

1978 WL 34876 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 27, 1978

\*1 Ms. Virginia T. Whitmire  
Greenville County Treasurer  
Post Office Box 10144  
Federal Station  
Greenville, South Carolina 29603

Dear Ms. Whitmire:

In response to your request for an opinion from this Office as to the validity of Greenville County Ordinance No. 468, my opinion is that the ordinance is invalid to the extent that it provides in Section 1 thereof that 'after the general election in 1982, [the Greenville County] auditor and treasurer shall take office on the first day of January following their election.'

The Ordinance recites that Acts No. 568 and No. 569 of 1967 [55 STAT. 1069 (1967)] provide for the election of the Greenville County auditor and treasurer for four-year terms and that such local legislation, unless repealed earlier, continues in force until January 1, 1980, pursuant to Act No. 283 of 1975, the 'home rule' legislation. The two 1967 statutes provide that the four-year terms of the two county officials commence on the first day of July following their election in the general election. Act No. 569 provides that the initial election for the treasurer be held in the 1970 general election so that the term of office of the first elected treasurer ran from July 1, 1971, until June 30, 1975, the next term from July 1, 1975, until June 30, 1979, and the third term from July 1, 1979, until June 30, 1983. Nevertheless, the Ordinance proposes that, beginning with the 1982 general election, the terms of office commence on January 1, thereby shortening the term of the treasurer elected in November, 1978, by six (6) months. While it is true that a county council is empowered by the provisions of the 'home rule' legislation to enact ordinances in conflict with special laws after January 1, 1980, it cannot enact an ordinance in conflict with a general law even after that date. Ordinance No. 468, to the extent that it provides that the terms of office of the treasurer and auditor are to begin on the first of January next succeeding their election beginning with the 1982 general election, conflicts with a general law and is, therefore, invalid, to wit: Section 4 of the 'home rule' legislation provides in part that:

[a]uditors and treasurers shall be elected in the general election for terms of four years under all forms of government, . . .  
[Emphasis added.]

Inasmuch as the Ordinance, in pertinent part, makes the terms of office of the treasurer and auditor elected in the November, 1978 general election three and one-half years instead of four years in duration, it conflicts with the 'home rule' legislation, a general law.

Enclosed herewith is a copy of an earlier opinion addressed to Richland County which treats the same subject matter as your inquiry. My understanding is that legislation is being introduced during the present session of the General Assembly which, if enacted, will provide that the terms of office of county treasurers and auditors begin on the first of January after their election. This method, i.e., the amendment or repeal of a general law by a subsequent general law, is the proper one.

With kind regards,

\*2 Karen LeCraft Henderson  
Senior Assistant Attorney General

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