

JULY 19, 1949.

HONORABLE WILLIAM T. VANDERLIPP, *Director,*
Division of Planning and Development,
Department of Conservation and Economic Development,
520 East State Street,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 81.

DEAR DIRECTOR:

This is to acknowledge your recent letter wherein you request an opinion as to the powers and duties of the Planning and Development Council. The question raised is general and, therefore, any answer will, of necessity, have to deal with the broad aspects of the problem. If answers to specific questions are desired, such questions, if any, should be submitted as they arise.

Under date of May 5, 1949, this office, pursuant to a request by Commissioner Charles R. Erdman, Jr., rendered an opinion designated as Formal Opinion 1949—No. 41, wherein the history of the Department of Commerce and Navigation and certain powers of the Council were discussed quite fully. For this reason, there is no need for a further review of the history and background of the Council.

The Council was established pursuant to Section 10, Chapter 448, of the Laws of 1948. This act provided for such a Council, consisting of twelve (12) members to be appointed by the Governor, with the advice and consent of the Senate. The answer to the question propounded is contained in the statute itself, particularly Sections 11 to 13, inclusive.

Section 11 (R. S. 13:1B-11) provides that the Council:

“a. Shall formulate comprehensive economic policies in connection with the development of the natural and economic resources of the State, and other allied subjects;

“b. Shall formulate comprehensive policies for the preservation, conservation and use of State forests and parks, and historic sites, and other allied subjects; and,

“c. Shall formulate comprehensive policies for the prevention and control of beach erosion.”

The policies formulated pursuant to this section shall not take effect unless approved by the Commissioner.

Section 12 of the act (R. S. 13:1B-12) states that the Council shall, in addition to the powers set forth in Section 11:

“a. Consult with and advise the Commissioner and Director of the Division on the work of such Division;

“b. Study the activities of the Division and hold hearings with respect thereto, as it may deem necessary or advisable; and,

“c. Report to the Governor and Legislature annually, and at such other times as it may deem in public interest, with respect to its findings and conclusions.”

The exercise by the Council of its powers under this section is not subject to the control of the Commissioner or the Governor. In order for the Council to exercise its powers as set forth therein, its members, of necessity, must know and be informed as to all the workings of the Division of Planning and Development. They must be kept fully informed, and they have the right to call upon the Commissioner or Director to furnish such information as they may need for these purposes.

Section 13 of the act (R. S. 13:1B-13) provides that no riparian leases or grants shall be allowed, except when approved by at least a majority of the council, and approved and signed by the Governor and Commissioner.

The above generally sets forth the powers and duties of the Council. To summarize: the policies formulated by it pursuant to Section 11 shall not become effective until approved by the Commissioner; the exercise of its powers under Section 12 is not subject to the approval of any outside officer or agency; and, the exercise of its powers under Section 13 is subject to the approval of the Governor and the Commissioner.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: CHESTER K. LIGHAM,
Deputy Attorney General.

CKL/f

JULY 22, 1949.

HON. J. LINDSAY DEVALIERE, *Director,*
Division of Budget and Accounting,
Department of the Treasury,
State House, Trenton, N. J.

FORMAL OPINION—1949, No. 82.

DEAR SIR:

This is in response to your inquiry whether Article 8, Section 4, paragraph 1, of the Constitution of 1947, prevents appropriation of State funds for education other than in the age range of 5 to 18 years set forth therein.

In my opinion the answer to such inquiry is in the negative and there may be appropriation of State funds for education beyond such age group.

Article 8, Section 4, paragraph 1, provides:

"The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."

This provision was contained verbatim in Article 4, Section 7, paragraph 6, of the Constitution of 1844 as amended, and the same question now raised was considered by the Courts of this State in *Rutgers College vs. Morgan Compt'r*, 70 L.