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Office of the Attorney General

State of South Carolina

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\*1 The duties of the Jasper County Board of Assessors that relate to the ?? of property for tax purposes, which are now vested in the tax assessor, ?? by Acts 208 and 618 and the power to appoint the assessor is presently ?? in the Board of Assessors.

Mr. Marvin E. Vaigneur  
Administrator  
Jasper County Council

### QUESTION

Under Act 208, Acts of 1975, as amended by Act 618, Acts of 1976, are the duties of the Jasper County Board of Assessors restricted to those of hearing appeals from property assessments and, if so, what body has administrative authority over the tax assessor?

### STATUTES INVOLVED

Act 1351, Acts of 1968, Act 208, Acts of 1975, Act 618, Acts of 1976 and Act 283, Acts of 1975.

### DISCUSSION

Act 1351 creates the Jasper County Board of Assessors whose membership is by appointment of the Governor. The duties of the Board are prescribed by Section 3 of the above Act and in part are the same duties that were delegated to the tax assessor by Act 208, Acts of 1975 and Act 618, Acts of 1976. The 1975 and 1976 Acts also provide that:

‘All counties shall have a full-time assessor, whose responsibility is appraising and listing all property \* \* \*.’

‘The assessor shall be responsible for the operations of his office and shall \* \* \* (1) Be the sole person responsible for the valuation of real property \* \* \*, and the values set by the assessor shall be altered only by the assessor or by legally constituted appellate board, commission or the courts.’

The duties of the Board as the same relate to the assessment of property for taxation clearly conflict with the duties of the assessor in that the two have substantially the same responsibilities and, because of such, the statutes delegating such duties to the Board are repealed.

‘In a case of conflict between statutes, the last legislative expression ordinarily governs.’ [South Carolina Electric & Gas Co. v. South Carolina Public Service Authority](#), 215 S. C. 193, 54 S. E. 2d 777.

Another settled rule of construction is that:

‘Where the later of two acts covers the whole subject matter of the earlier one, not purporting to amend it, and plainly showing that it was intended to be a substitute for the earlier act, the later act will operate as a repeal of the earlier one, though the two are not repugnant.’ [Independence Ins. Co. v. Independent Life & Acc. Ins. Co.](#), 218 S. C. 22, 61 S. E. 2d 399.

We have, however, previously advised that the Board continues to possess the duty prescribed by Section 3(g) of the 1968 Act to hear and determine appeals by property owners from actions by the tax assessor.

The person or board that has administrative authority over the tax assessor is not prescribed by the 1975 and 1976 Acts. Section 4 of the 1968 Act, however, provides in part that:

'There is hereby created the office of the tax assessor of Jasper County who shall be appointed by the Board of Assessors for a term of four years and until his successor is appointed and qualifies. \* \* \*.' (Emphasis added)

\*2 We find no conflict with that provision and Acts 208 of 1975 and 618 of 1976, however, the effect of Act 283, Acts of 1975, upon this question should be considered. Section 4-9-30 of the 1976 Code of Laws (a part of Act 283) provides in part that: 'Under each of the alternate forms of government listed in Section 4-9-20, \* \* \*, 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: \* \* \*.'

(7) \* \* \* to be responsible for the employment and discharge of county personnel in those county departments in which the employment authority is vested in the county government but this 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)

Subsection (6) of Section 4-9-30 provides that the governing body shall:

(6) \* \* \* 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 proscribe 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;'

Therefore, until the governing body of the county, by ordinance, elects to alter the requirement of Section 4 of the 1968 Act by transferring the same to the Administrator under Section 4-9-630 of the 1976 Code, the Board of Assessors will continue to have appointive powers for the Tax Assessor.

#### CONCLUSION

The duties of the Board that relate to the assessment of property for tax purposes, which are now vested in the tax assessor, were repealed by Acts 208 and 618 and the power to appoint the assessor is presently vested in the Board of Assessors.

Joe L. Allen, Jr.  
Deputy Attorney General

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