

Under P. L. 1948, Chapter 454, section 5(m), the New Jersey Turnpike Authority is empowered:

"To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such employees and agents; all without regard to the provisions of Title 11 [Civil Service] of the Revised Statutes;"

This provision would not of itself necessarily lead to the conclusion that said Authority was empowered to employ attorneys (counsel) regardless of the policy laid down by P. L. 1944, Chapter 20. However, such conclusion is inescapable by force of section 21 of P. L. 1948, Chapter 454, which reads:

"All other general or special laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this act."

Thus, with respect to the rendering of legal services to the New Jersey Turnpike Authority, the Legislature, by empowering said Authority to employ its own attorneys, has deviated from the policy established by P. L. 1944, Chapter 20, and, to that extent, has undone the purpose of said act.

Moreover, inasmuch as your appointment as counsel was under and by virtue of P. L. 1948, Chapter 454, we know of no provision of law which places you in the Division of Law or otherwise under the supervision of the Attorney General.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

JUNE 29, 1949.

DR. E. S. HALLINGER, *Secretary,*
State Board of Medical Examiners,
28 West State Street,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 70.

DEAR SIR:

This is in response to your letter dated June 15, 1949, requesting the opinion of this office concerning the applicability of the Civil Service Law to an inspector appointed under the provisions of Section 45:9-3 and also the employees of your Board. Three questions are set forth in your request for opinion, and they will be answered in the order in which you have asked them.

QUESTION 1: Did the revision of the Constitution or the passage of Senate No. 27 (now Chapter 439, P. L. 1948) make it mandatory that all employees be placed under Civil Service?

Answer: Neither the Constitution of 1947 nor Chapter 439, P. L. 1948, in and of themselves, made it mandatory that all employees of your Board be placed under Civil Service.

QUESTION 2: Did the passage of these laws (Chapter 439, P. L. 1948) repeal or invalidate any section of the Medical Practice Act, such as Section 45:9-3 which definitely states that the inspector of the Board shall not be subject to the provisions of the Civil Service Law?

Answer: Chapter 439, P. L. 1948, did not repeal or invalidate Section 45:9-3 of the Revised Statutes which provides for the appointment of an agent known as the inspector of the Board. It did, however, place an additional limitation upon the power of appointment given the Board in said Section 45:9-3 by requiring such appointment to be approved by the Attorney General. (See Sec. 33, Ch. 439, P. L. 1948.)

QUESTION 3: This question relates to salary and is of a general nature. I understand, however, that you wish to be advised whether the salary of the inspector must be approved by the Civil Service Commission as well as the Attorney General. The answer will, therefore, be limited to that particular question.

Answer: Section 45:9-3 of the Revised Statutes provides for the appointment of an inspector and states *inter alia* that such agent shall receive such compensation as the Board shall fix and further, that the appointment shall not be subject to the provisions of the Civil Service Law. Section 33, Chapter 439, P. L. 1948, also provides that such persons shall receive such compensation as shall be fixed by such Board within the limits of available appropriations. In view of the wording of said sections, it is our opinion that the salary fixed by the Board for such officer does not need the approval of the Civil Service Commission.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOSEPH A. MURPHY,
Assistant Deputy Attorney General.

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