

To similar effect is the provision of 29 USCA 848(a)(1)(B) that financial assistance under the Act "will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits)".

Therefore, it is clear that the usual civil service process must be followed in filling positions with the township fire department even if funds under the Comprehensive Employment and Training Act are available to compensate civilian employees performing a similar function.

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**COUNTIES:** Lease to tenant of county property for a period longer than commissioners' term

A county board of commissioners may lease a county-owned building determined to be excess to the needs of the county to a private individual for a period longer than the commissioners' terms of office.

Opinion No. 4938

January 30, 1976.

Hon. Dale E. Kildee  
State Senator  
Capitol Building  
Lansing, Michigan

You have requested my opinion as to whether a board of commissioners may lease a county-owned building to a private individual for a period longer than the commissioners' terms of office.

Pursuant to 1851 PA 156, § 11; MCLA 46.11; MSA 5.331, county boards of commissioners are authorized to sell or lease county-owned real estate. In addition, there is specific statutory authority which permits a county to lease for a period of years, not exceeding 30 years, aeronautical facilities, or real property acquired or set apart for that purpose, provided that "the public [is] not deprived of its rightful, equal and uniform use thereof." 1945 PA 327, § 133; MCLA 259.133; MSA 10.233.

A lease being a contract, the general rule with respect to the power of county boards of commissioners to enter into contracts which extend beyond their term of office, is set forth in 56 Am Jur 2d, Municipal Corporations, § 154, pp 206-209, which provides:

" . . . Thus, where the contract involved relates to governmental or legislative functions of the [board], or involves a matter of discretion to be exercised by the [board] unless the statute conferring power to contract clearly authorizes the [board] to make a contract extending beyond its own term, no power of the [board] so to do exists, since the power conferred upon municipal [boards] to exercise legislative or governmental functions is conferred to be exercised as often as may be found needful or politic, and the [board] presently holding such powers is vested with no discretion to circumscribe or limit or diminish their efficiency, but must transmit them unimpaired to their

successors. But in the exercise of the business powers of a municipal corporation, the municipality and its officers are controlled by no such rule, and they may lawfully exercise these powers in the same way, and in their exercise the municipality will be governed by the same rules which control a private individual or a business corporation under like circumstances. Under this distinction, it is generally held that a municipal [board] may contract for water supply, street lighting, gas supply, etc., and bind subsequent boards, such contracts being made in the exercise of the [municipality's] business or proprietary powers, although a contract of this kind must be reasonable in the length of time for which it is to extend. The [board] may lease its property for a term extending beyond the term of the council, or it may lease property from others. . . .

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“ . . . Thus, it is held that such a board cannot contract in reference to matters which are personal to their successors. But if a board of county commissioners has express power to make a particular contract at any time during its term of office, a contract made by such board, in accordance with the law, a short time before the expiration of its term of office is not contrary to public policy and, in the absence of fraud, is valid and binding upon an incoming board of commissioners, although it extends far into their term of office. The ground for this rule is that a board of county commissioners is a continuously existing corporation, and, consequently, while the personnel of its membership changes, the corporation continues unchanged. Since its contracts are the contracts of the board and not of its members, it follows that those contracts extending beyond the term of service of its then members are not invalid, for that reason.”

Therefore, in response to your question, a county board of commissioners may lease a county-owned building which has been determined to be excess to the needs of the county to a private individual for a period longer than the commissioners' terms of office. See OAG, 1948-1949, No 242, p 258 (April 18, 1948).

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**MOBILE HOMES:** Residential Builders Maintenance and Alteration  
Contractors Licensing Act

**RESIDENTIAL BUILDERS:** Mobile homes

**WORDS AND PHRASES:** “Residential property”  
“Mobile homes”

A person who, for consideration, undertakes with another to repair or alter a mobile home, including set-up and connections with plumbing and electricity, is required to be licensed under the residential builders maintenance and alteration contractors licensing act.