

NOVEMBER 1, 1949.

J. LINDSAY DEVALLIERE, *Director,*
Division of Budget and Accounting,
Department of the Treasury,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 98.

DEAR MR. DEVALLIERE:

You have requested the opinion of this office as to whether the State Treasurer has the right to transfer unused funds, appropriated for the use of the Department of Conservation and Economic Development, from the account described as "Reconstruction and maintenance of beach protection projects already constructed along the Atlantic coast * * *," to the account described as "For beach protection along the Atlantic coast, for the construction of beach protection measures * * *" (Appropriation Act, P. L. 1949, Ch. 43, p. 310).

In my opinion the answer is "yes."

Section 4 of the Appropriation Act provides that "in order that there be flexibility in the handling of appropriations," the State Treasurer may, on the written application of any spending agency receiving an appropriation, transfer money from one item in such appropriation to another item therein, subject to the following provisos:

"provided, however, that no sum appropriated for any permanent improvement shall be used for maintenance or for any temporary purpose; and provided further, that any item for capital improvement may be transferred to any other item of capital improvement on the approval of the State Treasurer."

The foregoing statute, in my opinion, plainly authorizes the State Treasurer to make the contemplated transfer.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

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