



ALAN WILSON
ATTORNEY GENERAL

June 13, 2013

John E. James, III, Esquire
Fairfield County Attorney
Post Office Drawer 329
Winnsboro, South Carolina 29180

Dear Mr. James,

You seek an opinion of this Office as to whether fines imposed in magistrates court for violations of county ordinances may be retained entirely by the county. By way of background, you provide the following information:

Pursuant to Section 56-7-80 of the Code of Laws of South Carolina, Fairfield County Code Enforcement Officers issue uniform summons tickets for violations of county ordinances. These matters are routinely handled by county magistrates who process fees collected for these violations through their accounting system, which apportions some of the fees collected to the State and some to Fairfield County. The Code Enforcement Office would like to know if it is permissible to process the payment of fines collected for violations of local ordinances entirely within the county bookkeeping system, with all fines collected remaining with the county.

Law/Analysis

In answering your question, we believe a distinction must be made between fines imposed as penalties for violations of county ordinances and surcharges or assessments which are imposed in addition to such fines. Generally, any fine imposed as a penalty for a conviction of a criminal offense tried in magistrates court is retained by the county:

All fines and penalties imposed and collected by magistrates in criminal cases must be forthwith turned over by them to the county treasurers of their respective counties for county purposes; *provided*, that when a magistrate presides over a municipal court under contract between the municipality and the county governing body as authorized by § 14-25-25, a portion of such fines and penalties imposed and collected shall be turned over to the treasurer of the municipality under the provisions of the contract between the municipality and the county governing body which shall specify the portion to be turned over to

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the treasurer of the municipality. But when, by law any person is entitled, as informer, to any portion of such fine or penalty, such portion shall be immediately paid over to him. If any magistrate shall neglect or refuse to pay over all fines and penalties collected by him in any criminal cause or proceeding he shall, on conviction thereof, be subject to a fine of not less than one hundred nor more than one thousand dollars and imprisonment for not less than three nor more than six months and shall be dismissed from office.

S.C. Code § 22-1-70 (emphasis added).

However, several statutes require magistrates to collect certain assessments and surcharges in addition to the fine imposed for the violation of an offense. For example, pursuant to § 14-1-207(A) a person who is convicted of or forfeits bond for an offense in magistrates court “must pay an amount equal to 107.5 percent of the fine imposed as an assessment” unless an exception applies.¹ § 14-1-207(A). The county treasurer then remits 11.16 percent of this assessment to the county and the remainder to the State Treasurer. § 14-1-207(B). In addition, pursuant to § 14-1-211(A)(1) “a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State” with the exception of certain offenses.² However, subsection (B) of § 14-1-211 provides that the revenue collected as a result of this surcharge is to be retained by the county to be used for the specific purposes set forth therein. § 14-1-211(B). Furthermore, pursuant to § 14-1-212(A) an additional “twenty-five dollar surcharge is imposed on all fines ... or other monetary penalties imposed in ... magistrates ... court for misdemeanor offenses or for nontraffic violation.” However, revenue collected as a result of this surcharge must be “paid to the State Treasurer within thirty days after receipt.” § 14-1-212(B)(1).

We note that the above statutes are not an exhaustive list of all the assessments or surcharges that must be imposed by a magistrate in addition to the penalty for an offense. Regardless, no provision in any of these statutes indicates these assessments or surcharges, or portions thereof, which must be remitted to the State Treasurer may instead be remitted to the county where the offense committed was a violation of a county ordinance. Accordingly, while a county is generally entitled to retain a fine imposed

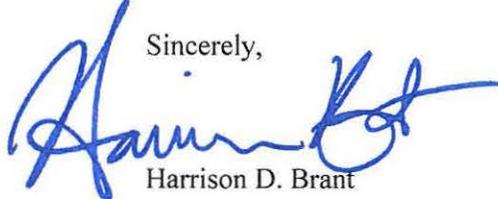
¹ § 14-1-207(A) goes on to state that the assessment is not imposed “on convictions for violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.”

² Similar to the exceptions listed above in § 14-1-207(A), the surcharge in § 14-1-211(A)(1) is not imposed “on convictions for misdemeanor traffic offenses including, but not limited to, violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.” However, the surcharge expressly does apply to violations of §§ 56-5-2930 and -2933. *Id.*

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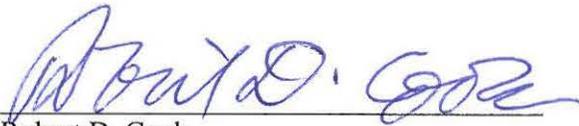
as a penalty for the violation of a criminal offense tried in magistrates court, the county must still remit any additional assessments or surcharges, or any portion thereof, to the State as required by law.³

Sincerely,



Harrison D. Brant
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

³ Court Administration has issued a more comprehensive memorandum on the matter entitled "Statutory Provisions for the Distribution of Revenue Generated by the Magistrates and Municipal Courts." A copy of this memorandum can be downloaded at www.sccourts.org/trial/feeAssess2012/summaryCourt/Summary%20Court%20Memo.docm.