

1961, § 24.101, et seq.; M.S.A. 1961 Rev. Vol. § 3.560(21.1) et seq. This hearing would have to establish by legally sufficient evidence the presence of substantial grounds in order to support removal "for cause."

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**MUNICIPAL FINANCE COMMISSION:** Membership service by representative.

**DEPUTIES IN PRINCIPAL DEPARTMENTS:** Serving as member of Municipal Finance Commission.

**STATE TREASURER:** Designation of representative to serve on Municipal Finance Commission.

The State Treasurer as head of the Department of Treasury and as an ex officio member of the Municipal Finance Commission may designate as his representative to serve on such Commission his chief deputy or any one of the other three deputies in his Department. Such appointment shall be in writing and may be made for a specific meeting or meetings or for a specific period of time or until revoked.

No. 4505

August 8, 1966.

Mr. E. Boomie Mikrut, Director  
Municipal Finance Commission  
Box 448  
Lansing, Michigan

You have requested my opinion in response to a question stated by you as follows:

"May the State Treasurer act through his chief deputy state treasurer and any of the other three deputies as a member of the Municipal Finance Commission or is he limited to act only through his chief deputy?"

Act 202 P.A. 1943 is known as the Municipal Finance Act, being C.L. 1948 § 131.1, M.S.A. 1958 Rev. Vol. § 5.3188(1). Section 1 of Chapter II of the Municipal Finance Act creates the Municipal Finance Commission and prescribes that the membership shall be composed of State Treasurer, the Attorney General, the Auditor General, and the Superintendent of Public Instruction.<sup>1</sup> Said Section 1 in part provides:

"Each member of the commission for the purposes of this act, may act under any and all circumstances through his deputy."

In the case of *Chemical Bank & Trust Co. v. County of Oakland*, 264

<sup>1</sup> The office of elected Auditor General has now been abolished. See Act 380 P.A. 1965.

Mich. 673, 686, the Supreme Court held that membership on the "loan board" created by Act 26 P.A. 1931 was ex officio service.<sup>2</sup>

Your question requires the interpretation and proper application of the pertinent portions of the Municipal Finance Act and the provisions of Act 17, P.A. 1964. Act 17, P.A. 1964 in its entirety reads as follows:

"Notwithstanding any other law to the contrary, a state executive or administrative officer, or the head of a department, commission, board or other state agency, may appoint in writing a deputy or other employee of his department to serve in his place as a member of any board, commission or agency of which he is made by law an ex officio member. When the initial executive reorganization is completed pursuant to section 2 of article 5 of the state constitution such appointment shall only be made by the head of the department. The appointment may be made for a specific meeting or meetings or a specific period of time or until revoked by the official making the appointment but such appointment shall terminate whenever the appointing official is no longer eligible to serve in such capacity."<sup>3</sup>

Our Court in the case of *Rathbun v. State of Michigan*, 284 Mich. 521, 543, quoted with approval the following statement from Corpus Juris:

"Statutes *in pari materia* are those which relate to the same person or thing, or to the same class of persons or things, or which have a common purpose; and although an act may incidentally refer to the same subject as another act, it is not *in pari materia* if its scope and aim are distinct and unconnected. It is a well-established rule that in the construction of a particular statute, or in the interpretation of its provisions, all statutes relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law, although they were enacted at different times, and contain no reference to one another."<sup>4</sup>

In the case of *Nathaniel Simpkins, et al v. John E. Ward, County Treasurer, et al*, 45 Mich. 559, it was decided that statutes *in pari materia* must be construed together and the meaning of later enactments determined by comparing them with the others. As said in *People v. Buckley*, 302 Mich. 12, 22:

"The courts will regard all statutes on the same general subject as part of one system and later statutes should be construed as supplementary to those preceding them, (citations omitted)."<sup>5</sup>

<sup>2</sup> The Loan Board was the predecessor to the Public Debt Commission which in turn was succeeded by the Municipal Finance Commission. C.L. 1948 § 138.2, M.S.A. 1958 Rev. Vol. § 5.3188(49).

<sup>3</sup> Section 2 of Article V of the State Constitution to which reference is made in Act 17 P.A. 1964 provides for the allocation of all executive and administrative offices, agencies and instrumentalities of the executive branch of state government among and within not more than 20 principal departments. The allocation has been made by Act 380 P.A. 1965 as amended by Act 407 P.A. 1965.

<sup>4</sup> This case was followed in the later case of *Palmer v. State Land Office Board*, 304 Mich. 628, at 636.

<sup>5</sup> Quoted with approval in *Valentine v. Redford Township Supervisor*, 371 Mich. 138, at 144.

If two or more statutes dealing with the same subject matter cannot be construed as being *in pari materia* then the latest enactment will control and where its provisions are so at variance with those of the earlier act that both cannot be given effect, then it will be presumed that the legislature intended a repeal by implication although an express repeal is lacking. *Southward v. Wabash Railroad Company*, 331 Mich. 138.

But repeals by implication are not favored. *The People v. Martin J. Gustin*, 57 Mich. 407, 408. In the case of *Jackson v. Michigan Corrections Commission*, 313 Mich. 352, 356, the rule has been stated by the Supreme Court in these words:

"The presumption is against a repeal by implication, the theory being that had the legislature intended a repeal it would have expressly so stated, designating the specific acts or parts of act repealed. If possible, the earlier and later statutes concerned in any case must be construed together and each given force and effect."

As said by the Supreme Court in the *Gustin* case, supra:

"The question of repeal is largely one of intent, and if the two statutes can stand and both have effect, they must be allowed to do so."  
(page 408)

Applying the guidelines announced in the foregoing cases, I am of the opinion that the quoted language from Section 1 of Chapter II of the Municipal Finance Act, supra, and Act 17 P.A. 1964 are to be construed as being *in pari materia*. I read Act 17 P.A. 1964 as but an enlargement of the authority to appoint appearing in the prior act. Power to name the deputy as the representative has not been lost but such designation is no longer an exclusive one. I conclude therefore that Act 17 P.A. 1964 is applicable to membership service on the Municipal Finance Commission.

The language of Act 17 P.A. 1964 is free from ambiguity. In such a situation the following rules of statutory construction, announced by our Supreme Court, are to be applied:

Where the statute is plain and unambiguous in its terms; the courts have nothing to do but to obey it. The fair and natural import of the terms employed, in view of the subject matter of the law, is what should govern.

*The People on relation of Daniel S. Twitchell v. Blodgett*, 13 Mich. 127, 167

*MacQueen v. City Commission of City of Port Huron*, 194 Mich. 328, 342

*Jones v. Grand Ledge Public Schools*, 349 Mich. 1, 9

*Romeo Homes, Inc., v. Commissioner of Revenue*, 361 Mich. 128, 135

Clear, distinct and unequivocal wording of a legislative enactment does not admit of judicial construction.

*Staiger v. Liquor Control Commission*, 336 Mich. 630, 633

*Mason County Civic Research Council v. Mason County*, 343 Mich. 313, 332

Your question is readily answered by reference to the provisions of foregoing Act 17 P.A. 1964. Under Act 380 P.A. 1965 (M.S.A. 1965 Cum. Supp. § 3.29(1) et seq.) the state treasurer is designated as the head of the Department of Treasury. Pursuant to Act 17 P.A. 1964, supra, the state treasurer as head of that Department may designate his chief deputy or any of the other three deputies in his Department to serve as his representative on the Municipal Finance Commission, such designation to be in writing and to be for either a specific meeting or meetings or for a specific period of time or until revoked.

Consideration has also been given to Section 6 of Act 380 P.A. 1965, supra, which in part provides:

“Deputy department heads shall perform such duties and exercise such powers as the head of the principal department may prescribe.”

In my opinion this provision adds nothing to nor does it effect a change in the designation process detailed in Act 17 P.A. 1964, supra. If a department head determines that the deputy department head shall exercise the powers conferred upon the head of the department as a member of the Municipal Finance Commission, then in prescribing the performance thereof the prescription shall be in writing and in conformity to Act 17 P.A. 1964.

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