

1979 WL 43622 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 27, 1979

*1 Melvin K. Younts, Esquire
Younts, Gross, Gault & Smith
S. Main Street
Fountain Inn, South Carolina 29644

Dear Mr. Younts:

You have requested the opinion of this Office as to whether or not there are restrictions on the length of employment that a municipality may grant by contract to its employees. In my opinion, there are no such restrictions except as hereafter discussed.

The general rule is that, in the absence of statutory prohibition, a municipal council may enter into any contract it deems advisable relating to business or proprietary affairs, See, S.C.Att'y.Gen.Op. No. 2341 (November 1, 1967); 4 McQUILLIN MUNICIPAL CORPORATIONS § 29.101 (1976). As there are no State statutes restricting a municipality's power to contract with its employees, it would seem that in the usual case an employee can be granted any term of employment that the city council considers appropriate.

A different situation may exist, however, in the case of high-ranking employees who exercise governmental functions inasmuch as a city council may not bind its successors to any contract in matters related to governmental affairs. Thus, while [Section 5-13-70, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, provides that a city manager may be granted a definite term of employment, I do not believe that the term given should be any longer than that of the council member with the longest term remaining.

There is authority to the effect that a city council whose members are elected to staggered terms has a continuous existence such that its actions in contractual matters cannot be said to bind its successors; accordingly, under that view, any reasonable contract not impairing governmental functions is permissible. McQUILLIN § 29.101. This office, however, has not in the past considered that line of authority as persuasive.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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