

1982 S.C. Op. Atty. Gen. 18 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-14, 1982 WL 154984

Office of the Attorney General

State of South Carolina

Opinion No. 82-14

March 12, 1982

***1 SUBJECT: Taxation—(a) Authority of the County Treasurer to Assume Duties of the County Tax Collector. (b) The Office Responsible for Collection of Delinquent Tax Should the Tax Collector's Office Be Abolished.**

(1) The Treasurer of Aiken County cannot voluntarily assume the duties of the office of the Aiken County Tax Collector.

(2) Should the office of the Aiken County Tax Collector be abolished, the duties of the office would be transferred by operation of general law to the office of the Aiken County Sheriff.

TO: Honorable Irene K. Rudnick
Representative
District No. 85—Aiken County

QUESTIONS:

1. Can the County Treasurer of Aiken County Voluntarily assume the duties of the office of the County Tax Collector?
2. If the office of the County Tax Collection was abolished, would the duties thereof be devolved upon the office of the County Sheriff?

APPLICABLE LAW: §§ 4–9–30, 12–45–10 and 12–49–410 of the 1976 Code of Laws; Act 629, Acts of 1954; [Article VIII, § 7 of the South Carolina Constitution](#).

DISCUSSION:

Question 1. The office of County Treasurer is created by [§ 12–45–10](#), et seq., which also provides the powers thereof. The powers so provided cannot be extended or limited by the Treasurer.

'In general, the powers and duties of the officers are prescribed by the constitution or by statute, or both, and they are measured by the terms and necessary implication of the grant, and must be executed in the manner directed and by the officer specified. If broader powers are desirable, they must be conferred by the proper authority. They cannot be merely assumed by administrative officers, nor can they be created by the courts in the proper exercise of their judicial functions. * * *.' 63 Am.Jur.2d, [Public Officers and Employees](#), § 263, p. 782.

The office and duties of the Tax Collector of Aiken County are provided by Act 629, Acts of 1954. The duties are specifically assigned this office.

CONCLUSION:

It is the opinion of this office that the Treasurer of Aiken County cannot voluntarily assume the duties of the office of the Aiken County Tax Collector.

Question 2. [Article VIII, § 7 of the South Carolina Constitution](#) provides that the General Assembly shall provide by general law for the ‘* * * powers, duties, functions * * *’ of the counties. Acting pursuant thereto the General Assembly provided the powers of the county governing body. The same are set forth in [§ 4–9–30 of the 1976 Code](#). The restrictive language is that the governing body shall have certain enumerated powers subject to:
‘* * * the constitution and the general law of this State * * *.’

The office of the Aiken County Tax Collector was created by the special 1954 Act. It specifically transferred to that office:
‘All powers and duties formerly vested in the Sheriff of Aiken County, relative to the collection of delinquent taxes, seizure and sale of property and similar matters * * *.’

*2 Those duties are under present general law assigned to the County Sheriff. [Section 12–49–410](#), et seq. If the office of Tax Collector was abolished, then under such circumstances, the duties would under general law be transferred to the Aiken County Sheriff.

CONCLUSION:

It is the opinion of this office that should the office of the Aiken County Tax Collector be abolished, the duties of the office would be transferred by operation of general law to the office of the Aiken County Sheriff.

Joe L. Allen, Jr.
Deputy Attorney General

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