

Therefore, it is our opinion that the Director of the Division of Purchase and Property may not limit the purchase of eggs for State institutions to those produced in New Jersey.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: HAROLD J. ASHBY
Deputy Attorney General

SEPTEMBER 25, 1958

HONORABLE EDWARD J. PATTEN
Secretary of State
State House
Trenton, New Jersey

FORMAL OPINION 1958—No. 11

DEAR MR. PATTEN:

We have been asked to describe the duties of the Secretary of State ancillary to the submission to the people, pursuant to Article IX, Section IV, of the New Jersey Constitution of 1947, of the proposed amendment to Article VIII, Section IV, paragraph 2 of the Constitution. The proposed amendment was agreed to by the Legislature on June 16, 1958 in Senate Concurrent Resolution No. 16, which reads as follows:

“Be It Resolved by the Senate of the State of New Jersey (the General Assembly concurring):

1. The following proposed amendment to the Constitution of the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section IV, paragraph 2 of the Constitution to read as follows:

2. The fund for the support of free public schools, and all money, stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of free public schools, for the equal benefit of all the people of the State; and it shall not be competent, except as hereinafter provided, for the Legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever. The bonds of any school district of this State, issued according to law, shall be proper and secure investments for the said fund and, in addition, said fund, including the income therefrom and any other moneys duly appropriated to the support of free

public schools may be used in such manner as the Legislature may provide by law to secure the payment of the principal of or interest on bonds or notes issued for school purposes by counties, municipalities or school districts or for the payment or purchase of any such bonds or notes or any claims for interest thereon."

The Secretary of State should notify the clerks of all counties that the proposed amendment is to be submitted to the people at the general election to be held on November 4, 1958. See R.S. 19:14-15.

On ballots not intended for use in voting machines, preceding the text of the proposed amendment there should be instructions to voters on the manner of recording their vote. Ordinarily, such instructions should be couched in the language of R.S. 19:14-14. However, at the election at which the proposed amendment is to be submitted to the people, another public question, whether the Water Bond Act of 1958, L. 1958, c. 35, should be approved, is also to be submitted. Under the authority of R.S. 19:14-15, you have directed that the Water Bond Act question is to appear as the first public question on the ballot, and the proposed amendment is to appear as the second. The Water Bond Act expressly provides that the certain instructions are to precede the Water Bond Act question on the ballot in counties not using voting machines. L. 1958, c. 35, sec. 24.

The substance of these instructions appearing once above both questions will satisfy the intent of R.S. 19:14-14 and will obviate the confusion to the voter which would result if instructions with the same import but different language preceded each of the two questions.

On ballots to be used in voting machines, no special instructions on the manner of recording a vote need be given. The county clerk is to make appropriate arrangements for the voters to record a "yes" or "no" vote on the amendment. R.S. 19:49-2; see also L. 1958, c. 35, sec. 24. The text of the amendment as it appears on voting machines must be preceded by a description of the question not exceeding six (6) words. N.J.S.A. 19:49-2. The following description should be used: "Proposed Constitutional Amendment Concerning School Bonds." On voting machine ballots, both this description and the question must be printed in red ink. N.J.S.A. 19:49-2.

When a proposed constitutional amendment is to be submitted to the people of the State at a general election, a printed copy of the amendment must be mailed to each registered voter in the same envelope with the sample ballot, where envelopes are used. R.S. 19:14-27. Where envelopes are not used to mail out the sample ballots, pursuant to N.J.S.A. 19:49-4(b), the Commissioner of Registration shall make such arrangements for mailing printed copies of the amendment as are practical. R.S. 19:14-27. When the proposed amendment adds new matter to the Constitution, the added matter must be italicized. R.S. 19:14-28.

In addition to the text of the amendment, the Attorney General, if he deems proper, may make a summary statement to inform the voters of the effect which the adoption of the proposed amendment would have which must be mailed to them with the copies of the amendment. R.S. 19:14-31. The Attorney General does not deem it necessary to add a statement to the language of the present amendment to inform the voters of its effect. Therefore, the statutory requirements of notice to the voters will be satisfied if each is mailed the following material:

"Shall the proposed amendment agreed to by the Legislature on June 16, 1958 to change Article VIII, Section IV, paragraph 2 of the Constitution to read: '2. The fund for the support of free public schools, and all money,

stock and other property, which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of free public schools, for the equal benefit of all the people of the State; and it shall not be competent, *except as hereinafter provided*, for the Legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever. *The bonds of any school district of this State, issued according to law, shall be proper and secure investments for the said fund and, in addition, said fund, including the income therefrom and any other moneys duly appropriated to the support of free public schools may be used in such manner as the Legislature may provide by law to secure the payment of the principal of or interest on bonds or notes issued for school purposes by counties, municipalities or school districts or for the payment or purchase of any such bonds or notes or any claims for interest thereon.* be approved? (The italicized words are the new matter that would be added to the Constitution by this proposed amendment.)”

This material, while technically required to be mailed to the voter “with” the sample ballot, R.S. 19:14-27, may be printed on the sample ballot to avoid the needless expense which would result from printing it on a separate sheet.

Very truly yours,

DAVID D. FURMAN
Attorney General

SEPTEMBER 25, 1958

MR. SALVATORE A. BONTEMPO, *Commissioner*
Department of Conservation and
Economic Development
State House Annex
Trenton, New Jersey

FORMAL OPINION 1958—No. 12

DEAR COMMISSIONER:

We have been asked the following questions to define the obligation of the State toward Hunterdon County arising out of the fact that the Lebanon-Stanton Road, a county road, must be relocated because the site of its present bed will be inundated by the Round Valley Reservoir, land for which has been acquired pursuant to Laws of 1956, c. 60, sec. 5 and Laws of 1957, c. 215, sec. 5; N.J.S.A. 58:20-5:

- 1) Would an apparently circuitous relocated route be lawful?
- 2) Must the relocated route terminate at the same points as the former road?
- 3) Must the relocated route have a 60 foot wide right-of-way in contrast to the 33 foot wide right-of-way of the former route?
- 4) May the State provide a 60 foot wide right-of-way for the new route even though not required to do so by law?