

MAY 31, 1950.

N. J. STATE BOARD OF PROFESSIONAL
ENGINEERS AND LAND SURVEYORS,
921 Bergen Avenue,
Jersey City, New Jersey.

FORMAL OPINION—1950. No. 37.

GENTLEMEN:

I acknowledge receipt of your inquiry of May 17th with respect to the effect of Chapters 293 and 294. P. L. 1948 upon R. S. 45:8-28.

Chapters 293 and 294 of the Laws of 1948 provide a means by which licensed professional engineers may authenticate plans, specifications and preliminary data prepared in accordance with R. S. 45:3-10 in addition to the affidavit provided for therein. (Formal Opinion 1949, No. 113).

Chapters 293 and 294 of the Laws of 1948 do not affect R. S. 45:8-28 which reads in part as follows:

“(b) The practice of professional engineering within the meaning of this chapter includes any professional service such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or private engineering or industrial project. * * *”

Specifically, R. S. 45:8-28 permits a licensed professional engineer of the State of New Jersey to prepare and file plans for industrial projects with state and municipal departments in this State.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: HENRY F. SCHENK,
Deputy Attorney General.

HFS :rk

JUNE 7, 1950.

THE HONORABLE LLOYD B. MARSH,
Secretary of State,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 38.

DEAR SIR:

Receipt is acknowledged of your letter of May twenty-sixth, in which, as we understand it, you request an opinion as to whether, under the present state of the law, May first, the date designated in P. L. 1906, c. 120, is still the beginning date for the term of office of members of county boards of taxation appointed for a full term. (Vacancies other than those caused by expiration of term are filled for the unexpired term only).

Our opinion is, and we advise you, that you should continue to regard May first as the beginning date of the term of office of members of county boards of taxation (other than those appointed to fill an unexpired term) in all counties.

In your letter you state that members of the county boards of taxation "are appointed in counties other than counties of the first class for a term of three years and in counties of the first class [for a term of] five years." This we find to be so by virtue of the provisions of R. S. 54:3-3 as amended (P. L. 1940, c. 113; P. L. 1941, c. 142). The boards in counties of the first class were increased to five members (from three) by P. L. 1940, c. 113, amending R. S. 54:3-2 as well as R. S. 54:3-3.

An examination of the pertinent sections of the Revised Statutes reveals no provision expressive of a beginning date for the term of office of members appointed to said boards. However, R. S. 54:3-3, which in 1940 was amended to increase to five years the term of members of said boards in counties of the first class, provides (as further amended in 1941) as follows:

The members shall be appointed for a term of three years and until their successors shall have been duly appointed and qualified. If there happens to be any vacancy in said office, during the recess of the Legislature, caused by reason of death, resignation or in any manner other than by the expiration of the term for which any person shall have been appointed, the Governor shall fill such a vacancy and the commission shall expire at the end of the next session of the Legislature unless a successor shall be sooner appointed. In filling vacancies other than those that have been created during the recess of the Legislature as herein provided for the Governor shall appoint with the advice and consent of the Senate for the unexpired term only. The members of the county boards of taxation in counties of the first class who are in office at the time this act (Sec. 54:3-2, Sec. 54:3-3 and Sec. 54:3-22.1 [P. L. 1940, c. 113]) becomes effective shall, without further appointment or confirmation, continue in office for the balance of the term for which they and each of them were respectively appointed. The term of office of the members hereafter appointed by the Governor by and with the advice and consent of the Senate shall be five years and until their successors shall have been duly appointed and qualified; *provided, however, that of the two additional members to be added, the term of one shall expire April thirtieth, one thousand nine hundred and forty-four, and the other April thirtieth, one thousand nine hundred and forty-five*; and provided, further, that they shall continue in office until their respective successors shall have been duly appointed and qualified. (Italics ours).

Bearing in mind the May first date fixed in P.L. 1906, c. 120, we mark as significant the proviso that of the two additional members (of boards in counties of the first class) the term of one shall expire April 30, 1944, and the other April 30, 1945. This, we are persuaded, evidences a legislative recognition that under the then state of the law the beginning date of the term of members of such boards appointed for a full term was May first, and, further, a legislative intent not to disturb that scheme of term succession.

R. S. 54:3-1 (which section is still in the form in which it was enacted as part of the Revised Statutes), reads as follows:

The several county boards of taxation created and established in the several counties for the equalization, revision, review and enforcement of

taxes by the act entitled "A supplement to an act entitled 'An act for the assessment and collection of taxes,' approved April eighth, one thousand nine hundred and three," approved April fourteenth, one thousand nine hundred and six (L. 1906, c. 120, p. 210), as amended and supplemented, are hereby continued.

Under the provisions of section one of said act (P. L. 1906, c. 120), it was provided that

The term of office of the members first appointed shall commence on the first day of May, nineteen hundred and six, and the members so appointed by the Governor shall be appointed for the terms of one, two and three years respectively; and, thereafter, as the terms of said members expire, appointments shall be made for a term of three years

The same section of said 1906 act further provided that if the first appointments of members of the county boards of taxation should be made when the Senate would not be in session they would be "valid until the first day of May, nineteen hundred and seven, and the appointments of successors shall be made as provided in this act, their terms to commence on the first day of May, nineteen hundred and seven." Both of these provisions were still part of section one of said 1906 act as last amended by the Legislature (P. L. 1933, c. 281) before enactment of the Revised Statutes (1937).

We have ascertained from your office that your official records show that there has been an observance of the May first beginning date with respect to the term of office of members of county boards of taxation heretofore appointed for a full term. In view of this long continued construction, and especially in view of the Legislature's apparent recognition thereof (particularly as evidenced by the proviso, in R. S. 54:3-3, above marked and which first made its appearance in said section by virtue of P.L. 1940, c. 113), we are constrained to adhere to the same construction. Contemporaneous and long-standing exposition exhibited in usage and practice under a statute requires a similar construction in case of doubt. *In re Hudson County*, 106 N. J. L. 62.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

JUNE 8, 1950.

MR. GEORGE M. BORDEN, *Secretary,*
State Employees' Retirement System,
1 West State Street
Trenton 7, New Jersey.

FORMAL OPINION—1950. No. 39.

DEAR SIR:

I have your letter of the 2d instant with copy of letter to you from R. William Lagay, Superintendent of the New Jersey State Prison Farm at Rahway. It appears from the papers submitted that one Joseph Evans has been receiving a retirement