

1979 WL 43237 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 22, 1979

*1 W. E. Jenkinson, III, Esquire
Attorney at Law
Post Office Drawer 669
Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

In response to your inquiries concerning the Williamsburg County Tax Collector, I can advise you as follows:

1. It appears that the present term of the Tax Collector began on July 1, 1979, and will terminate on June 30, 1983, pursuant to the provisions of Act No. 240 of 1947. 45 STAT. 482 (1947). That statute set the term of office at four years, the first term of which was to terminate on June 30, 1951. Act No. 240 of 1947, § 2 [45 STAT. at 483 (1947)]. My understanding is that the individual who held the office continuously for the past twenty years until 1976 did so without successive reappointments thereto; if so, he was a hold-over official from the date that his first term of office expired. 67 C.J.S. Officers and Public Employees § 73 (1978). The term of office, however, should be computed in four-year intervals beginning on July 1, 1951. The present Tax Collector's appointment by the Williamsburg County Legislative Delegation to a four-year term to end on October 1, 1982, cannot derogate from the statutorily-set term of office, in my opinion.

2. The Williamsburg County Council will have the authority to enact an ordinance altering the provisions of Act No. 240 of 1947, as amended, after January 1, 1980, pursuant to the power vested in it by the provisions of Act No. 283 of 1975, the 'home rule' legislation. See, Act No. 283 of 1975, SECTION 3 [59 STAT. 690 at 716 (1975)]. Consequently, the Council can, if it wishes, place the appointment and removal power in itself after that date and can exercise that power during the present Tax Collector's term of office to, in effect, cut short that term. See generally, 67 C.J.S. Officers and Public Employees § 70a. (1978).

3. The removal authority vested in the Williamsburg County Legislative Delegation by virtue of the 1947 legislation is not now vested in the Council and will not be vested in the Council even after January 1, 1980, unless the Council alters the provisions of that legislation by ordinance to vest that power in itself. If it should chose to do so, then it would also be free to alter the grounds and/or procedure for removal as presently provided for in the 1947 legislation.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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