

stock of the corporation, rather than on the smaller amount which was actually outstanding. The bankruptcy court, however, set aside the assessment on the tax on the basis of the authorized stock and reduced it to an amount appropriate in view of the number of shares actually outstanding. The U.S. Supreme Court upheld the reduction of the assessment by the bankruptcy court. To the same effect, see *In re Monongahela Rye Liquors*, 141 F. 2d 864 (3d Cir. 1944); *In re Spier Aircraft Corp.*, 66 F. Supp. 236 (D.N.J. 1945) aff'd 156 F. 2d 62 (3d Cir. 1946) cert. denied 329 U.S. 729 (1946). Cf. *Arkansas Corporation Commission v. Thompson*, 313 U.S. 132 (1941).

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: MURRY BROCHIN  
*Deputy Attorney General*

DECEMBER 31, 1959

HONORABLE BRENDAN T. BYRNE  
*Prosecutor of Essex County*  
Court House  
Newark, New Jersey

MEMORANDUM OPINION 1959—P-25

DEAR PROSECUTOR:

You have asked whether the provisions of L. 1959, c. 161, which increase the number of county detectives and the number of county investigators, require approval by the Board of Chosen Freeholders before taking effect.

Section 1 of the act amends N.J.S. 2A:157-3 to increase the authorized number of county detectives in a first class county, such as Essex, from 18 to 24. Section 7 of the act amends N.J.S. 2A:157-11 to increase the authorized number of investigators from 18 to 24. These sections also increase the minimum salaries payable to detectives and investigators.

Section 13 of the act provides that the increases in minimum salaries shall not become operative in any county until adopted by resolution of the Board of Freeholders. However, there is no provision requiring approval by the Freeholders of the increase in the number of detectives and investigators. The failure to require approval by the Freeholders except as to salary changes is indicative of a legislative intention that no such resolution is necessary to make effective the increase in the number of authorized detectives and investigators. In this regard, L. 1959, c. 161 is self-executing.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: WILLIAM L. BOYAN  
*Deputy Attorney General*