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PERFORMANCE OF OFFICIAL DUTIES BY FISCAL OFFICERS OF STATE AND POLITICAL SUBDIVISIONS—AND KEEPING OF RECORDS BY THESE OFFICERS—§§4701.01 TO 4701.19, INCLUSIVE, AND 4701.99, R.C. A. H. B. NO. 544—103RD G.A.

SYLLABUS:

The provisions of Sections 4701.01 to 4701.19, inclusive, and 4701.99, Revised Code, do not apply to fiscal officers of the state and its political subdivisions in the performance of their official duties, and the keeping of records by these officers does not constitute "public accounting" under these sections.

Columbus, Ohio, June 9, 1960

Hon. James A. Rhodes, Auditor of State
State House, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"An opinion is respectfully requested as to whether or not fiscal officers of the state, counties, municipalities, school dis-

tricts, townships and libraries are subject to the provisions of Amended House Bill No. 544, enacted by the 103rd General Assembly, which became effective October 23, 1959.

“Particular reference is made to Section 4701.11 of the Revised Code in which the persons excused from securing permits are limited to those set forth in this section.

“Likewise, whether or not the keeping of fiscal records of those agencies set forth above constitutes “public accounting.”

The title of Amended House Bill No. 544, 103rd General Assembly, effective October 23, 1959, reads as follows :

“To provide for the regulation of the practice of public accounting and to establish a public accountancy board and a public accountants administrative committee; to prescribe the powers and duties of such board and committee; to provide penalties for the violation of this act; and for that purpose to amend sections 4701.02, 4701.03 and 4701.99, and enact new sections 4701.01 and 4701.04 to 4701.19, inclusive and to repeal sections 4701.01 and 4701.04 to 4701.11, inclusive, of the Revised Code.”

Although the purpose of Amended House Bill No. 544, *supra*, is to provide for the regulation of the practice of public accounting, the General Assembly did not define the term “public accounting” in the bill. In Section 4701.06, Revised Code, however, the General Assembly established requirements for a certificate as a public accountant providing *inter alia* as follows :

“* * * the experience requirements shall be four years of public accounting experience, satisfactory to the board, in any state in practice, as a certified public accountant or as a public accountant, or, in any state in employment, as a staff accountant by anyone practicing public accounting, *or such experience in private or governmental accounting as will, in the opinion of the board, be the equivalent of such public accounting practice*, or any combination of such types of experience; or such education and experience requirements may be those set out in division (E) (3) or (4) below;” (Emphasis added)

Under the provisions of Section 4701.06, *supra*, the practice of public accounting does not include governmental accounting. Obviously, the keeping fiscal records of governmental agencies constitutes “governmental accounting.” Therefore, fiscal officers of such agencies are governmental accountants rather than public accountants and hence are not subject to the provisions of Amended House Bill No. 544, *supra*. Nothing con-

tained herein, however, should be construed as preventing a governmental agency if it chooses, from hiring a certified public accountant to act as a fiscal officer or preventing a fiscal officer, if he chooses, from becoming a certified public accountant.

Accordingly, it is my opinion and you are advised that the provisions of Sections 4701.01 to 4701.19, inclusive, and 4701.99, Revised Code, do not apply to fiscal officers of the state and its political subdivisions in the performance of their official duties, and the keeping of records by these officers does not constitute "public accounting" under these sections.

Respectfully,
MARK McELROY
Attorney General