

OPINION NO. 75-068**Syllabus:**

1. R.C. Chapter 3517 requires a candidate's campaign committee to report all contributions and expenditures, which are in excess of twenty-five dollars, regardless of who made the contributions or expenditures.

2. The changes to R.C. chapter 3517, effected by Am. Sub. H.B. 46, have no effect upon the identification requirements contained in R.C. 3599.09, which apply to published campaign materials whether they are designed to defeat or to promote a candidate or an issue.

To: Ted W. Brown, Secretary of State, Columbus, Ohio
By: William J. Brown, Attorney General, September 30, 1975

I have before me your request for my opinion in which you ask:

Whether the passage of Amended Substitute Senate Bill 46 (enacting various sections of R.C. Chapter 3517) limits the operation of

R.C. 3599.09 so that the identification requirements contained therein are applicable to published campaign materials designed to defeat a candidate, and are no longer applicable to published materials designed to promote a candidate.

The basic issue here is whether R.C. 3599.09, which deals with identification of campaign materials, has any direct relationship with various provisions of R.C. Chapter 3517, which deal with campaign expense reporting requirements. As developed in the following analysis I conclude that no direct relationship exists, so that the amendments to provisions of R.C. Chapter 3517 (effected by Am. Sub. S.B. 46) must not be read to have limited the requirements contained in R.C. 3599.09.

R.C. 3599.09 ("Political communications must be identified; penalty."), which requires identification of materials published for the purpose of influencing the outcome of an election, has been in effect as presently written for over ten years (since August 19, 1963). It provides in pertinent part:

"(A) No person shall write, print, post, or distribute, or cause to be written, printed, posted, or distributed, a notice, placard, dodger, advertisement, sample ballot, or any other form of publication which is designed to promote the nomination of election or defeat of a candidate, or to promote the adoption or defeat of any issue, or to influence the voters in any election, unless there appears on such form of publication in a conspicuous place or is contained within said statement the name and residence address of the chairman or secretary of the organization issuing the same, or the person who issues, makes, or is responsible therefor, except that when such publication is issued by the regularly constituted central or executive committee of a political party, organized as provided in Chapter 3517 of the Revised Code, it shall be sufficiently identified if it bears the name of the committee and its chairman. No person, firm, or corporation shall knowingly print or reproduce any notice, placard, dodger, advertisement, sample ballot, or any other form of publication in violation of this section.

"A candidate shall not be required to place his address on literature promoting his own candidacy."

R.C. Chapter 3517, on the other hand, and as is relevant here, relates to the reporting of campaign contributions and expenditures. Prior to passage of Am. Sub. H.B. 46, R.C. 3517.08 controlled allowable campaign expenditures and R.C. 3517.10 required both the candidate and all contributing supporters to file a detailed and itemized statement of receipts and expenditures. The prior version of R.C. 3517.10 provided in pertinent part:

"Every candidate and campaign committee and every person, committee, association, or group of persons, incorporated or unincorporated, profit or nonprofit, including corporations and unions, and every committee or group formed by or under the auspices of a corporation or union, 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 a candidate at any election held in this state shall . . . file a full, true, and itemized statement, subscribed and sworn to before an officer authorized to administer oaths, setting forth in detail the moneys or things of value so contributed, promised, received, or expended."

You stated in your request that Am. Sub. H.B. 46 was passed:

"[A]t a time when the candidate and all committees supporting his candidacy were required to file separate expense reports. Any publication that was accounted for on the candidate's personal statement of receipts and expenditures was not required to bear the identification of the person responsible for its issuance, while any publication accounted for on the campaign expense report of any committee would be required to contain that identification.

"Now, however, the law requires a candidate to have no more than one committee for receiving and spending funds and does not require the candidate to file a report separate from that of his campaign committee. It would therefore no longer be possible to determine from an examination of the report whether the publication was issued by the candidate, and is therefore not required to contain the identification, or was issued by his campaign committee and therefore subject to the identification requirement."

This statement, however, is an inaccurate generalization of the statutory requirements regarding identification of campaign materials (i.e. of R.C. 3599.09). It also employs a mischaracterization of the relationship between R.C. 3599.09 and the statutory requirements relating to campaign reports which are contained in R.C. Chapter 3517.

Inasmuch as the question you have asked was raised due to changes in the reporting requirements previously contained in R.C. Chapter 3517, it is first necessary to state that the identification requirements of R.C. 3599.09 and their enforcement were not and are not contingent upon anything contained in R.C. Chapter 3517. In past practice (prior to the passage of Am. Sub. H.B. 46) as indicated in your letter, the reporting requirements of R.C. Chapter 3517 were used as a double check on whether campaign material was properly identified. That is, if the expense of materials was accounted for on a candidate's report, you assumed that he was responsible for the issuance and, therefore, you concluded that the materials were properly identified only by the candidate's name. On the other hand, if the expense of materials was accounted for elsewhere you assumed that the candidate himself was not directly responsible for the issuance so that proper identification would have included the name and residence address of the individual responsible for the issuance.

R.C. 3599.09 is properly read as setting forth requirements for the proper identification of published campaign materials so that the person responsible for the issuance may be readily identified. That section makes provision whereby the candidate

need not reveal his address. This, to some extent, preserves the privacy of his family, home and person. R.C. 3599.09, however, was not designed to be read as part of the expense reporting requirements previously or presently contained in R.C. Chapter 3517.

While it is true that R.C. 3599.09 and R.C. Chapter 3517 address aspects of the same general topic - political campaigns - those aspects are separated for regulation under the Revised Code. It may be that, to some extent, review of various expense reports (filed under R.C. Chapter 3517) was previously available as an initial verification that published campaign materials were properly identified under R.C. 3599.09, but that is not to say that this double check was accurate or was intentionally provided by the legislature. In fact it appears that the double check previously available was more accurate a test of expense reports than of proper identification of published campaign materials.

In any event, the double check is no longer available. R.C. 3517.10 now requires an itemized, detailed statement of contributions and expenses to be filed by a candidate's campaign committee - but not also by the candidate. Even though "campaign committee" is defined in R.C. 3517.01(B)(1) as the candidate or certain combinations of other persons, the fact remains that a candidate must now have but a single campaign committee. R.C. 3517.081. No expenditure may be made without the consent of either the campaign treasurer or the candidate, and both the actual expenses of the campaign committee as well as those consented to are reported by the campaign committee. R.C. 3517.08(B).

A study of these changes to R.C. Chapter 3517 (effected by Am. Sub. H.B. 46) reveals that they are designed to reduce and centralize expense reports so that the contributions and expenditures in excess of twenty-five dollars, which are made in direct support of a candidate, will be readily ascertainable in a single document - regardless of who made the contribution or expenditure. There is no hint anywhere in the provisions of R.C. Chapter 3517, enacted by Am. Sub. H.B. 46, that the legislature intended to amend R.C. 3599.09 in any respect.

Without any indication that the legislature intended for enforcement of R.C. 3599.09 to be dependent upon the availability of reports filed under R.C. Chapter 3517, either before or after the passage of Am. Sub. H.B. 46, and without any indication that the legislature intended to repeal the provisions of R.C. 3599.09 when it passed Am. Sub. H.B. 46, it is clear that the identification requirements of R.C. 3599.09 remain in full force and effect. To conclude otherwise would be to ignore express statutory language and to violate the most elemental principles of statutory construction.

In specific answer to your request it is my opinion, and you are so advised that:

1. R.C. Chapter 3517 requires a candidate's campaign committee to report all contributions and expenditures, which are in excess of twenty-five dollars, regardless of who made the contributions or expenditures.
2. The changes to R.C. Chapter 3517, effected by Am. Sub. H.B. 46, have no effect upon the identification requirements

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contained in R.C. 3599.09, which apply to published campaign materials whether they are designed to defeat or to promote a candidate or an issue.