

purposes. An examination of Chapter 110 of the Laws of 1948, (N.J.S.A. 43:21-25 et seq.), leads us to a like conclusion.

N.J.S.A. 43:21-46 which established the State Disability Benefits Fund expressly provided:

“* * * The fund shall be held in trust for the payment of disability benefits pursuant to this act, for the payment of benefits pursuant to subsection (f) of section 43:21-4 of the Revised Statutes, and for the payment of any authorized refunds of contributions. * * *”

In view of this expressed provision limiting the use of the Fund, it is clear that the general provisions of Chapter 60 of the Laws of 1950 cannot be held applicable to said Fund to effect a transfer of moneys in the Fund to the General Treasury.

It is a settled principle of law that where there is a seeming conflict between a general statute and a specific statute covering a subject in a more detailed and definite way, the latter shall prevail over the former and will be considered an exception to the general statute. *Goff v. Hunt*, 6 N.J. 600 (1951); *State of New Jersey v. Hotel Bar Foods*, 18 N.J. 115 (1955).

This Fund was started (N.J.S.A. 43:21-47) by a withdrawal of \$50,000,000 from the accumulated workers contributions in the Unemployment Compensation Fund, deposited in and credited to the account of the State of New Jersey in the Unemployment Trust Fund of the United States of America, established and maintained pursuant to Sec. 904 of the Social Security Act as amended, (42 U.S.C. § 1104), and has since been maintained by contributions of workers and employers as provided in N.J.S.A. 43:21-7 (d) and (e). This indicates that the moneys in this Fund are not “State funds” within the meaning of Chapter 60, Laws of 1948.

It is, therefore, our opinion and you are so advised that Chapter 60 of the Laws of 1950 does not apply to checks drawn on the State Disability Benefits Fund and the moneys held on deposit for the payment of such checks are not transferable to the State Treasury for general purposes under Chapter 60 of the Laws of 1950.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: CHARLES J. KEHOE
Deputy Attorney General

May 26, 1960.

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

MEMORANDUM OPINION—P-12

DEAR SECRETARY PATTEN:

You have asked whether domestic corporations engaged in the banking, insurance, loan or other financial business are required to file annual reports with the Secretary of State pursuant to N.J.S.A. 14:6-2.

N.J.S.A. 14:6-2 provides:

“Every domestic and every foreign corporation doing business in this state shall file in the office of the Secretary of State, within thirty days after the first election of directors and officers, and annually thereafter, within thirty days after the time appointed for holding the annual election of directors, a report authenticated by the signatures of the president and one other officer, or by any two directors, stating: . . .”

Subsection “g” of that statute states, “no part of this section shall apply to corporations under the supervision of the department of banking and insurance.” The legal question presented by your request for an opinion is, therefore, whether domestic corporations engaged in the banking, insurance, loan or other financial business are “under the supervision of the department of banking and insurance” within the meaning of N.J.S.A. 14:6-2g.

The statutory provision requiring corporations to file annual statements in the office of the Secretary of State was originally enacted as *L. 1896, c. 185, p. 291, § 43*. It expressly excluded from its filing requirements “any corporation which is required to file a similar statement in the office of the commissioner of banking and insurance.” That statute was amended by *L. 1900, c. 124, p. 313, § 43*. The latter statute excluded from its requirements such “corporations as are now by law under the supervision of the department of banking and insurance.” The exclusionary provision which appears in the present form of the statute is substantially similar. *L. 1953, c. 14, p. 107, § 2*. The change in the statutory exclusion from its original form to the form which appears in the present law emphasizes that all corporations which are “under the supervision of the department of banking and insurance,” regardless of whether or not they are required “to file a similar statement” with that department, are exempt from the obligation of filing an annual statement with the Secretary of State pursuant to N.J.S.A. 14:6-2.

The Department of Banking and Insurance is expressly “charged with the execution of all laws relative to insurance, banking, savings, trusts, guaranty, safe deposit, indemnity, mortgage, investment and loan corporations,” including “building and loan corporations or associations.” N.J.S.A. 17:1-1. This general charge is implemented by numerous specific statutes, including those requiring that corporations which are subject to the supervision of the Department of Banking and Insurance file annual statements with the Commissioner of Banking and Insurance or otherwise supply him with information similar to that required by N.J.S.A. 14:6-2. Such information is required from banks (N.J.S.A. 17:9A-252 to 256; 17:9A-323 to 325), small loan companies (N.J.S.A. 17:10-12), provident loan associations (N.J.S.A. 17:11-8), savings and loan associations (N.J.S.A. 17:12A-85; 17:12A-110), credit unions (N.J.S.A. 17:13-49), check cashing companies (N.J.S.A. 17:15A-25), investment companies (N.J.S.A. 17:16A-13), insurance companies (N.J.S.A. 17:23-1; 17:35-8; 17:35-19), mutual benefit associations (N.J.S.A. 17:45-12), hospital service corporations (N.J.S.A. 17:48-11), medical service corporations (N.J.S.A. 17:48A-15) and business development corporations (N.J.S.A. 17:52-22). Safe deposit companies are also subject to the supervision of the Department of Banking and Insurance (N.J.S.A. 17:1-1; 17:14-1 et seq.), but there is no express requirement that they file annual reports.

You are, therefore, advised that all corporations, domestic or foreign, of the specific types enumerated above, or of similar types, which are engaged in the banking,

insurance, loan or other financial business and which, pursuant to specific statute, are under the active supervision of the Department of Banking and Insurance, are exempt from the requirements of N.J.S.A. 14:6-2. All other domestic corporations and all other foreign corporations doing business in this State must file annual reports with the Secretary of State pursuant to N.J.S.A. 14:6-2.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: MURRY BROCHIN
Deputy Attorney General

June 9, 1960.

HONORABLE JOHN A. KERVICK
State Treasurer of New Jersey
State House
Trenton 25, New Jersey

MEMORANDUM OPINION—P-13

DEAR MR. KERVICK:

The Board of Trustees of the Public Employees' Retirement System has inquired as to their authority to enroll certain local employees in the Retirement System.

After a request by certain employees of the school board, on September 25, 1958, at a special meeting of the Township Committee of Brick, the following question was ordered to be placed upon the ballots in the 1958 general election:

"Shall the Public Employees' Retirement System (R.S. 43:15A-1 to 86) be adopted and put into effect in the Township of Brick as to the employees of the Board of Education of the Township of Brick who are not members of or eligible to join the Teachers' Pension and Annuity Fund?"

This referendum received an affirmative vote.

You ask whether the above question may be treated as a vote upon the adoption of the Retirement System for all municipal employees in Brick Township. Obviously, by its express language, the referendum appeared to deal solely with "employees of the Board of Education" and not employees of the Township. To give the referendum a broader effect, by including all municipal employees, through a process of implication, would violate the provisions of N.J.S.A. 19:3-6, would tend to mislead the voters and would therefore become legally ineffectual. *See also: Bothin v. Westwood*, 52 N.J. Super. 416 (App. Div. 1958), appeal dismissed 28 N.J. 218 (1958). In view of the conclusions reached herein the referendum in question was of no force or effect and, at most the only effect that it could have is that of determining the sentiment of the voters, as set forth in the preamble of the resolution authorizing the referendum. Non-binding referenda under certain circumstances are permitted by N.J.S.A. 19:37-1 *et seq.*

Municipal employees of the Township of Brick, Ocean County, were not previously covered by the State Employees' Retirement System, Title 43, chapters 14 and 15, nor has the governing body of that municipality directed that the question of the adoption of the Public Employees' Retirement-Social Security Integration Act, N.J.S.A.