

June 24, 2002

## OHIO ELECTIONS COMMISSION

### Advisory Opinion 2002ELC-01

**SYLLABUS:** An incumbent candidate for the General Assembly, who has been previously elected to the position of State Representative or State Senator, respectively, may use the term “re-elect” in campaign materials, under certain limited circumstances, when the lines to the district to which the candidate seeks election have been changed.

**TO:** Larry Householder  
Speaker  
Ohio House of Representatives

You have requested advisory opinions on the following issues:

Can an incumbent candidate for the General Assembly use the term “re-elect” in campaign materials when the district lines to which he seeks election have been changed?

In Ohio Elections Commission advisory opinion 99ELC-05, this Commission responded to a similar question in regards to an incumbent officeholder using the term “re-elect” in a ward council race in the city of Avon Lake. In that circumstance, similar to the circumstance with General Assembly districts, the city altered the boundaries of its voting wards, all the while maintaining a total of four (4) voting wards. Such a circumstance is similar to the redistricting of the 99 House and 33 Senate districts in the General Assembly, the total number of which remain constant.

The use of the term “re-elect” is limited by Ohio Revised Code §3517.21(B)(1). That sub-division provides as follows:

(n)o person, during the course of any campaign for nomination or election to public office ..., by means of campaign materials, ... shall knowingly and with intent to affect the outcome of such campaign ... use the term "re-elect" when the candidate has never been elected at a primary, general, or special election to the office for which he or she is a candidate.

In that advisory opinion, the Commission analyzed the use of the term “re-

elect”. In stating its opinion, the Commission focused on the portion of the statute that declares that the term “re-elect” shall not be used in relation to an elective office to which the “... candidate has never been elected at a primary, general, or special election ...” In respect of this statutory provision, it first must be stated that the mere fact that a candidate is an incumbent is insufficient to allow that candidate to use the term “re-elect.” As the statute indicates, a candidate cannot use the term “re-elect” if “... the candidate has never been elected...” to a position in the General Assembly.

If the candidate uses a phrase similar to “Re-elect Jones State Representative,” in any campaign materials, without reference to a specific district number, that usage is proper, as a general rule, since the candidate was previously elected to the office of “State Representative”. The Commission believes, however, that it is appropriate to place certain limitations on such usage. The term “re-elect” in a campaign for a seat in the General Assembly, can only be used in relation to a position in either the House of Representatives or in the State Senate, respectively. It is improper for any candidate to use the term “re-elect” for a seat in either the House of Representatives or in the State Senate when that person is running for a position in the opposite chamber, and the candidate has not been previously elected to one of those positions. It is also improper for any candidate to use the term “re-elect” in concert with the words “General Assembly” when a candidate is running for a seat in the opposite chamber of the General Assembly.

To support such a holding, the Commission relies on the concluding phrase in R.C. §3517.21(B)(1) which states that it is improper to use the term “re-elect” when “the candidate has never been elected at a primary, general, or special election **to the office for which he or she is a candidate.**” (Emphasis added). In such a situation as stated above, an officeholder in one chamber of the General Assembly cannot be said to have been elected to that seat in the other chamber and still satisfy the phrase “the office for which he or she is a candidate.”

The Commission is not addressing the issue of whether a candidate can use the phrase “re-elect State Representative Jones to District 1,” when the boundaries of the applicable district have been changed through the process of redistricting. The Commission will provide further advice on this question at a later date.

This advisory opinion is intended to speak only to the situation present in this advisory opinion request. The terms of this opinion should not be extended beyond the application to candidates similarly situated in General Assembly elections in this state.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that an incumbent candidate for the General Assembly, who has been previously elected to the position of State Representative or State Senator, respectively, may use the term “re-elect” in campaign materials, under certain limited circumstances, when the lines to the district to which the candidate seeks election have been changed.

Sincerely,

Judith Sheerer  
Chair