

for good behavior on a prior sentence or sentences. It also removes the present prohibition in our law against granting commutation time for good behavior to prisoners serving third and subsequent sentences, irrespective of whether the prior sentences were imposed in the State of New Jersey or in some other jurisdiction.

It is suggested that you advise the Principal Keeper of the State Prison to examine the records of the prisoners who come within the purview of this statute and to make such adjustments as may appear necessary in each individual case, both as to removal from their present sentences of commutation time earned and allowed on prior sentences and, secondly, as to granting commutation time for good behavior to prisoners serving third and subsequent sentences.

The granting of commutation time for good behavior is still controlled, as heretofore, by the provisions of R. S. 30:4-140 within the discretion of the Board of Managers of the Prison. Likewise, the Board of Managers may still declare a forfeiture of time previously remitted either in whole or in part, as to them shall seem just, in case of flagrant misconduct by a prisoner.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: EUGENE T. URBANIAK,  
*Deputy Attorney General.*

ETU:HH

JULY 13, 1950.

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

FORMAL OPINION—1950. No. 46.

DEAR SIR:

I have your memorandum of the 6th instant calling my attention to Chapter 289 of the Laws of 1949 which provides that any water commission, established pursuant to R. S. 40:62-108 to 40:62-150, by two or more municipalities in counties of the second class now having a population between three hundred thousand and three hundred and twenty-five thousand shall, upon written application regulating the same, signed by a majority of the employees of said water commission employed by it on the effective date of Chapter 289 (May 28, 1949), certify to the Civil Service Commission the names of all employees, including the Secretary-Treasurer. The act further provides that when the names of the employees, including the Secretary-Treasurer have been certified, the Civil Service Commission shall classify, without examination, the employees so certified into the classified service and the employees shall thereafter be subject to all the provisions of Title 11, Civil Service Law, with respect to tenure, classification and compensation.

The act applies only to the County of Passaic, as it is the only county falling within the population prescribed by the act of 1949. (See Legislative Manual of 1950, p. 261).

The sole question to be decided, as I understand, is whether the Secretary-Treasurer shall be certified. The act of 1949 so directs.

You have forwarded to me a copy of the agreement between the City of Paterson, City of Passaic and City of Clifton, which three municipalities form the Passaic Valley Water Commission. In the agreement between these municipalities, the Secretary-Treasurer is to be appointed by the Commission for the term of four years at a salary of \$3,500 per annum. Nowhere in the sections of the Revised Statutes referred to in the Laws of 1949 do I find any provision concerning a definite fixed term of years for the Secretary-Treasurer. The Water Commission derives its sole power from the Legislature and the act of 1949 directs that among the other employees of the Water Commission, the Secretary-Treasurer shall be included and shall be classified by the Civil Service Commission into the classified service.

The counsel of the City of Paterson takes the position that the act of 1949 is unconstitutional in that it impairs the obligation of a contract, that is, it impairs the agreement between the Cities of Paterson, Passaic and Clifton which provided for a term of office and the compensation to be received by the Secretary-Treasurer. With this conclusion, I cannot agree. The Passaic Valley Water Commission is a creature of our law and its officers as well as the Civil Service Commission are to obey the act in advance of the determination by a court of competent jurisdiction that the act is unconstitutional for any reason. See *Schwartz vs. Essex County Board of Taxation*, 129 N. J. L., 129.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

TB.B

JULY 17, 1950.

MR. J. LINDSEY DEVALLIERE, *Director,*  
*Department of Budget and Accounting,*  
State House,  
Trenton, New Jersey.

FORMAL OPINION—1950. No. 47.

DEAR MR. DEVALLIERE:

Under memorandum dated July 11th you have requested an opinion as to whether Regulation 4 of the official state travel regulations promulgated by proclamation of the Governor on July 1, 1950, in effect rescinds a departmental regulation of the highway department reading as follows:

“Moving expenses will be allowed when employees are transferred permanently from one location to another; or when temporarily transferred, moving expenses will be allowed when the cost to the state will not exceed transportation and/or living expenses allowed for the total period of the assignment.”