

1053

TURNPIKE COMMISSION, OHIO—SURETY BOND REQUIRED OF MEMBER—MAY BE FILED ANY TIME PRIOR TO ISSUANCE OF TURNPIKE REVENUE BONDS—AMENDED SENATE BILL 7, 98 GENERAL ASSEMBLY.

SYLLABUS:

The surety bond required of a member of the Ohio Turnpike Commission may be filed at any time prior to the issuance of any turnpike revenue bonds under the provision of Amended Senate Bill No. 7, 98th General Assembly.

Columbus, Ohio, October 3, 1949

Hon. James W. Shocknessy, Chairman, Ohio Turnpike Commission  
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which request reads as follows:

“It is requested that you advise when it is necessary, pursuant to Section 3 of the Ohio Turnpike Act (Am. S. B. No. 7—98th

General Assembly), that the several members of the Commission file the bonds therein required. From the language of the Act which is hereafter quoted:

'Before the issuance of any turnpike revenue bonds under the provisions of this act, each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars, each such surety bond to be conditioned upon the faithful performance of the duties of the office, \* \* \*'

it would seem to appear that so long as the bonds are filed some time prior to the issuance of any Turnpike Revenue Bonds it would not be required that they be filed at any specific time sooner."

As stated in your request for my opinion, Amended Senate Bill No. 7, 98th General Assembly, contains the provisions of the bill commonly known as the Ohio Turnpike Act.

A careful reading of the Ohio Turnpike Act fails to reveal any provision as to time of filing of the surety bond of each member of the commission other than the provision quoted in your request which provision is found in Section 3, paragraph four of Amended Senate Bill No. 7, 98th General Assembly.

A careful search of the Ohio General Code fails to disclose any general provision relating to the time of filing of surety bonds by public officials. It would seem that the individual enactments which create a public office and provide for the giving of a surety bond by a public official contain a provision relating to the time of filing of such bond. Thus Section 154-14, General Code, provides:

"Each officer whose office is created by sections 154-3, 154-5 and 154-6 of the General Code shall, before entering upon the duties of his office, take and subscribe an oath of office as provided by law and give bond, conditioned according to law, with security to be approved by the governor in such penal sum as shall be fixed by the governor, not less in any case than ten thousand dollars.  
\* \* \*'

The time of filing of a bond of a probate judge is set out in Section 10501-2, General Code, which provides:

“Before entering upon the discharge of his duties, the probate judge shall give a bond to the state in a sum not less than five thousand dollars, \* \* \*”

The time of filing of a bond of a county sheriff or coroner is set out in Section 2824, General Code, which provides:

“Within ten days after receiving his commission and before the first Monday of January next after his election, the sheriff and coroner shall each give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, by two or more freeholders having real estate in the value of double the amount of the bond over and above all encumbrances to the state in a sum not less than five thousand dollars nor more than fifty thousand, to be fixed by the county commissioners, the surety company to be approved by the county commissioners, conditioned for the faithful performance of the duties of his office.  
\* \* \*”

Since there is no general statute relating to the time of filing official bonds, the individual enactment as to time of filing will control.

In the present situation the statute provides in Section 3, paragraph four of Amended Senate Bill No. 7, 98th General Assembly:

“Before the issuance of any turnpike revenue bonds under the provisions of this act, each appointed member of the commission shall give a surety bond \* \* \*”

I am of the opinion that the statute is clear and that the surety bonds provided for in the Ohio Turnpike Act may be filed any time prior to the issuance of any turnpike revenue bonds.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.