

JULY 1, 1953.

MR. ERNEST H. FUGNER, *Secretary-Director*,
New Jersey State Board of Architects,
 1060 Broad Street,
 Newark 2, New Jersey.

FORMAL OPINION—1953. No. 28.

DEAR DIRECTOR :

This will acknowledge receipt of your communication of June 15, 1953 wherein you request an opinion as to when the terms of members of the State Board of Architects commence.

We are of the opinion that the intendment of the pertinent provisions of Section 45:3-1 of the Revised Statutes (as amended by L. 1950, Chap. 323, p. 1081, Sec. 1) is that there is to be continuity in the terms of office of the members of the State Board of Architects, that all terms commence as of the same day and month of the respective year in which the appointment falls due, and that an appointment for a new term is called for annually.

Chapter 323 of the Laws of 1950 provides that the New Jersey State Board of Architects, created and established by P. L. 1902, Chapter 29, as amended and supplemented, is to be continued and that said Board shall consist of five members.

Section 1 of Chapter 323 of the Laws of 1950 specifically provides that :

"On the effective date of this act the terms of office of the members of the board shall cease and terminate, and they shall thereafter continue in office as holdover members until such time as the Governor shall designate and appoint them to serve for new terms of office as hereinafter provided."

Section 1 of Chapter 323 of the Laws of 1950 further provides :

"Within a period of thirty days after the effective date of this act, or as soon thereafter as circumstances shall permit, the Governor shall designate and appoint said members to serve and hold office for the following terms: One member for a term of one year from the date of such designation and appointment, one member for a term of two years from said date, one member for a term of three years from said date, one member for a term of four years from said date, and one member for a term of five years from said date."

Section 1 of Chapter 323 of the Laws of 1950 further provides :

"Thereafter, upon the expiration of the term of office of any member, his successor shall be appointed by the Governor, subject to the provisions of section 45:1-2 of this Title, for a term of five years."

This law fixes a time as of when the terms of the five appointees thereunder commence. The problem, however, is whether said date is also applicable to the terms of all subsequent appointees and is one of statutory construction.

The foregoing provisions clearly indicate that the persons in office on the effective date of the act were to constitute the continued New Jersey State Board of Architects, but that their respective terms of office were to cease and terminate at

that time, subject to their holding over until their new appointments by the Governor. They evince a legislative intent to institute a new scheme of uninterrupted terms, in such manner as eventually to affect the occurrence of a vacancy at the same time and date in every successive year.

Moreover, Section 1 aforesaid also provides that "any vacancy in the membership of the Board shall be filled for the unexpired term in the manner provided for an original appointment". The effect of this provision, viewed in the light of the related provisions heretofore recited, is to preserve the integrity of the legislative scheme of term continuity.

The general rule is that the term of office, when not otherwise provided by statute, begins in the case of appointive offices on the date of appointment. However, as we have already indicated, Chapter 323 of the Laws of 1950 fixes by intendment, if not by specification, the time from which the term of a member of the State Board of Architects begins to run.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: FREDERIC G. WEBER,
Deputy Attorney General.

JULY 6, 1953.

HON. ALFRED E. DRISCOLL, *Governor,*
HON. WALTER T. MARGETTS, JR., *State Treasurer,*
HON. J. LINDSAY DEVALIERE, *State Comptroller.*

FORMAL OPINION—1953. No. 29.

DEAR SIRs:

This is to acknowledge your letter of June 30, 1953, referring to the proposed sale of \$150,000,000 of New Jersey Highway Authority bonds, to be submitted for guaranty by the State, as described in an official statement of the Authority. You request my opinion as to the legality of the State guaranty under the terms of the Guaranty Act (P. L. 1952, c. 17), approved by the voters at the 1952 general referendum, and the legality of consenting to a reservation in the Authority of the right and power to issue additional bonds equally secured by the revenues of the Garden State Parkway.

I have reviewed the pertinent provisions of our State Constitution, the New Jersey Highway Authority Act (P. L. 1952, c. 16) as well as the Guaranty Act.

The New Jersey Highway Authority, and its enabling statute, was patterned upon the New Jersey Turnpike Act which our Supreme Court reviewed and sustained in *New Jersey Turnpike Authority vs. Parsons*, 3 N. J. 235, 69A. (2d) 875 (1949). The validity of the Guaranty Act was considered and approved by the same court in *Behnke vs. New Jersey Highway Authority, et al.* May 25, 1953.

In outline and in detail the Legislature conferred upon the New Jersey Highway Authority the corporate and financial powers successfully employed by the New Jersey Turnpike Authority. Thus, negotiable bonds may be issued for any corporate