

adverse effect on the recreational opportunities afforded by the water course involved. Evidence as to these and similar factors should be admitted by the Council within reasonable limits, and they, along with water supply needs, should be accorded such weight as may be appropriate in determining whether the applicant's plans are "just and equitable" and give due regard to the interests of other parties affected.

Furthermore, under R.S. 58:1-21, the Council in granting a diversion permit may impose such conditions as it may deem appropriate in the interests of public recreation. The Council does not, however, possess authority to determine what payments, if any, should be made by the grantee in lieu of taxes, or to assess any damages resulting from the permitted diversion. *Boonton v. State Water Policy Commission*, 122 N.J.L. 34 (Sup. Ct. 1939); see also *Passaic v. Clifton*, 14 N.J. 136, 142-143 (1953).

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: THOMAS P. COOK
Deputy Attorney General

OCTOBER 25, 1957

MR. ELMER J. HERRMANN, *Clerk*
Essex County Board of Elections
Hall of Records
Newark, New Jersey

FORMAL OPINION, 1957—No. 21

DEAR SIR:

Receipt is acknowledged of your recent inquiry, on behalf of the Essex County Board of Elections, concerning certification by the Board of Elections of the results of the Military and Civilian absentee ballots cast pursuant to R.S. 19:57.

Your letter states as follows:

"What the Board wishes to have clarified is:

"1. Shall the certification by the Board to the County Clerk be in the form of Ward and District order, as to the number of votes each candidate receives, in each district, so the district total can be added to the total reported on the Statement of Results by the respective District Election Boards, or:

"2. Shall a complete tabulation be made, by the County Board, showing the total votes received by the various candidates, County Wide?"
R.S. 19:57-31 provides as follows:

"On the day of each election each county board of elections shall open in the presence of the commissioner of registration or his assistant or assistants the inner envelopes in which the absentee ballots, returned to it, to be voted in such election, are contained, except those containing the ballots which the board or the County Court of the county has rejected, and shall remove from said inner envelopes the absentee ballots and shall then proceed to count and canvass the votes cast on such absentee ballots, but no absentee ballot shall be counted in any primary election for the general election if the ballot of the

political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on said envelope by the county board of elections. Immediately after the canvass is completed, the respective county boards of election shall certify the result of such canvass to the county clerk or the municipal or district clerk or other appropriate officer as the case may be showing the result of the canvass by ward and district, and the votes so counted and canvassed shall be counted in determining the result of said election."

In view of the specific references in the above quoted section of the Absentee Ballot Law to certification by the Board of Elections to various officers therein designated by ward and district it is our opinion that your certification of the results of the Military and Civilian absentee ballots cast should take this form and not that as suggested by the second alternative suggested by your letter.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: JAMES J. McLAUGHLIN
Deputy Attorney General

JJMcL:msg

NOVEMBER 13, 1957

HONORABLE AARON K. NEELD
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION, 1957—No. 22

DEAR MR. NEELD:

You have requested our opinion concerning the application of the Unfair Cigarette Sales Act of 1952, L. 1952, c. 247, N.J.S.A. 56:7-18 et seq., to situations in which cigarette manufacturers, as part of a program to promote a specified brand of cigarettes, give cigarette lighters or containers of soft drinks with the sale of cartons of such cigarettes. The cigarettes are sold for a price which is no lower than that permitted by law. Although the sales in question are made on the retail level, the manufacturer supplies the cigarette lighters or containers of soft drinks at his own cost. For the reasons hereinafter stated it is our opinion that the aforesaid practices do not violate the Act.

The only sections of the Unfair Cigarette Sales Act of 1952 which may here be applicable are N.J.S.A. 56:7-20a and N.J.S.A. 56:7-23. N.J.S.A. 56:7-20a reads as follows:

"It shall be unlawful and a violation of this act:

a For any retailer or wholesaler *with intent to injure competitors or destroy or substantially lessen competition—*