

**OPINION NO. 90-112****Syllabus:**

If an individual who lacked the certification and experience requirements of R.C. 311.01(B)(8) and (9) for qualification as sheriff in 1988 was elected or appointed to the office of sheriff in 1988 pursuant to Section 3 (uncodified) of Am. Sub. H.B. 683, appearing in 1985-1986 Ohio Laws, Part III, 5503, 5509 (eff. March 11, 1987), and successfully completed the required basic training course in a timely manner, the requirements of R.C. 311.01(B)(8) and (9) have been waived for that individual. There are no time limitations on the waiver; it applies to the 1992 election and all subsequent elections.

**To: P. Randall Knece, Pickaway County Prosecuting Attorney, Circleville, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 31, 1990**

I have before me your request for an opinion concerning the qualifications required of a candidate for sheriff. As amended by Am. Sub. H.B. 683, *see* 1985-1986 Ohio Laws, Part III, 5503 (Am. Sub. H.B. 683, eff. March 11, 1987), R.C. 311.01 sets forth certain requirements that must be met by a person who seeks to be a candidate for sheriff, including the following:

(B) On and after January 1, 1988, except as otherwise provided in this section, *no person is eligible to be a candidate for sheriff and no person shall be elected or appointed to the office of sheriff unless that person meets all of the following requirements:*

....  
(8) Has held, within three years prior to the qualification date, a valid certificate of training as a law enforcement officer compensated with governmental funds;

(9) *Has at least five years of full-time law enforcement experience* in which the duties were related to the enforcement of statutes, ordinances, or codes and has at least two years of supervisory experience or its equivalent, or, in place of two years of supervisory experience, has completed satisfactorily at least two years of post-secondary education or the equivalent in semester or quarter hours in a college or university authorized to confer degrees by the Ohio board of regents or the comparable agency of another state in which the college or university is located.

....  
(D) Appointed and newly elected sheriffs shall attend the first basic training course conducted by the Ohio peace officer training council pursuant to division (A) of section 109.80 of the Revised Code within six months following the date of their appointment or election to the office of sheriff. Any appointed or newly elected sheriff whose required attendance at the basic training course is waived by the council under division (C) of section 109.80 of the Revised Code because of medical disability or for other good cause shall attend the course when it is next offered by the council after the date on which the disability or other cause terminates....

....  
(G) The office of a sheriff who is required to comply with division (D) or (E) [continuing education] of this section and who fails to successfully complete the courses pursuant to those divisions is hereby deemed to be vacant. (Emphasis added.)

Am. Sub. H.B. 683, which imposed the certification requirement of R.C. 311.01(B)(8) and the experience requirement of R.C. 311.01(B)(9), contains the following uncodified language:

**SECTION 3.** For election or appointment to the office of sheriff in 1988 only, a person who meets the requirements under divisions (B) and (C) of section 311.01 of the Revised Code, as amended by this act, except the requirements of division (B)(8), (B)(9), or both may take all actions otherwise necessary to comply with divisions (B) and (C) of that section, and if he meets the other requirements, shall be considered an eligible candidate. *If such a candidate is appointed or elected to the office of sheriff and successfully completes the basic training course under division (D) of section 311.01 of the Revised Code, as amended by this act, in the time prescribed by that division, the requirements of divisions (B)(8) and (9) are hereby waived for that candidate.* This section has no effect after December 31, 1988.

1985-1986 Ohio Laws, Part III, 5509 (emphasis added).

Your questions pertain to a candidate to whom the provisions of Section 3 of Am. Sub. H.B. 683 applied in 1988. If such a person was elected to the office of sheriff in 1988 and successfully completed the basic training course under R.C. 311.01(D) in the prescribed time period then, according to Section 3, "the requirements of [R.C. 311.01(B)(8) and (9)] are hereby waived for that candidate." You have stated your questions as follows:

Is a candidate elected in 1988 eligible to be reelected in 1992 if he or she does not have the five (5) years of full-time law enforcement experience required by Section 311.01(B)(9)? For example, assume a county sheriff was elected pursuant to the provisions of Section three (3) of House Bill 683, and complied with the basic training course requirements of division (D) of Section 311.01 of the Revised Code, but still does not have the five (5) years of full-time law enforcement experience required by Section 311.01(B) on the last day on which the candidate for Sheriff can file a declaration of candidacy for the 1992 election.

While Section three (3) of House Bill 683 states that the requirements of divisions (B)(8) and (B)(9) are waived for a candidate who complies with the requirements of 311.01(D) for the election year 1988, does this mean the requirements are also waived for that successful candidate for elections occurring after 1988?

As your questions indicate, the language of Section 3 is not clear on the question whether a waiver granted to a candidate pursuant to that provision applies to that candidate in the 1992 election and subsequent elections. Section 3 states expressly that the exception to the certification and experience requirements of R.C. 311.01(B)(8) and (9) applies "[f]or election or appointment to the office of sheriff in 1988 only" and further states: "This section has no effect after December 31, 1988." These provisions suggest that Section 3 can in no way apply to a candidate for sheriff in 1992. Further examination of Section 3, however, leads to the conclusion that, in instances in which a waiver was validly obtained pursuant to Section 3, that waiver attached to the individual and is valid for the 1992 election and subsequent elections.

R.C. 311.01(B) states that, on and after January 1, 1988, except as otherwise provided in that section, "no person is eligible to be a candidate for sheriff and no person shall be elected or appointed to the office of sheriff" unless the person meets the listed requirements, including the certification requirement of R.C. 311.01(B)(8) and the experience requirement of R.C. 311.01(B)(9). The first sentence of Section 3 provides that, in the specified circumstances, a person may be considered an eligible candidate without compliance with R.C. 311.01(B)(8) and (9), and expressly states that such eligibility applies "[f]or election or appointment to the office of sheriff in

1988 only." Thus, if the intent of Section 3 were to provide an exemption from the requirements of R.C. 311.01(B)(8) and (9) for 1988 only, the first sentence of Section 3 would be sufficient to achieve that result.

The second sentence of Section 3 goes on to provide that, if a candidate who is eligible under the first sentence is appointed or elected to the office of sheriff, and if the candidate completes the required training course in a timely manner, then the requirements of R.C. 311.01(B)(8) and (9) are waived for that candidate. If this sentence is read as applying to the 1988 election, then its provisions are circular. A candidate cannot, under R.C. 311.01, be elected or appointed to the office of sheriff without meeting the listed requirements; hence, after a candidate is appointed or elected to the office of sheriff, there is no need to waive qualification requirements for that candidate, since the qualification requirements must have been met before the appointment or election could have taken place. Further, there is no need to construe Section 3 as imposing a training requirement upon an individual who was elected or appointed sheriff pursuant to Section 3, since that training requirement is imposed by R.C. 311.01(D) upon all appointed and newly elected sheriffs, and R.C. 311.01(G) provides that, if a sheriff fails to comply, his office is deemed to be vacant. *But see* Ohio Legislative Service Commission, *Summary of Enactments, July-December 1986*, 130 (1986) ("[f]or elections and appointments in 1988 only, the requirements listed in (7) and (8) above — concerning a certificate of training and years of law-enforcement experience — would be waived for a candidate who is appointed or elected to the office of sheriff if the person completes a basic training course...within six months after being elected or appointed").

The circularity of the second sentence of Section 3 disappears, however, if the sentence is read as having only prospective effect. A candidate who is eligible under the first sentence of Section 3 and who is appointed or elected to the office of sheriff as a result of that eligibility may, if he completes the required training course, be granted a waiver of the requirements of R.C. 311.01(B)(8) and (9). Since the candidate has already been elected or appointed to the office of sheriff, there is no need for the waiver to apply to the 1988 election. It must, instead, be effective for subsequent years. This interpretation of the second sentence of Section 3 has the effect of rendering that sentence meaningful, in accordance with the general principle that all language of a statutory provision is intended to be effective. *See* R.C. 1.47(B).

I conclude, accordingly, on the basis of the language of Section 3, that the waiver provided therein attaches to each individual who qualifies for it and is effective for an unlimited period of time. A person to whom such a waiver has attached may, at any time after the waiver has attached, be a candidate for sheriff, or be elected or appointed to the office of sheriff, regardless of whether he has met the qualifications set forth in R.C. 311.01(B)(8) and (9).

I am aware that Section 3 states expressly that it has no effect after December 31, 1988. I find, however, that this language applies to the initial granting of eligibility to a person who fails to meet the qualifications set forth in R.C. 311.01(B)(8) and (9). It is, thus, applicable to the initial candidacy for sheriff and the initial election or appointment to the office of sheriff. The time limits set forth in Section 3 define the period during which a person was permitted to take the initial steps to obtain a waiver as provided therein. They do not restrict the prospective effect of a waiver that has been granted pursuant to that provision and do not alter the consequences that follow from the timely application of the provision.

The conclusion that a candidate who was elected and trained in accordance with Section 3 continues to be eligible to run for, and serve as, sheriff in 1992 and subsequent years finds further support in the principle that statutory language should be construed to reach a rational result. *See, e.g.*, R.C. 1.47 ("[i]n enacting a statute, it is presumed that:...(C) A just and reasonable result is intended..."); R.C. 1.49 ("[i]f a statute is ambiguous, the court, in determining the intention of the legislature, may consider among other matters: (A) The object sought to be attained;...(E) The consequences of a particular construction..."); *State ex rel. Cooper v. Savord*, 153 Ohio St. 367, 92 N.E. 390 (1950) (syllabus, paragraph 1) ("[t]he

General Assembly will not be presumed to have intended to enact a law producing unreasonable or absurd consequences. It is the duty of the courts, if the language of a statute fairly permits or unless restrained by the clear language thereof, so to construe the statute as to avoid such a result"). It is clear that Section 3 was intended to provide an opportunity for persons who did not meet certain of the newly-enacted qualifications for sheriff to enter into service as sheriff, and it is reasonable to read that language as permitting an individual who came within the exception in 1988 to continue to serve as sheriff. It is obvious that a person who had no law enforcement experience in 1988 will not have five years of law enforcement experience in 1992; it would make no sense to conclude that, although an exception to the experience requirement was granted in 1988, the requirement should be imposed in 1992 - after the individual has had four years of experience. It is, therefore, reasonable to construe Section 3 as providing a waiver that permits a person whose service as sheriff began under its provisions to continue to seek the office of sheriff in subsequent elections.

It is, therefore, my opinion, and you are hereby advised, that, if an individual who lacked the certification and experience requirements of R.C. 311.01(B)(8) and (9) for qualification as sheriff in 1988 was elected or appointed to the office of sheriff in 1988 pursuant to Section 3 (uncodified) of Am. Sub. H.B. 683, appearing in 1985-1986 Ohio Laws, Part III, 5503, 5509 (eff. March 11, 1987), and successfully completed the required basic training course in a timely manner, the requirements of R.C. 311.01(B)(8) and (9) have been waived for that individual. There are no time limitations on the waiver; it applies to the 1992 election and all subsequent elections.