

Finally, you asked about a county forestry commission established pursuant to section 3 of Act 217, P.A. 1931, as amended,<sup>13</sup> which states:

"The legislative body of any municipality desiring to proceed under this act may appoint a forestry commission for the municipality to consist of 3 members, only 1 of whom shall be a member of the legislative body making such appointment. The members of such commission shall hold office for a term of 4 years and until their successors are appointed and have qualified, except that when first appointed 1 shall be appointed for a term of 4 years, 1 for a term of 3 years, and 1 for a term of 2 years. Any vacancy shall be filled by appointment by the legislative body at any regular session."

The act is silent as to any compensation for members of the commission. Therefore, if the county board of supervisors appoints one of its members to the forestry commission, as authorized by section 3, he could only receive compensation for such services if the commission is a committee of the county board of supervisors. Examination of the other provisions of Act 217 does not reveal an intent to create a forestry committee of the board of supervisors, but rather indicates that this commission, like a district board of health, has a degree of autonomy not found in a committee of the board of supervisors. Thus, it is my opinion that a member of a county board of supervisors who serves on a county forestry commission cannot receive compensation for his services.

FRANK J. KELLY,  
*Attorney General.*

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CIVIL SERVICE: Police and Firemen.  
FIRE DEPARTMENTS: Civil Service.

Position of fireman chauffeur may be abolished by reclassification. Whether or not the abolition of that position by reclassification of positions was lawful would depend on the circumstances.

No. 4190

November 5, 1963.

Honorable E. D. O'Brien  
State Representative  
The Capitol  
Lansing, Michigan

I have received your letter asking my opinion on a question arising under Act 78, P.A. 1935, as amended,<sup>1</sup> which provides for the establishment of a civil service system for fire and/or police departments.

Your question and the accompanying example was stated substantially as follows:

<sup>13</sup> C.L.S. 1956 § 320.203; M.S.A. 1958 Rev. Vol. § 13.283.

<sup>1</sup> C.L. 1948 and C.L.S. 1956 § 38.501 et seq. and Acts 43 and 94, P.A. 1957; M.S.A. 1958 Rev. Vol. § 5.3351 et seq.

In the Saginaw fire department there has been for many years the position of fireman chauffeur with duties including the driving of fire apparatus. This position is paid a salary greater than that of a fireman because of the added responsibility. Can the city manager do away with that position and make former fireman chauffeurs do fireman chauffeurs' work at firemen's pay?

An examination has been made of the Saginaw City Charter<sup>2</sup> as well as Act 78 in order to answer this question. Section 25 of the charter provides for the appointment of a city manager and section 29 gives him the power to appoint and remove, subject to the provisions of the charter, all officers and employees in the administrative service of the city. Or he may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Section 31 directs the manager to fill certain positions by appointment. Among these positions is that of fire chief. Therefore, it is my opinion that the city manager, or the fire chief if he has been so authorized by the city manager, is both the appointing officer and the removing officer for the Saginaw Fire Department. The appointments made by that official, however, must be persons certified as qualified by the civil service commission, and the removals are subject to the removed person's right to receive a public hearing before the civil service commission.<sup>3</sup>

Section 40 of the city charter provides in part:

"At the request of the manager the personnel advisory board shall create eligibility lists, a system of classification and give him such other assistance in personnel matters as occasion requires to the end that there shall be provided a fair and impartial approach to municipal employment based upon the fitness, training and experience of the applicant with no discrimination on account of political or religious opinions; but at the same time without in any sense handicapping the responsible administrative officers in securing efficient service."

Therefore, it is my opinion that pursuant to this section the city manager could request the personnel advisory board to establish a new system of classification for the positions in the fire department and to consolidate into one position the present duties of the position of fireman chauffeur and fireman. Such a reclassification would, in effect, abolish the present position of fireman chauffeur.<sup>4</sup> Whether or not the abolition of that position by this reclassification of positions was lawful would depend on the circumstances. The abolition of the position by reclassification might be motivated by reasons of economy or efficiency or other justifiable cause or might be initiated because of political, religious or personal prejudices. In cases of dispute, proof of the facts may be controlling and cannot be settled by my opinion.

<sup>2</sup> Approved by electors October 14, 1935. Although there have been a number of amendments to the charter since its approval, none of them are relevant to the questions herein discussed.

<sup>3</sup> See sections 11 and 14 of Act 78, P.A. 1935, as amended.

<sup>4</sup> See *Fricke v. City of Grand Rapids*, 278 Mich. 323 (1936).

In the event the present position of fireman chauffeur is eliminated, anyone who is reduced in rank or pay may demand a hearing before the civil service commission if he feels aggrieved. Section 14 of Act 78 specifically so provides as follows:

“\* \* \* No member of any fire or police department within the terms of this act shall be removed, discharged, reduced in rank or pay, suspended or otherwise punished except for cause, and in no event until he shall have been furnished with a written statement of the charges and the reasons for such actions, and all charges shall be void unless filed within 90 days of the date of the violation, except in the case of a probationer, whose violations may accumulate for the probationary period. In every case of charges having been made a copy of the statement of reasons therefor and answer thereto, if the person sought to be removed desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. Such answer shall be filed by the member within 5 days after service of the charges upon him. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of 10 days from the filing of the charges in writing and a written answer thereto. \* \* \*”

FRANK J. KELLEY,  
*Attorney General.*

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**MACKINAC ISLAND STATE PARK COMMISSION: Powers of Commission.**

Mackinac Island State Park Commission is without power to construct and acquire an approved airport upon the state park lands on Mackinac Island.

Lease of state park lands to the City of Mackinac Island for the purpose of construction of an approved airport would constitute a non-state park use, subjecting state park lands to revert to the United States.

Mackinac Island State Park Commission has no statutory authority to lease state park lands to the City of Mackinac Island for approved airport purposes.

No. 4162

November 18, 1963.

Mr. Walter J. Murray, Chairman  
Mackinac Island State Park Commission  
3965 Penobscot Building  
Detroit, Michigan

You have requested my opinion on the following questions:

1. Does the Mackinac Island State Park Commission have authority to construct, maintain and operate an airport?
2. Would a lease for airport purposes cause the park property to be subject to the reversionary clause contained in the original grant of conveyance to the State of Michigan?