



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 1200
COLUMBUS, OHIO 43215-2940
(614) 466-7090

Advisory Opinion Number 89-007
June 15, 1989

Syllabus by the Commission:

A county treasurer is required by R.C. 102.02(A) to file a financial disclosure statement on or before April 15th of the year following his election, even though his term of office does not begin until the first Monday of September of the year following his election.

* * * * *

You have stated that you were elected to your first term as county treasurer in November, 1988. Section 321.01 of the Revised Code states that a county treasurer "shall hold his office for four years from the first Monday of September next after his election." Although you were elected in November, 1988, therefore, you will not assume office until September, 1989. In contrast, most other county elected officers begin their terms in January after their election. See R.C. 305.01, 309.01, 311.01, 313.01, 315.01, and 317.01. But cf., R.C. 319.01 (county auditor commences holding office on the second Monday in March after his election). Because you do not begin to serve as county treasurer until September, 1989, you have asked what is the appropriate date to file your first financial disclosure statement in that position.

You have stated that when you were a candidate for county treasurer, you filed a financial disclosure statement more than thirty days before the first election at which your candidacy was voted upon, as is required by R.C. 102.02. You have further stated with regard to filing as a duly elected county treasurer that you should not be subject to the April 15, 1989 deadline since you will not begin to serve until September, 1989.

Division (A) of Section 102.02 of the Revised Code states that every person who is elected to or is a candidate for a county office, and every person who is appointed to fill a vacancy for an unexpired term in a county elective office is required to file a financial disclosure statement. County treasurers are county officers who are elected to office. See R.C. 319.01. You were elected to the office of county treasurer in November, 1988, for a four-year term beginning on September 4, 1989. You have stated that there was no demand for a recount or other issue raised as to your election and that you have received a certificate of election. See R.C. 3505.38. As a person who is elected to a county office, you are, therefore, required to file a financial disclosure statement pursuant to the express language of Section 102.02(A).

R.C. 102.02 specifies the time within which financial disclosure statements must be filed, as follows:

A person who is a candidate for elective office shall file his statement no later than the thirtieth day before the primary, special, or general election at which such candidacy is to

be voted on, whichever election occurs sooner, except a person who is a write-in candidate shall file his statement no later than the twentieth day before the earliest election at which such candidacy is to be voted on. A person who holds elective office shall file his statement on or before the fifteenth day of April of each year unless he is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file his statement within fifteen days after he qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April, or if appointed or employed after such date, within ninety days after appointment or employment. No person shall be required to file more than one statement for any one calendar year with the appropriate ethics commission. (Emphasis added.)

R.C. 102.02(A) provides, as set forth above, that "a person who holds elective office shall file his statement on or before the fifteenth day of April of each year." Although you have been elected as county treasurer, you do not "hold" elective office at this time. See R.C. 321.01 (a county treasurer "shall hold his office for four years from the first Monday of September next after his election.") (Emphasis added.) Your term does not begin until September, 1989 and you have no right to exercise the power or authority of your office until that time. At present, it is the incumbent county treasurer, rather than you, as the treasurer-elect, who "holds" that office. See generally State ex rel. Attorney General v. Tool, 4 Ohio St. 553 (1855); State ex rel Peters v. McCollister, 11 Ohio 46 (1841); 1969 Op. Att'y Gen. No. 69-052. This provision does not, therefore, apply to you.

Section 102.02 also provides that persons who are "appointed or employed" after April 15th must file within ninety days after "appointment or employment." Although you will take office after April 15th, you will not be "appointed or employed" at that time. Rather you are a public officer who was elected to office and who will begin his term of office in September. You will not be "appointed" to office, nor may it be said that you will be "employed" by the county when you take office. See Advisory Opinions No. 75-022 and 76-010 (distinguishing among elected officers, appointed officers, and public employees). The language of R.C. 102.02 referring to candidates and persons who are appointed to fill unexpired vacancies in elective offices are clearly inapplicable to the issue you have posed. Therefore, you fall within the requirement of R.C. 102.02 that "other persons shall file an annual statement on or before the fifteenth day of April."

This advisory opinion is based on the facts presented and is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

Therefore, it is the opinion of the Commission, and you are so advised, that a county treasurer is required by R.C. 102.02(A) to file a financial disclosure statement on or before April 15th of the year following his election, even though his term of office does not begin until the first Monday of September of the year following his election.


Richard D. Jackson, Chairman
Ohio Ethics Commission