

OPINION NO. 75-017

Syllabus:

1. The General Assembly did not intend to exclude all candidates who are members of a multi-member public body, such as a board of county commissioners, from the provisions of R.C. 3517.10(C), which requires candidates who hold public office to designate each contributor who is an employee under his direct supervision and control.

2. Under the provisions of the new campaign expense reporting act, a candidate who holds the office of county commissioner must report, pursuant to R.C. 3517.10(C), the name of every contributor who is a county employee appointed or employed by the Board of County Commissioners.

To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio
By: William J. Brown, Attorney General, March 18, 1975

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

"Pursuant to the Provisions of the Campaign Expense Reporting Law as amended by Senate Bill No. 46 effective July 23, 1974, 'Each statement of a Campaign Committee of a candidate who holds public office shall contain a designation of each contributor who is an employee in any unit or department under the candidate's direct supervision and control.' (O.R.C. 3517.10)
(Emphasis added.)

"In view of the fact that no individual County Commissioner has direct supervision and control over any county employee, but such supervision and control can only be exercised by a majority of the Board of County Commissioners acting as a Board, your opinion is requested as to whether or not an individual County Commissioner is exempt from the provisions of O.R.C. 3517.10 quoted in the first paragraph above."

R.C. 3517.10(C), to which you refer, reads in part as follows:

"Each statement of a campaign committee of a candidate who holds public office shall contain a designation of each contributor who is an employee in any unit or department under the candidate's direct supervision and control. In a space provided in the statement the person filing the statement shall affirm that each such contribution was voluntarily made."

I first direct your attention to R.C. 3517.01(B)(9) which

defines "public office" for purposes of R.C. 3517.10. R.C. 3517.01(B)(9) states:

"'Public Office' means any state, county, municipal, township, and district office, except an office of a political party, that is filled by an election, and the offices of United States Senator and Congressman."

The phrase "any * * * county * * * office * * * that is filled by an election" is clearly broad enough to include a county commissioner. Therefore, R.C. 3517.10(C) requires a designation of every contributor "who is an employee in any unit or department under the candidate's [commissioner's] direct supervision and control." According to R.C. 1.42, words and phrases should be read in context, "according to the rules of grammar and common usage", unless they have acquired a technical or particular meaning. In order to apply R.C. 3517.10(C), a survey of the relationship between county commissioners and county employees is necessary.

As your letter mentions, a majority of the three-member board of county commissioners is empowered to act officially on behalf of the board, except when a particular statute requires a unanimous vote of the board. Some county employees are directly appointed or employed by the board, and their salaries are fixed by the board. Examples are the clerk of the board (R.C. 305.13); legal counsel (appointed with approval of the court of common pleas--R.C. 305.14); engineers, rodmen, and other assistants to the county engineer (may be employed upon the written request of the county engineer--R.C. 305.15). R.C. 305.16 provides as follows:

"The board of county commissioners may employ a superintendent, and such watchmen, janitors, and other employees as are necessary for the care and custody of the court house, jail, and other county buildings, bridges, and other property under its jurisdiction and control.

R.C. 305.17 authorizes the board to fix the compensation of those persons appointed or employed under R.C. 305.13 to 305.16.

Certain elected heads of county departments are, on the other hand, authorized to appoint their own assistants or deputies. For example, see R.C. 309.06 (prosecuting attorney), R.C. 311.04 (sheriff), R.C. 313.05 (coroner), R.C. 317.05 (recorder), R.C. 319.05 (auditor), and R.C. 321.04 (treasurer). R.C. 325.17 authorizes the county auditor, treasurer, probate judge, sheriff, clerk of the court of common pleas, engineer, and recorder to employ or appoint necessary deputies, assistants, bookkeepers, clerks, or other employees and to fix their salaries, provided that such compensation "shall not exceed, in the aggregate, for each office, the amount fixed by the board of county commissioners for such office."

As you state, no individual county commissioner can take official action without the concurrence of at least one other commissioner. I do not believe, however, that the General Assembly intended to exempt from the reporting provisions of R.C. 3517.10(C) all candidates who are members of a multi-member public body, such as a Board of County Commissioners. The provisions of R.C. 3517.10(C) are intended to ensure that all

campaign contributions to a candidate from public employees under his direct influence are voluntary. To conclude that no county employee is in a unit or department under the "direct supervision and control" of a county commissioner for the purposes of R.C. 3517.10(C) would be unreasonable and defeat the purposes of Ohio's new campaign expense reporting act.

Which employees, then, are under the "direct supervision and control" of a county commissioner for the purpose of R.C. 3517.10(C)? Those persons employed or appointed by the Board of County Commissioners itself, pursuant to R.C. 305.13 to 305.16, certainly are. Such persons are appointed or employed directly by the Board and their compensation is also fixed by the Board, pursuant to R.C. 305.17. However, those persons who are employed by other elected county officers and whose salary is fixed by an appointing authority other than the Board, are not under the "direct supervision and control" of a commissioner for the purposes of R.C. 3517.10(C). The only control which the Board has over such persons is the indirect power to fix the aggregate sums which the various appointing authorities may spend. The Board has no direct control of those county departments headed by a separately elected county official. Accordingly, the purposes of R.C. 3517.10(C) would not be served by extending its coverage to employees of county departments headed by separately elected public officials.

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

1. The General Assembly did not intend to exclude all candidates who are members of a multi-member public body, such as a board of county commissioners, from the provisions of R.C. 3517.10(C) which requires candidates who hold public office to designate each contributor who is an employee under his direct supervision and control.

2. Under the provisions of the new campaign expenses reporting act, a candidate who holds the office of county commissioner must report, pursuant to R.C. 3517.10(C), the name of every contributor who is a county employee appointed or employed by the Board of County Commissioners.