

1978 WL 35267 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 14, 1978

*1 The Honorable William E. Knotts
Senator
District No. 8
15 West Street
Williston, SC 29853

Dear Senator Knotts:

Mr. McLeod has referred your recent letter to me. You have asked what disciplinary action can the county council take against an appointed official that does not cooperate with the county council. You have named three specific offices that are of concern: Aiken County Tax Collector, Aiken County Tax Assessor and Aiken County V. A. Service Officer.

The provisions governing the appointment of the Aiken County Tax Collector are found in South Carolina Code of Laws, 1962, Section 65-2207. The provisions for the Aiken County Tax Assessor are set out in 1967 Acts and Joint Resolutions 164. Both positions are to be appointed by the majority of the Legislative Delegation including the Senator. There is no provisions for disciplinary action. I have been unable to find any authority which would allow the county council to discipline appointed officers of the County. In general an officer once appointed cannot be removed from office unless there is a showing of ' . . . irregularity, fraud or other invalidating element.' 63 Am.Jur.2d, Public Officers and Employees, § 106. Additionally, an officer can be removed for misconduct or conviction of certain crimes. 63 Am.Jur.2d, Public Officers and Employees, § 58; South Carolina Code of Laws, 1976, Sections 1-3-240, et seq. However, there is no general provision for disciplinary action, unless such exists by virtue of county ordinance.

The third office that you listed was the V.A. Service Officer. South Carolina Code of Laws, 1976, Section 25-11-40 states that this office is appointed by the Director of Veterans Affairs upon the recommendation of a majority of the Senate and a majority of the House Legislative delegation. It further states that the appointed person is subject to removal at any time by a majority of the Senators and a majority of the Representatives from his county. Therefore, though equally there is no provision for disciplinary action by the county council, there does exist the possibility of removal of the individual from his position should his behavior warrant the removal.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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