

1979 S.C. Op. Atty. Gen. 63 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-44, 1979 WL 29050

Office of the Attorney General

State of South Carolina

Opinion No. 79-44

March 9, 1979

***1 SUBJECT: Property Tax—The Assessor for Florence County and His Duties As the Same Relate to the Florence County Board of Assessment Control.**

(1) The provisions of Act 819, Acts of 1964, conferring authority upon the Board of Assessment Control of Florence County to establish policy for the assessor's office were repealed by Act 208, Acts of 1975, as amended by Act 618, Acts of 1976.

(2) The Board under provisions of Section 3 of Act 283, Acts of 1975, continues to possess authority to employ the assessor.

TO: Peter D. Hyman, Esq.
Florence County Attorney

QUESTION:

The Florence County Board of Assessment Control was created by Act 819, Acts of 1964, and given certain powers. Among such was the authority to employ the assessor and to authorize the assessor to employ other personnel. Section 4 of the Act gives certain powers to the assessor 'subject, however, to policy as determined by the board.' Act 208, Acts of 1975, as amended by Act 618, Acts of 1976 and codified as Section 12-37-90, provides in part as follows:

'The assessor shall be responsible for the operation of his office and shall:

(h) Be the sole person responsible for the valuation of real property except that required by law to be appraised and assessed by the commission, and the values set by the assessor shall be altered only by the assessor or by legally constituted appellate boards, the commission or the courts.'

Under such circumstances, what is the responsibility of the board concerning employment of the assessor and the setting of policy for that office?

APPLICABLE LAW:

Act 819, Acts of 1964 as amended by Act 82, Acts of 1966, and as amended by Act 935, Acts of 1970; Act 208, Acts of 1975 as amended by Act 618, Acts of 1976, now codified in part as Section 12-37-90, and Section 3 of Act 283, Acts of 1975.

DISCUSSION:

We concur in your conclusion that the assessor is no longer required to operate 'subject * * * to policy as determined by the board.' This provision and those of Act 208 and Act 618 are in conflict and the later acts would control.

'The last act of the legislature is the law, and has the effect of repealing all prior inconsistent laws.' [Garey v. City of Myrtle Beach](#), 263 S. C. 247, 209 S. E. 2d 893. For other cases see [17 S. C. D., Statutes](#), Key 159.

The assessor could not be solely responsible for the valuation of property or responsible for the operation of his office if such were necessarily done under policies of the board. The board's powers relating thereto were repealed by the 1975 and 1976 acts.

Whether the board continues to have authority to employ the assessor and grant approval for other employees is more complex. The home rule act codified in part in Section 4-9-30 provides:

'Under each of the alternate forms of government listed in § 4-9-20, except the board of commissioner form provided for in Article 11, each county government within the authority granted by the Constitution and subject to the general law of this State shall have the following enumerated powers which shall be exercised by the respective governing bodies thereof:

*2 (6) to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title.

(7) to develop personnel system policies and procedures for county employees by which all county employees are regulated except those elected directly by the people, and to be responsible for the employment and discharge of county personnel in those county departments in which the employment authority shall not extend to any personnel employed in departments or agencies under the direction of an elected official or an official appointed by an authority outside county government.' (Emphasis added)

It is understood that the county has adopted the Council—Administrator form of government. Section 4-9-630 provides the duties of the Administrator and subsection (8) provides:

'The powers and duties of the administrator shall include, but not be limited to, the following:

(8) to be responsible for employment and discharge of personnel subject to the provisions of subsection (7) of § 4-9-30 and subject to the appropriation of funds by the council for that purpose;'

An exception to the above was however set forth in Section 3 of Act 283, Acts of 1975 (the Home Rule Act). The applicable language is that:

'All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly, or until January 1, 1980, whichever time is sooner * * *.'

This language is found in the Editor's note to [Section 4-9-10 of the 1976 Code](#). It has been the consistent advice of this office that this language is controlling.

By reason thereof, the Board continues to have the authority to employ the assessor until January 1, 1980 unless earlier amended by Act of the General Assembly. The board would also have such authority after January 1, 1980 unless the governing body by ordinance should provide otherwise.

CONCLUSION:

(1) The provisions of Act 819, Acts of 1964, conferring authority upon the Board of Assessment Control of Florence County to establish policy for the assessor's office were repealed by Act 208, Acts of 1975, as amended by Act 618, Acts of 1976. (2) The Board under provisions of Section 3 of Act 283, Acts of 1975, continues to possess authority to employ the assessor.

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