of the Revised Code for persons meeting the conditions of Section 4. That clause exempts anyone who is elected to a term of office or appointed to an elective office prior to December 19, 1973, and is serving in that capacity prior to December 19, 1973 from the filing requirement during his then current term of office.

Thus, one who is elected prior to December 19, 1973, but does not commence serving until after that date, would not be entitled to the exemption provided for in Section 4. A person, for example, elected prior to December 19, 1973, but not commencing to serve until subsequent to that date, would be required to file a financial disclosure statement by virtue of Section 102.02 of the Revised Code. Section 102.02 of the Revised Code became effective on January 1, 1974, a date other than the effective date of the Act itself. This effective date is by virtue of Section 3 of Amended Substitute House Bill No. 55 which states "Section 1 and 2 of this act shall take effect on and after January 1, 1974." Since Section 102.02 of the Revised Code is a part of Section 1 of the Act it became effective on January 1, 1974. The grandfather clause exempting certain persons from the requirement to file during their current term of office has an effective date of December 19, 1973, because it is not a part of Section 1 or 2 of the Act. Therefore, anyone elected and serving prior to December 19, 1973 is not required to file under Section 102.02 of the Revised Code unless he becomes a candidate for election or reelection. However, anyone not meeting the requirements of the grandfather clause would have to file under Section 102.02 of the Revised Code and that requirement would become effective on January 1, 1974.

Thus, in practical terms, the persons who were not elected or appointed to elective office and serving in that capacity prior to December 19, 1973, are, as of January 1, 1974, required to file a financial disclosure statement with the appropriate ethics commission or committee.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that, pursuant to Section 4 of the Act, any elected official or any person who was appointed to an elective office and was serving in such capacity prior to December 19, 1973 is not required to file a financial disclosure statement during his current term of office. Persons specified in Section 102.02 (A) of the Revised Code who do not meet the conditions set out in Section 4 of the Act are required as of January 1, 1974, to file a financial disclosure statement with the appropriate ethics commission.



THE OHIO ETHICS COMMISSION

by (Mrs.) Barbara H. Rawson,
Chairman