

SEPTEMBER 15, 1952.

HONORABLE R. J. ABBOTT,
Chairman, New Jersey Highway Authority,
1035 Parkway Avenue,
Trenton, New Jersey.

FORMAL OPINION—1952. No. 28.

DEAR COMMISSIONER ABBOTT:

On behalf of the New Jersey Highway Authority, you have requested an opinion on three certain questions concerning the interpretation and application of the New Jersey Highway Authority Act (P. L. 1952, ch. 16) and the related act which provides for the guarantee of bonds of the New Jersey Highway Authority by the State of New Jersey in a principal amount not exceeding \$285,000,000 (P. L. 1952, ch. 17). In substance, the questions relate to the powers of the New Jersey Highway Authority. The questions, together with my answers thereto, are set forth herewith:

1. Q. Whether the northernmost limit of the Garden State Parkway must be at Paramus or Ridgewood or whether the New Jersey Highway Authority is authorized to include, as a part of the Garden State Parkway project, construction made northerly of such designated points in order to connect with other through arteries?

A. P. L. 1952, ch. 16, section 20 authorizes the construction of a project to be known as "The Garden State Parkway," beginning at State Highway Route No. 17 in Paramus or Ridgewood. Whether any construction can be undertaken northwardly of such designated points depends upon whether, in the opinion of the New Jersey Highway Authority, such construction will create or facilitate access to the Parkway and increase the use thereof.

It is provided by P. L. 1952, ch. 16, section 5(n) that the Authority shall have the power:

"To construct, maintain, repair and operate any feeder road * * * which in the opinion of the Authority will increase the use of a project * * *"

A feeder road is defined in section 3(g) of ch. 16 as follows:

"'Feeder road' means any road which in the opinion of the Authority is necessary to create or facilitate access to a project."

That a "feeder road" is itself a part of a project is shown by section 15 of ch. 16 which provides in part as follows:

"Each feeder road or section thereof acquired, constructed or taken over in connection with a project by the Authority shall for all purposes of this act be deemed to constitute part of the project, * * *"

In my opinion, if the New Jersey Highway Authority determines that a "feeder road" northwardly of Paramus or Ridgewood will create or facilitate access to the Garden State Parkway and will increase the use thereof, the Authority is presently empowered to construct, maintain, operate and repair such "feeder road"

as a part of the project to be known as the "Garden State Parkway," authorized by P. L. 1952, ch. 16, section 20.

2. Q. Whether the cost of such construction may be financed from the proceeds of the State guaranteed bonds, pursuant to P. L. 1952, ch. 17?

A. Since the "feeder road" so constructed would be a part of the Garden State Parkway project, in my opinion, the cost of such construction may be financed from the proceeds of Authority bonds guaranteed by the State under the provisions of P. L. 1952, ch. 17. As already stated, chapter 16 gives approval to a project to be known as "The Garden State Parkway" and chapter 17 likewise speaks of "The Garden State Parkway."

Sutherland on Statutory Construction, 3rd edition, section 5202, states in part:

"* * * However, application of the rule that statutes *in pari materia* should be construed together is most justified in the case of statutes relating to the same subject matter that were passed at the same session of the Legislature, especially if they were passed or approved or take effect on the same day, and in the case where the later of two or more statutes relating to the same subject matter refers to the earlier." (See also *State vs. Freulli*, 98 N. J. L. 395 (N. J. Sup. Ct. 1923).)

The statutes in question were passed the same day, were approved by the Governor on the same day, both became effective immediately (except that chapter 17 is subject to the result of a referendum), and the said chapter 17 refers specifically in section 1 thereof to chapter 16 by its title and further provides that the money to be raised by the issuance of bonds guaranteed by the State shall be used "to finance the Garden State Parkway in accordance with the Authority act." In addition, chapter 17 does not in the said section 1 limit the guarantee to bonds issued for the construction of the Garden State Parkway but provides broadly for the guarantee of any bonds issued "in connection with" such construction, again evincing a legislative intent to include everything that may be included in the project authorized by chapter 16.

The two statutes properly construed authorize the construction of the "feeder road" in question with the proceeds of bonds guaranteed under P. L. 1952, ch. 17.

3. Q. Whether a toll may be charged for the use of such portion of the project?

A. Section 15 of chapter 16 provides that no toll shall be charged for transit between points on a feeder road constructed under that act. The Authority would therefore not presently be authorized to charge toll for transit between points on the feeder road discussed above. Since, however, the restriction regarding the charging of a toll for transit between points on a feeder road is a matter of legislative enactment, the Legislature could at some future date change the law so as to permit the charging of a toll for transit between points on the feeder road in question.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: BENJAMIN C. VAN TINE,
Deputy Attorney General.