

and frequently impose criminal penalties. In most cases the proper enforcement of health laws is dependent upon administrative officers and agencies upon whom the efficacy of such legislation is dependent. While the courts have usually employed a rather rigid interpretation of statutes granting powers to administrative agencies, this rule has notably been relaxed in the interpretation of statutes granting powers to boards having control over public health."

You are accordingly advised that the provisions of the statute and of any rules or regulations promulgated thereunder dealing with the control and eradication of contagious and infectious swine diseases are applicable to the entire swine industry. The power to license hog farms pertains solely to garbage-feeding hog farms.

Verly truly yours,

DAVID D. FURMAN  
*Attorney General*

By: GEORGE H. BARBOUR  
*Deputy Attorney General*

JULY 9, 1958

HONORABLE ROBERT B. MEYNER  
State House  
Trenton, New Jersey

MEMORANDUM OPINION—P-20

DEAR GOVERNOR MEYNER:

You have requested an opinion as to whether the members of the Local Government Board in the Division of Local Government, Department of Treasury, who are appointed by you with the advice and consent of the Senate, may be appointed without regard to political party affiliation.

The Local Government Act of 1938 (P.L. 1938, c. 158; N.J.S.A. 52:27A-1 et seq.) created a State Department of Local Government. Section 10 of that act established the "Local Government Board" in this department and provided that its membership should consist of the Commissioner of Local Government, as chairman, and four members appointed by the Governor with the advice and consent of the Senate for five year terms, the initial terms of office to be staggered. Section 15 of the 1938 act prescribed the powers and duties of board members. Section 12 provided for their compensation. Important here is Section 11 (N.J.S.A. 52:27A-11) of the act which prescribed the qualifications of the members of the board as to experience and in addition, provided that:

"\* \* \* Not more than two of the members shall belong to the same political party."

In 1944 the State Department of Taxation and Finance was established. (P.L. 1944, c. 112; N.J.S.A. 52:27BB-1). Art. 7, Sec. 1 of this act provided in part that:

"The State Department of Local Government as heretofore constituted and provided for by law shall be the Division of Local Government in the

State Department of Taxation and Finance except that the term of office of the present members of the Local Government Board shall expire on the effective date of this act and the board shall consist thereafter of the director as chairman, and three members appointed by the Governor by and with the advice and consent of the Senate \* \* \*"

This section, in effect, reduced the number of appointments made by the Governor to the Board from four to three. It is silent as to the qualifications of membership either as to experience or political affiliation.

Significantly, the 1944 act expressly repealed sections 8 and 12 of P.L. 1938, c. 158 pertaining to the compensation for the Commissioner of Local Government and the members of the board. Section 11, however, was neither amended nor repealed as it pertained to experience and party affiliation. At that time, although not expressly provided, the requirement that not more than two members of the board appointed by the Governor should be of the same political affiliation remained in effect and was not impliedly repealed. See *Swede v. City of Clifton*, 22 N.J. 303, 317 (1956).

Thereafter, however, the "Local Government Supervision Act" (P.L. 1947, c. 151; N.J.S.A. 52:27BB-1 et seq.) was enacted and among other things, expressly repealed section 11 of P.L. 1938, c. 158; N.J.S.A. 52:27A-11, which, to repeat, dealt with political affiliation limitations.

Therefore, in light of this express repealer, you are advised that you may appoint, subject to Senate approval, persons to the Local Government Board without regard to political affiliation. Appointments to this Board, presently established in the Division of Local Government, Department of the Treasury by virtue of the 1948 Reorganization Act (P.L. 1948, c. 92; N.J.S.A. 52:18A-1 et seq.) should be made in accordance with the express provisions of P.L. 1944, c. 112, Art. 7, Sec. 1 (N.J.S.A. 52:27B-69).

Respectfully yours,

DAVID D. FURMAN  
*Attorney General*

By: DAVID M. SATZ, JR.  
*Deputy Attorney General*

JULY 10, 1958

MR. W. LEWIS BAMBRICK  
*Unsatisfied Claim & Judgment Fund Board*  
222 West State Street  
Trenton 25, New Jersey

MEMORANDUM OPINION—P-21

DEAR MR. BAMBRICK:

You have requested our opinion as to the rate of interest to be paid by a judgment debtor on a judgment which has been assigned to the Director of the Division of Motor Vehicles pursuant to the provisions of the Unsatisfied Claim and Judgment Fund Law. The act provides that before payment is made from the fund to one who has recovered an uncollectible judgment against an uninsured motorist, the