

OPINION 65-87**Syllabus:**

1. Where it is provided by statute that an officer shall file a performance bond before entering upon the discharge of the duties of his office, or where it is provided that an office shall be deemed vacant if a performance bond is not filed by the officer within a reasonable time after he has assumed the duties of such office, such officer is required to execute or file an individual official bond to qualify for office or employment as that term is used in paragraph (2) of Section 3.06 (B) Revised Code, and may not properly be included under a blanket bond in accordance with the general provisions of that Section. Opinion No. 670, Opinions of the Attorney General for 1959 is hereby overruled.

2. Assuming that the requirement can be fulfilled which calls for a bond to be filed with a certain official, all officers, deputies, clerks, assistants, bookkeepers and employees of the offices of a political subdivision who are required to file a bond, and who may be properly covered by a blanket bond in accordance with Section 3.06, Revised Code, may be covered under the same blanket bond.

To: Chester W. Goble, Auditor of State, Columbus, Ohio
By: William B. Saxbe, Attorney General, May 18, 1965

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

"What is the meaning of the language in Section 3.06 (B), Revised Code, authorizing a county or township to procure a blanket bond covering officers, clerks and employees other than, "(1) Treasurers or tax collectors, by whatever title known. "(2) Any officer, clerk or employee required by law to execute or file an individual official bond to qualify for office or employment."

"Your attention is directed to 1959 OAG No. 670 which held that, "The bond required of township trustees by Section 505.02, Revised Code, does not require an individual official bond but may be furnished on a blanket bond authorized by Section 3.06, Revised Code, if approved as required by Section 505.02, Revised Code."

(1) Specifically, information is requested as to whether or not, in spite of the language contained in Section 3.06 (B) (2), all three of the county commissioners may be covered in a single blanket bond, (no matter what year the term of each expires) with the prosecuting attorney, sheriff, coroner, county engineer, county recorder, juvenile judge, probate judge, deputies and assistants appointed and employed as provided in Section 325.17, Revised Code?

(2) Would it be necessary under the provisions of Section 3.06 (B) (1), Revised Code, for the county treasurer, the county auditor, clerks of all courts such as the court of common pleas, the probate court, the juvenile court and the county court, as well as a judge of a juvenile court acting as clerk in his own court, to file a separate bond, or may all or any of the above be included on a blanket bond, and if so, with which officials and employees, if with not all county officials and employees.

(3) May the dog warden and any deputy dog wardens be included under a single blanket bond? Or, may the dog warden and all deputy dog wardens be included with other county officials and employees appointed pursuant to Section 325.17, Revised Code, and other sections of the law on a single blanket bond? Or must each dog warden and each deputy dog warden furnish a separate bond?

(4) May all the trustees of the board of trustees of a county hospital be included on a single blanket bond? Or, may a single blanket bond cover all of the members of a board of trustees of a county hospital, as well as all other county hospital employees including the administrator and such other employees as the

county hospital trustees deem necessary? Or, in the alternative, may only the administrator and such other employees as the county hospital trustees deem necessary, be included under a single blanket bond? Or, must the administrator file a separate bond, but all other employees of the county hospital may be covered under a blanket bond.

(5) May all judges of a county court be covered on a single blanket bond with other employees of the office including the clerk of the county court? Or, may all county court judges of a single county be covered under one blanket bond, but employees and clerk may be covered under a separate blanket bond? Or, must each county court judge file a separate bond, and each clerk of the county court file a separate bond? Must all other employees of the county court be covered under a single blanket bond or may they be covered under a blanket bond which covers all county employees appointed under Section 325.17, R. C., or otherwise?

(6) May the executive secretary of a county child welfare board be covered on the same blanket bond with other employees of the welfare department or, in the alternative with any other county officers and/or employees? Or, must the executive secretary of the county child welfare board file a separate bond?

(7) May the county home superintendent be covered on a blanket bond with the other county officials enumerated in (1) above as well as the other county employees as provided in (1) above? Or, may the county home superintendent be covered on a blanket bond only with other county employees appointed pursuant to Section 325.17, Revised Code, or otherwise? Or, must the county home superintendent file a separate bond in order to qualify for office or employment as provided in Section 3.06 (B)?

Section 3.06, Revised Code, provides in its part here pertinent that:

" * * * * * " * * * * * " * * * * *

clerk, or employee will faithfully perform his duties, in lieu thereof, with the consent and approval of the officer or governing body authorized to require the bond, any department or instrumentality of the state or any county, township, municipal corporation, or subdivision or board of education or department or instrumentality thereof, may procure a blanket bond from any duly authorized corporate surety covering officers, clerks, and employees

other than:

"(1) Treasurers or tax collectors by whatever title known;

"(2) Any officer, clerk, or employee required by law to execute or file an individual official bond to qualify for such office or employment."

(Emphasis added)

"* * * * *"

In each of the seven numbered paragraphs contained in your request, questions are presented as to whether or not a certain officer, or a certain group of officers, may be covered by a blanket bond also covering other officers, clerks, deputies, employees, and assistants. Since the questions presented are of a similar nature, and since an individual consideration of each specific question would require an opinion of great length, I have attempted to answer your questions collectively rather than individually.

In Section 3.06 (B), supra, it is provided that a requirement to the effect that an officer, clerk or employee must file a bond conditioned upon the faithful performance of his duties may be satisfied if, upon the consent and approval of the officer or governing body authorized to require the bond, a blanket bond is purchased covering such officer, clerk or employee. However, paragraph (2) therein, excepts from this provision those offices for which an individual official bond is made prerequisite to qualification for office or employment.

Subsequent to the enactment of Section 3.06, supra, my predecessor in office concluded in Opinion No. 670, Opinions of the Attorney General for 1959, that:

"The bond required of township trustees by Section 505.02, Revised Code, does not require an individual official bond but may be furnished in a blanket bond authorized by Section 3.06, Revised Code, if approved as required by Section 505.02, Revised Code."

Section 505.02, Revised Code, the provisions of which are quite similar to a number of those sections requiring bonds to be filed by officers concerning whom you make request, provides in part that:

"Each township trustee, before entering upon the discharge of his duty, shall give bond to the state for the use of the township, in the sum of five hundred dollars, conditioned for the faithful performance of his duty as trustee, with at least two sureties * * *"
(Emphasis added)

Concerning this Section, my predecessor stated in Opinion No. 670, supra, that:

"From the foregoing Section it will be noted that a bond given by a township trustee is conditioned for the faithful performance of his duty as trustee, and could not be considered a bond to qualify for office or employment, which would require an individual bond."

In Opinion No. 95, Opinions of the Attorney General for 1933, the then Attorney General concluded in branch (1) of the syllabus:

"1. Where the statute fails to specify the time within which acts necessary to qualification for public office shall be performed and where all of such acts are completed within a reasonable time after assuming official duties, such office shall not be considered vacant within the meaning of section 7 of the General Code.

In connection therewith, one of "the acts necessary to qualification" discussed in this Opinion is that set out in Section 2399, General Code, (now Section 305.04, Revised Code), which reads in part as follows:

"Before entering upon the discharge of his duties such commissioner shall give bond signed by a bonding or surety company authorized to do business in this state, * * *"
(Emphasis added)

Since the underscored language contained in Section 2399, General Code, sets forth the same mandate as that contained in Section 505.02, Revised Code, supra, it is my opinion that if

the bond required by one of such sections is deemed to be "necessary to qualification for public office," the bond required by the other of such sections must be similarly construed. I am of further opinion that the mandatory language contained in the underscored portion of each of these sections better sustains the conclusion that the bonds required therein are "necessary to qualification for public office." Therefore, since Opinion No. 670, Opinions of the Attorney General for 1959, supra, is directly in conflict with this conclusion, I am of opinion that it is erroneous in its result, and it is hereby expressly overruled.

Section 305.04, Revised Code, providing for a bond to be filed by a county commissioner, Section 309.03, Revised Code, providing for a bond to be filed by a prosecuting attorney, Section 315.03, Revised Code, providing for a bond to be filed by a county engineer, Section 317.02, Revised Code, providing for a bond to be filed by a county recorder, Section 319.02, Revised Code, providing for a bond to be filed by a county auditor, Section 321.02, Revised Code, providing for a bond to be filed by a county treasurer, Section 2303.02, Revised Code, providing for a bond to be filed by a clerk of a Court of Common Pleas, Section 2101.03, Revised Code, providing for a bond to be filed by a Probate Judge, Section 1907.061, Revised Code, providing for a bond to be filed by a judge of a county court, Section 2151.12, Revised Code, providing for a bond to be filed by a judge of a juvenile court, Section 2151.12, Revised Code, providing for a bond to be filed by a juvenile court judge acting as a clerk of his own court, Section 329.01, Revised Code, providing for a bond to be filed by a director of a department of county welfare, and Section 337.04, Revised Code, providing for a bond to be filed by the

superintendent of the county home, are all similar to Section 505.02, supra, in that in each instance the particular officer is required to file a bond before entering upon the duties of his office. Therefore, in specific answer to your request, it is my opinion that each of the officers concerning whom provision is made in these sections falls under the exception set forth in Section 3.06 (B) (2) supra, and is required to file an individual bond.

Section 311.02, Revised Code, and Section 313.03, Revised Code, make provision for the bonds to be filed by the county sheriff and the county coroner respectively. While the language contained in these two sections differs from that contained in those sections mentioned in the preceding paragraph, it is my opinion that such sections require the sheriff and the coroner to file a bond in order to qualify for office. I reach this conclusion because of the language contained in each of those two sections which deem the office vacant if the bond is not filed within a reasonable time.

While it is true that none of the sections considered herein specifically states that the bond to be filed by the particular officer must be an individual bond, it should be noted that each section does provide that the specified officer shall file a bond. In none of those sections is it provided that the officer in question shall file a bond jointly with another officer, or be covered by a blanket bond with a group of other officers. In view of the mandate of each of these sections requiring a bond to be filed by a particular officer before assuming the duties of his office, and in further view of the absence of any reference to joint or blanket bonds in connection with these sections, it is my opinion that the General Assembly had these sections in mind when it insert-

ed the exception contained in paragraph (2) of Section 3.06 (B), supra. Therefore, I conclude that the legislative intent was to except these officers from the blanket coverage authorized by the general provisions of Section 3.06 (B), supra, and that each of such officers must file an individual bond.

It should also be pointed out that if a different interpretation is given to those sections requiring an officer to file a bond before assuming the duties of his office, the exception contained in paragraph (2) of Section 3.06 (B), supra, will be rendered virtually meaningless. An interpretation should be avoided which renders a statute, section, or any part thereof void, meaningless, or without effect or significance. Martin v. Armstrong, 12 Ohio St., 548. Re McCreight 6 N.P. 479.

Section 325.17, Revised Code, provides in part as follows:

"The officers mentioned in section 325.27 of the Revised Code may appoint and employ the necessary deputies, assistants, clerks, bookkeepers, or other employees for their respective offices, * * * Each of such offices may require such of his employees as he deems proper to give bond to the state, in an amount to be fixed by such officer, * * * conditioned for the faithful performance of their official duties. * * *"

The officers mentioned in Section 325.27, Revised Code, are: the county auditor, county treasurer, probate judge, sheriff, clerk of the court of common pleas, county engineer, and county recorder. According to the provisions set forth in Section 325.17, supra, these officers may appoint necessary deputies, assistants, clerks, bookkeepers, and other employees, and they may require such persons to file a bond.

It is abundantly clear that those persons appointed by the officers mentioned in Section 325.27, Revised Code, are not treasurers or tax collectors; nor are they required to

execute or file an individual official bond to qualify for office or employment. Therefore, according to the provisions of Section 3.06 (B), Revised Code, such appointees may be covered by a blanket bond.

It is my opinion that if an officer, assistant, deputy, clerk, bookkeeper, or employee may properly be bonded under a blanket type bond, it is of no consequence that other persons, also properly covered by a blanket bond, are covered by the same blanket bond. For example, I can see no reason for requiring the employees of one county office to be covered under one blanket bond, and the employees of another county office by another. However, an obstacle may be presented in a situation where some of those officers, deputies, assistants, clerks, bookkeepers, and employees to be covered under a blanket bond are required to file their bond with a different officer than are others covered under the same bond. Assuming that such a problem can be readily solved, I see nothing that would prevent all of the officers, deputies, clerks, assistants, bookkeepers, and employees of the offices of a political subdivision who are required to file a bond, and who may be properly covered by a blanket bond, from being covered by the same blanket bond.

Therefore, it is my opinion and you are hereby advised that:

1. Where it is provided by statute that an officer shall file a performance bond before entering upon the discharge of the duties of his office, or where it is provided that an office shall be deemed vacant if a performance bond is not filed by the officer within a reasonable time after he has assumed the duties of such office, such officer is required to execute or file an individual official bond to qualify for

office or employment as that term is used in paragraph (2) of Section 3.06 (B) Revised Code, and may not properly be included under a blanket bond in accordance with the general provisions of that Section.

2. Assuming that the requirement can be fulfilled which calls for a bond to be filed with a certain official, all officers, deputies, clerks, assistants, bookkeepers and employees of the offices of a political subdivision who are required to file a bond, and who may be properly covered by a blanket bond in accordance with Section 3.06, Revised Code, may be covered under the same blanket bond.