

MARCH 17, 1949.

HONORABLE JOHN J. DICKERSON, State Treasurer,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 11.

DEAR MR. DICKERSON :

I am in receipt of your request for my opinion as to who shall draw and issue checks against the funds of the Unemployment Compensation Commission and the State Disability Benefits Fund, and who shall maintain the book records and accounts therefor.

The State Disability Benefits Fund is established pursuant to the provisions of Section 22 of Chapter 110 of the Laws of 1948 and, among other things, provides :

"The Treasurer shall maintain books, records and accounts for the fund, appoint personnel and fix their compensation within the limits of available appropriations * * *. The fund shall remain in the custody of the State Treasurer, and to the extent of its cash requirements shall be deposited in authorized public depositories in the State of New Jersey * * *. All moneys withdrawn from the fund shall be upon warrant signed by the State Treasurer and countersigned by the director of the commission or by such trustee of the fund as may be designated by the commission * * *. The fund shall be held in trust for the payment of disability benefits pursuant to this act, for the payment of benefits pursuant to subsection (f) of section 43:21-4 of the Revised Statutes, and for the payment of any authorized refunds of contributions."

It will be seen, therefore, that the State Treasurer is the custodian of the fund and is one of the signers of every warrant and draft withdrawing moneys from the fund. The Treasurer is also the proper official to maintain books, records and accounts reflecting at all times the condition of the fund.

The documentation and recording of the activities of the 6% administration account erected under Section 22 of the same statute are the sole responsibility of the State Treasurer. The authentication of the administration cost of the Division chargeable against that account under Article V of the act, Section 21, rests with the Division. The administration cost incurred by the Treasurer and chargeable against this 6% administration account is expressly provided for in Section 22.

I wish at this point to direct your attention to Section 18 of said Chapter 110, P. L. 1948, which provides that the same laws, regulations and practices applicable under the Unemployment Compensation Law shall apply to the administration of disability benefits to the extent that such laws, regulations and practices are not inconsistent with the Temporary Disability Benefits Law. This means that, to the extent that there is no conflict between the mandates of the two acts, the administration of the new act shall be assimilated to the administration of the old act, and the rules, regulations and practices made coincidental.

Coming now to the various unemployment compensation funds, the Unemployment Compensation Law specifically states that the Treasurer of the State of New Jersey acts simply in an *ex officio* capacity and is designated as the treasurer and

custodian of those funds to be administered in accordance with the directions of the Commission or the Commissioner of Labor and Industry as the Commission's successor. The State Treasurer, as treasurer and custodian *ex officio*, issues his warrants in accordance with such regulations as the Commission or the Commissioner of Labor and Industry shall prescribe. He also deposits moneys under the direction of the Commission or the Commissioner of Labor and Industry. All warrants issued by the treasurer for the payment of benefits and refunds must bear the signature of the treasurer and the countersignature of the Executive Director, now the Director of the Division of Employment Security. All benefits and refund checks should be prepared and drawn by the administrative agency, sent to the treasurer for completion and, thereafter, mailed out and issued by the agency.

The unemployment compensation auxiliary fund, erected under Chapter 79, P. L. 1948, is administered in the same manner with the exception that moneys withdrawn from the fund for administrative purposes are subject to legislative appropriation.

From a reading of the act creating the State Disability Benefits Fund (P. L. 1948, Chap. 110) and the various statutes to be harmonized therewith, notably the Unemployment Compensation Commission Act (Revised Statutes Title 43, Chap. 21), I am of the opinion that the State Treasurer is the custodian of the funds and is one of the signers of every warrant and draft withdrawing moneys from the fund. The State Treasurer is also the person who must maintain books, records and accounts reflecting at all times the condition of the fund, but all other financial records covering the various accounts of the administrative agency shall be kept and maintained by the agency.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: JOSEPH LANIGAN,
Deputy Attorney General.

JL:MB

MARCH 24, 1949.

HONORABLE JOHN J. DICKERSON,
State Treasurer,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 12.

DEAR MR. DICKERSON:

Receipt is acknowledged of your letter of March 17th in which you submit for my opinion the following inquiry:

"Would you be good enough to furnish me with a legal opinion as to whether or not the State Treasurer may, with the advice and consent of the State Auditor, hire an outside auditor to certify as to the financial condition of his department on assuming office."