



## OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

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Advisory Opinion

No. 75-032

November 5, 1975

Syllabus by the Ohio Ethics Commission:

- (1) A person who is appointed to the office of city councilman on December 30, 1974 and resigns from that office on January 2, 1975, is required, by Section 102.02 (A) of the Revised Code, to file a financial disclosure statement based on calendar year 1974, within fifteen days after he qualifies for office.
- (2) If a person who is appointed to the office of city councilman on December 30, 1974, and resigns on January 2, 1975 has filed a financial disclosure statement, based on calendar year 1974, within fifteen days after he qualifies for office, he is not required by Section 102.02 (A) of the Revised Code to file an additional financial disclosure statement based on calendar year 1974 on or before April 15, 1975.
- (3) A person who is appointed to the office of city councilman on December 30, 1974, and resigns on January 2, 1975, is required by Section 102.02 (A) of the Revised Code to file a financial disclosure statement based on calendar year 1975, on or before April 15, 1976.

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A question directed to the Ohio Ethics Commission asks whether a city councilman, who was appointed to city council on December 30, 1974 and resigns four days later on January 2, 1975, is required to file a financial disclosure statement, and if so, when. The inquirer points out that he qualified for office on the same day he was appointed -- December 30, 1974.

Section 102.02 (A) of the Revised Code requires:

"(A) Every person who is . . . appointed to fill a vacancy for an unexpired term in such an elective [city] office . . . shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing: . . . "

Section 102.02 (A) of the Revised Code further provides:

"A person who is appointed to fill a vacancy for an unexpired term shall file his statement within fifteen days after he qualifies for office . . . "

Thus, a person who is appointed to a city council has fifteen days from the date he qualifies for that office to file a financial disclosure statement with the Ohio Ethics Commission. The Ohio Ethics Commission has determined that it is the intent of Section 102.02 (A) of the Revised Code that the financial disclosure statement required to be filed is a statement reflecting the calendar year immediately preceding the date on which the statement is required to be filed. This determination is based on the language in Section 102.02 (A) of the Revised Code requiring, "Identification of every source of income over five hundred dollars . . . during the preceding calendar year. . . ."

Therefore, a councilman who was appointed and qualified on December 30, 1974 would be required to file a financial disclosure statement with the Ohio Ethics Commission on or before January 14, 1975. Assuming that he files that statement on January 10, 1975, the preceding calendar year would be calendar year 1974 and, hence, his financial disclosure statement would be based on calendar year 1974.

Section 102.02 (A) of the Revised Code also requires certain public officials to file annually a financial disclosure statement with the Ohio Ethics Commission. As previously discussed, it has been determined that the intent of Section 102.02 (A) of the Revised Code is that the statement reflect the calendar year immediately preceding the date on which the financial disclosure statement is filed. This situation is analogous to Federal Income Tax requirements. A person who earns income on January 1, 1975 will be required to file a tax return by April 15, 1976.

Thus, since the councilman held office during 1975 -- even though for a very short period of time -- he will also be required, as a city councilman who held office in 1975, to file a financial disclosure statement based on calendar year 1975. Section 102.02 (A) of the Revised Code requires this financial disclosure statement be filed with the Ohio Ethics Commission on or before April 15, 1976. This statement is in addition to the statement filed by the councilman in 1975 reflecting his 1974 financial interests. The statement filed in 1975 was required by virtue of the councilman being appointed to office to fill an unexpired term; the statement filed in 1976 is required by virtue of the councilman having held office in 1975.

Therefore, it is the opinion of the Ohio Ethics Commission that: a person who is appointed to the office of city councilman on December 30, 1974 and resigns from that office on January 2, 1975, is required, by Section 102.02 (A) of the Revised Code, to file a financial disclosure statement based on calendar year 1974, within fifteen days after he qualifies for office; if a person who is appointed to the office of city councilman on December 30, 1974, and resigns on January 2, 1975 has filed a financial disclosure statement, based on calendar year 1974, within fifteen days after he qualifies for office, he

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is not required by Section 102.02 (A) of the Revised Code to file an additional financial disclosure statement based on calendar year 1974 on or before April 15, 1975; and, a person who is appointed to the office of city councilman on December 30, 1974, and resigns on January 2, 1975, is required by Section 102.02 (A) of the Revised Code to file a financial disclosure statement based on calendar year 1975, on or before April 15, 1976.

*Barbara H. Rawson*

OHIO ETHICS COMMISSION

(Mrs) Barbara H. Rawson, Chairman