

NOVEMBER 7, 1949.

DR. WILLIAM S. CARPENTER, *President,*
State Civil Service Commission,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 99.

MY DEAR SIR:

I have your communication of the 4th instant requesting an opinion on the effect of Chapter 121 of the Laws of 1948 on the placement in the unclassified division of positions which were formerly in the exempt division in counties, municipalities and school districts.

Prior to the enactment of Chapter 121 of the Laws of 1948, which took effect June 12th of that year, the classified service in counties, municipalities and school districts was arranged in four classes, known as the exempt class, the competitive class, the non-competitive class, and the labor class.

By the act of 1948, above referred to, Section 11:22-4 of the Revised Statutes was amended by deleting from that section as it appears in the Revised Statutes, the exempt class, so that under the present arrangement there are three classes only, to wit, the competitive class, the non-competitive class, and the labor class.

There was added, however, in the amendment of Section 11:22-4 of Chapter 121 of the Laws of 1948 a provision that those employees of counties, municipalities and school districts who had theretofore been classified in the exempt class should continue to hold their offices or positions and have the same rights of tenure and appeal as they theretofore had but when a vacancy should happen in any such office or position in the exempt class, appointments to fill the vacancies should be made as provided for appointments in the unclassified service, if such office or position is then included in the unclassified service under the provisions of said section or of any other statute, but if such office or position was not then included in the unclassified service, it should be filled in the manner prescribed for filling vacancies in the classified service.

Answering specifically your inquiry, I am of opinion that when a vacancy happens in an office or position which was in the exempt class on June 12, 1948, when Chapter 121 of the laws of that year became a law, the Civil Service Commission must determine whether such office or position should in the future be in the unclassified service or in the classified service.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B