

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fund, erected under Chapter 79, P. L. 1948, is administered in the same manner with the exception that moneys withdrawn from the fund for administrative purposes are subject to legislative appropriation.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

The Constitution by Article VII, Section I, Paragraph 6, provides:

"The State Auditor shall be appointed by the Senate and General Assembly in joint meeting for a term of five years and until his successor shall be appointed and qualified. It shall be his duty to conduct post-audits of all transactions and accounts kept by or for all departments, offices and agencies of the State government, to report to the Legislature or to any committee thereof as shall be required by law, and to perform such other similar or related duties as shall from time to time, be required of him by law."

Supplementing the constitutional provision, the Legislature, in 1948, enacted Chapter 29 (P. L. 1948, Chap. 29, p. 90), the pertinent parts of which follow:

"It shall be the duty of the State Auditor to conduct post-audits of all transactions and accounts kept by or for all departments, offices and agencies of the State Government, to report to the Legislature or to any committee thereof and to the Governor, as provided by this chapter and as shall be required by law, and to perform such other similar or related duties as shall, from time to time, be required of him by law.

"The State Auditor shall personally or by any of his duly authorized assistants, examine and post-audit all the accounts, reports and statements and make independent verifications of all assets, liabilities, revenues and expenditures of the State, its departments, institutions, boards, commissions, officers, and any and all other State agencies, now in existence or hereafter created, hereinafter in this article called 'accounting agencies.' The officers and employees of each accounting agency shall assist the State Auditor, when and as required by him, for the purpose of carrying out the provisions of this article."

I have considered the terms of the old statute—(R. S. 52:24-9)—which, in substance, enacted that a State department might, with the permission in writing from both the Governor and the State Auditor, employ outside auditors, but I am of the opinion that the constitutional provision above recited and the Statute of 1948 passed in pursuance thereof, place the conduct of all examinations and post-audits under the exclusive supervision and control of the State Auditor.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: JOSEPH LANIGAN,
Deputy Attorney General.

JL:MB