

SUBJECT: COUNTY TAX ASSESSOR'S OFFICE IS AN AGENCY, UNIT OR SUBUNIT OF THE COUNTY

SUMMARY:

For the purposes of Section 8-13-740(A)(4), the Beaufort County Tax Assessor's Office is considered an agency, unit or subunit of the county.

QUESTION:

The Chairman of the Beaufort County Council inquires whether the County Tax Assessor's Office is an agency, unit or subunit of the county.

DISCUSSION:

This opinion is rendered in response to a letter dated February 5, 1993 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-740(A)(4), S.C. Code Ann., 1976, as amended, provides as follows:

A public official, public member, or public employee of a county, an individual with whom the public official, public member, or public employee is associated, or a business with which the public official, public member, or public employee is associated may not knowingly represent a person before any agency, unit, or subunit of that county except:

- (a) as required by law; or
- (b) before a court under the unified judicial system.

The phrase "agency, unit, or subunit of that county", which appears in Section 8-13-740(A)(4), is not defined in the Ethics Reform Act. Nevertheless, the State Ethics Commission believes that the word "county" as used in this code section should be given its plain and ordinary meaning. The South Carolina Attorney General's Office, in an opinion dated October 26, 1989, advised that a "county is one of the 46 political subdivisions into which the State is divided. (See Article VIII, Sections 1-3, South Carolina Constitution and Section 4-1-10, S.C. Code Ann., 1976, as amended.) Counties have the powers accorded them by the General Assembly...." A "public agency" has been defined as a department or division "endowed with government or public functions, and it has been held that the authority to act with the sanction of government behind it determines whether or not a governmental agency exists." 73 C.J.S. Public Administrative Law Section 8. In accordance with this definition, the attorney general's opinion cited above determined that a "[c]ounty" could reasonably include: (a)

any agency, board or commission delegated by the county (b) to perform a county function. Both of these requirements must be met for the entity to qualify as an instrumentality of the county."

The State Ethics Commission notes that Section 12-37-90, S.C. Code Ann., 1976, as amended, requires all counties to have a full-time tax assessor, who is responsible for, among other things, the appraisal of real property within the county and the operations of the office to that end. Pursuant to this statutory authority, Beaufort County has delegated this government function to the County Tax Assessor's Office. Moreover, the Tax Assessor's Office receives funding from the county, and its employees are considered county employees. Therefore, for the purposes of Section 8-13-740(A)(4), the State Ethics Commission considers the Beaufort County Tax Assessor's Office to be an agency, unit or subunit of the county.