

JANUARY 16, 1951.

MAJOR WILLIAM O. NICOL,  
*New Jersey State Police,*  
 Trenton, N. J.

## FORMAL OPINION—1951. No. 5.

DEAR MAJOR NICOL:

I have your letter regarding expense accounts for members of the board of tenement house supervision.

This board was originally created under R. S. 55:1-4 and subsequent sections and then in 1948, under chapter 439, it was placed under the jurisdiction of the Department of Law and Public Safety. Under that act it is provided that the board shall continue to have all the powers and exercise all the functions vested in or imposed upon it by law.

Your special inquiry is as to whether this board shall be allowed \$15.00 per meeting and whether the vouchers are signed by the board president as provided in 55:9-2, or by you as secretary of the commission.

Under 55:9-2 the members are allowed expenses actually incurred in and about the work of the board, upon warrant drawn by the board, signed by its president and attested by its secretary.

The above section has not been changed and there is no authority for the board members to receive \$15.00 a day for attending meetings. All they are allowed is their expense actually incurred in and about the work of the board, and these expenses should be itemized on vouchers signed by the board's president and attested by its secretary.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By : ROBERT PEACOCK,  
*Deputy Attorney General.*

RP:N

JANUARY 17, 1951.

HON. WALTER T. MARGETTS, JR.,  
*State Treasurer,*  
 State House, Trenton, New Jersey.

## FORMAL OPINION—1951. No. 6.

DEAR MR. MARGETTS:

You have requested my opinion concerning the effect of section 11, chapter 270, P. L. 1950, on various statutes, previously enacted, prescribing, limiting or conditioning the kind or nature of investments in which various funds of the State of New Jersey may be invested.

Chapter 270, P. L. 1950, establishes within the Department of the Treasury, a Division of Investment. The act further requires the appointment of a Director of the Division, responsible for its immediate supervision and direction, and a State Investment Council of nine members.

Section 11 of this act provides:

Limitations, conditions and restrictions contained in any law concerning the kind or nature of investment of any of the moneys of any of the funds or accounts referred to herein shall continue in full force and effect; *provided, however,* that subject to any acceptance required, or limitation or restriction contained herein: the Director of the Division of Investment shall at all times have authority to invest and reinvest any such moneys in, and to acquire for or on behalf of any such funds or accounts, United States Treasury bills, notes and certificates of indebtedness, and such obligations and securities, which may be authorized by regulation of the State Investment Council, in which savings banks in this State may legally invest, and, for or on behalf of any such fund or account, to sell or exchange any investments or securities thereof.

Section 16 of the act provides:

To the extent that the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Reference to chapter 270, P. L. 1950, will indicate the large number of separate funds, and agencies controlling and managing separate funds, existing within our State Government. Among the former are the 1837 Surplus Revenue Fund, the Veterans Loan Guaranty and Insurance Fund, and certain funds held by the State Treasurer. Some of the agencies managing separate funds are the Board of Trustees of the State Employees' Retirement System, the Board of Trustees of the Police and Firemen's Retirement System, and the Prison Officer's Pension Commission. The basic statutes dealing with each of these separate funds, or agencies controlling and managing separate funds, prescribes the type or nature of investment in which the funds may be placed. These limitations are not uniform. Superimposed on these various lists of authorized investments are the additional authorized securities set forth in chapter 197, P. L. 1948, and chapter 94, P. L. 1948; R. S. 52:14-31 and R. S. 52:14-32, respectively.

Chapter 270, P. L. 1950, vested in the Director of the Division of Investment, the functions, powers and duties "of, or relating to, investment or reinvestment of moneys of, and purchase, sale or exchange of any investments or securities of or for" any of the specific funds or accounts listed in the act. Section 11 of that act, continued the various limitations, conditions and restrictions contained in other acts, relating to the kind or nature of investment in which these various funds or accounts could be placed; but specifically authorized the Director of the Division of Investment, under certain conditions and procedures prescribed by the act, to invest and reinvest such funds in United States Government securities and evidence of indebtedness and in "obligations and securities, which may be authorized by regulation of the State Investment Council, in which savings banks in this State may legally invest."

The desirable and beneficent objectives, in the public interest, of centralizing investment responsibilities and functions in one agency, is readily apparent.

In view of the pre-existing statutory limitations and restrictions contained in the several acts relating to these various funds, and to the agencies administering separate funds, what is the effect of section 11, chapter 270, P. L. 1950?

It is my opinion, and I so advise, that the effect of section 11, chapter 270, P. L. 1950 is to define a list of securities in which the specific State funds mentioned in chapter 270 may be invested, thereby permitting their investment in the securities specified in section 11, *in addition* to the securities specified in other acts. This clear intent, gleaned from the precise wording of the section under discussion, is emphasized by the provisions of section 16, quoted above. To this extent, therefore, previous lists of authorized securities are not superseded, but rather are expanded.

Your memorandum makes specific reference to two statutes, namely chapter 148, P. L. 1944, and chapter 158, P. L. 1947. These statutes refer to certain moneys held by the State Treasurer, namely moneys being held for a particular time or for a particular use, deposits by railroad companies for the construction of railroads and unclaimed for more than twenty years, and moneys held for unrepresented and unpaid State bonds and coupons which were not presented for payment for at least two years from the due date. The statutes aforementioned, limit or prescribe the type of securities in which these funds may be invested by the State Treasurer. Chapter 270, P. L. 1950, however, by direct reference to these two statutes, transfers from the State Treasurer, to the Director of the Division of Investment, the function, power and duty to invest or reinvest these moneys in the securities listed in section 11 aforementioned, including savings bank legals. Accordingly, the opinion expressed in the preceding paragraph likewise is applicable to these two statutes.

It is to be noted that the authority vested in the Director of the Division of Investment, permitting him to invest the specified funds and accounts in securities, in addition to those authorized by the basic acts, is not an uncontrolled one. Section 11 provides that any savings bank legal obligations and securities, first must be authorized by the State Investment Council, before the director may invest in them. This provision must be followed, even in the case where statutes, heretofore enacted, already permit the investment of any of the funds or accounts mentioned in chapter 270, in savings bank legals. Thus provision is made, for the enactment of controls or limits by the State Investment Council, under which and within which the director must act.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By : DANIEL DEBRIER,  
*Deputy Attorney General.*

ddb:d

FEBRUARY 5, 1951.

HUDSON COUNTY BOARD OF TAXATION,  
2857 Hudson Boulevard  
Jersey City 6, N. J.

Attention: CARL A. RUELMANN, *President*.

## FORMAL OPINION—1951. No. 7

GENTLEMEN:

We herewith reply to your request for an opinion on the following question:

"\* \* \* has the assessor any right to levy an assessment on a structure that is not 100% complete on October 1st."

The answer is that the assessor has a right to levy an assessment on a structure that is not 100% complete on the assessing date.

R. S. 54:4-1 provides that "All property, real and personal, within the jurisdiction of this State, not expressly exempt from taxation or expressly excluded from the operation of this chapter, shall be subject to taxation annually under this chapter at its true value, and shall be valued by the assessors of the respective taxing districts \* \* \*." The section further provides that all property shall be assessed to the owner thereof with reference to the amount owned on October 1st of each year.

Although we find no specific legislative provision for the assessing of a building in the course of construction, we find precedent for same in case law. In the matter of *City of Jersey City vs. Bergen Square Realty Company*, the assessor assessed a building in the course of construction, as of the assessing date, and the Tax Board of Appeals, in an opinion handed down and reported in the 1941 Supplement of New Jersey Tax Reports, at page 109, affirmed the assessment placed upon the building in the course of construction on the assessing date (October 1st).

The same procedure was followed by the assessor in the Boro of Princeton when he valued the building owned by the Princeton University, which was in the course of construction on the assessing date. See *Princeton University vs. Boro of Princeton, State Tax Board*, February, 1914, 37 N. J. L. J. 178; New Jersey Tax Reports, 1912-1934, page 82. See also *Roman Catholic Diocese vs. City of Newark, State Tax Board*, April, 1913, 36 N. J. L. J. page 126; New Jersey Tax Reports, 1912-1934, page 54.

We are, therefore, of the opinion that the assessor has a duty to value all property even though in the course of construction, on the assessing date, in accordance with the law.

Respectfully submitted,

THEODORE D. PARSONS,  
*Attorney General*.

By: BENJAMIN M. TAUB,  
*Deputy Attorney General*.