



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 11, 2001

The Honorable Grady L. Patterson, Jr.
State Treasurer
Wade Hampton State Office Building
Hand Delivery

Dear Mr. Patterson:

You have asked whether local governments may recoup expenses for computer upgrades related to tracking the DUI surcharge for spinal cord research from all court revenues or whether the deductions for these expenses should be made only from the one hundred dollar DUI surcharge. Your question arises under S.C. Code Ann. §14-1-211 (Supp. 2000) which provides for surcharges and directs how they shall be allocated. According to your letter regarding this matter, your Office interprets this statute to allow local governments to recoup the above expenses from the DUI surcharge, but you report that some local governments interpret the statute to permit deductions from all court revenues. I concur with the conclusions of your Office for the reasons discussed below.

Subsection (A) provides for the surcharges. Under subsection (A)(1), a one hundred dollar surcharge is imposed on all convictions in general sessions court and a \$25.00 surcharge is set for all convictions in magistrates' and municipal court except for misdemeanor traffic violations. This surcharge expressly applies to §§56-5-2930 (Supp. 2000)(unlawful to operate motor vehicle while under influence) and 56-5-2933 (Supp. 2000) (driving with an unlawful alcohol concentration) (Supp. 2000) as well as the other convictions covered by subsection (A)(1). Another \$100 surcharge set by §14-1-211 (A)(2) applies only to §§56-5-2930 and 2933, and I assume that this surcharge is the DUI surcharge to which you prefer.

Section 14-1-211 (B) allocates the revenue from the above surcharges. Subsection (B) provides that the subsection A(1) revenue is retained by the jurisdiction which heard or processed the case. The revenue is to be used for various victims services including victims' assistance programs and salaries, equipment including computer equipment and internet access, or other

The Honorable Grady L. Patterson, Jr.
October 11, 2001
Page 2

expenditures necessary for providing services to crime victims." Subsection (B) also provides that "... revenue collected pursuant to subsection (A)(2) must be paid over to the State Treasurer monthly and placed in a separate account to be used for spinal cord research by the Medical University of South Carolina" and this subsection further provides as follows:

All one-time operating and administrative costs for municipal and county governments related to computer upgrades or programming related to these surcharges shall be deducted from the revenue collected pursuant to subsection (A)(2) by municipal and county governments before remission of these funds to the State Treasurer. All operating, personnel, and administrative costs and expenses of the Spinal Cord Injury Research Board and its programs as established in Article 5, Chapter 38 of Title 44, must be paid for through revenue collected pursuant to subsection (A)(2) and deposited in this separate account. A report detailing the use of these funds must be furnished to the General Assembly on an annual basis. (emphasis added)

The "...primary function in interpreting a statute is to ascertain the intention of the legislature." *South Carolina Department of Highways and Public Transportation v. Dickinson*, 288 S.C. 134, 341 S.E. 2d 134 (1986). "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." *Id.* Subsection 14-1-211(B) plainly states that "[a]ll one-time" costs for the computer upgrades and programming "... related to these surcharges shall be deducted from the revenue collected pursuant to subsection (A)(2)." (emphasis added). Accordingly, the deductions for computer upgrades related to tracking the DUI surcharge for spinal cord research should be made only from the subsection (A)(2) revenue.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.

Assistant Deputy Attorney General