

OPINION NO. 65-162**Syllabus:**

The provision of Section 3517.11, Revised Code, barring a candidate who has failed to file a timely statement of expenses as required by Sections 3517.10 and 3517.11, Revised Code, from seeking any office for a period of years, has no application to any person other than a candidate for office who so defaults.

To: Robert L. Balyeat, Allen County Pros. Atty., Lima, Ohio
By: William B. Saxbe, Attorney General, August 31, 1965

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

"Section 3517.10 of the Revised Code of Ohio sets forth the requirements that every person, committee, association, or group of persons who contributed, promised to contribute, received, or expended, directly or indirectly, any money or things of value in connection with the nomination or election of any candidate at any election held in this state, shall file, within the time prescribed, a detailed statement of expenses. Section 3517.11 of the Code specifies the place of filing such statement and further provides, among

other things, the penalty which shall apply to any person who fails to comply, which consists of the disqualification of such person as a candidate in any future election for a period of not less than five nor more than six years.

"Section 3517.12 of the Revised Code indicates, without equivocation, that the provisions of Title 35, including the above sections, shall apply with equal force and effect to expenditures made in connection with the advocacy of or opposition to the adoption of any proposition or issue submitted to the voters. The question has arisen in this county, and I am sure elsewhere, as to whether the legislature intended by the enactment of the above sections to extend the penalty of disqualification as a candidate to the individual members of a committee which supported the candidacy of an individual or which worked for or against the adoption of an issue or proposition submitted to the voters, and if so, whether such prohibition extends only to the officer or officers of such committee over whose signature the same would be filed, or to each member of such committee. If the answer to this question is in the affirmative, the further question remains as to how the identity of the entire membership of such committee is to become known to the Board of Elections or any inquiring member of the public.

"I would sincerely appreciate your furnishing me with your opinion at the earliest possible date as to whether the provisions of Section 3517.12 considered with the remaining sections of Title 35 of the Ohio Revised Code disqualify the members of any campaign committee from seeking election to office for the applicable term thereof where such committee failed to file the proper statement of expenditures as provided by Section 3517.12 of O.R.C. Further, if such disqualification does apply to campaign committees, does it apply to the entire membership of such committee or only to those persons over whose signature said report would ordinarily be submitted and if the former how the Board of Elections could determine the identity of the entire membership of such committee."

Section 3517.11, Revised Code, reads in part as follows:

"In the event of a failure to file a statement with the secretary of state or in the event a statement filed with the secretary of state appears to disclose a violation of law, the secretary of state shall promptly report such facts to the attorney general who shall forthwith institute such civil or criminal proceedings as are appropriate. In the event of a failure to file a statement with a board or in the event a statement filed with a board appears to disclose a violation of law, such board shall promptly report such facts to the prosecuting attorney of the county of such board, who shall forthwith institute such civil or criminal proceedings as are appropriate. No certificate of nomination or election shall be issued to a person, nor shall a person elected to an office or position enter upon the performance of the duties of such office or position until he has fully complied with this section and sections 3517.08 and 3517.10 of the Revised Code. Failure of any candidate to file a statement within the time prescribed by section 3517.10 of the Revised Code shall disqualify said person from becoming a candidate in any future election for a period of five years, except candidates for an elected office having a six year term shall be disqualified from becoming a candidate in any future election for a period of seven years."
(Emphasis added)

A careful reading of the above portion of Section 3517.11, supra, discloses to me that the Legislature provided for two separate results in the event of a failure to file a statement of expenses and receipts as required by Section 3517.10, Revised Code, or in the event that a statement filed appears to disclose a violation of law.

The first of these is the institution of appropriate civil or criminal action by the Attorney General, or county prosecutor.

The second and more specifically applicable of these results is directly imposed upon candidates.

Section 3517.10, supra, in the first sentence refers to "every candidate and campaign committee and every person, committee, association, or group of persons, incorporated or unincorporated..." Thus, the section requiring filing of statements enumerates several classes

to whom the section applies. Section 3517.11, supra, imposes a separate type penalty upon a specific class as set forth in the requiring section, to wit: candidates.

Section 3517.12, Revised Code, provides that the provisions of Chapter 35 relating to contributions, receipts, and expenditures of money or other things of value regarding candidates, and the filing of statements relative thereto, shall apply equally when a proposition or issue is presented to the electorate.

Sections 3517.10 and 3517.11, supra, apply directly to situations wherein a candidate is to be selected by the electorate to fill an office or position. Section 3517.11, supra, establishes two courses of action in case of a violation. The first course of action is the institution of appropriate civil or criminal action by the attorney general or prosecuting attorney and would apply to all of the classes enumerated in Section 3517.10, supra. The second course of action, that of barring a candidate who fails to file from running for office for a period of years, is expressly directed at a candidate. Of necessity, this latter course is limited in application.

Section 3517.12, supra, relates to propositions or issues which may be passed or defeated by the electorate. Obviously, a penalty clearly directed to a candidate could not be applied to a proposition or issue.

Since under Sections 3517.10 and 3517.11, supra, no committee member, or etc., would be barred from running for office for the applicable period, neither would a committee member or other enumerated person be barred under Section 3517.12, supra, in the event no statement of expenses was properly filed.

In view of the reasoning and conclusion reached hereinabove, I find it unnecessary to answer your second question.

It is my opinion, and you are hereby advised that the provision of Section 3517.11, Revised Code, barring a candidate who has failed to file a timely statement of expenses as required by Sections 3517.10 and 3517.11, Revised Code, from seeking any office for a period of years, has no application to any person other than a candidate for office who so defaults.