

1980 WL 120661 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1980

\*1 The Honorable Patsy S. Stone  
Judge of the Probate Court  
Florence County  
Post Office Box 965  
Florence, South Carolina 29501

Dear Judge Stone:

In have been asked to answer your letter of January 24, 1980. In that letter you asked:

- 1) Whether you could charge fees for services not covered by Act No. 164, 1979 Acts, and
- 2) Whether the Florence County Council could pass an ordinance setting fees for services not covered by Act No. 164.

Act No. 164 of 1979 covers many judicial matters, one of which is 'UNIFORM FEES AND COSTS IN THE PROBATE COURTS' (see Title of Act). Part 1, § 2A, the section on the Probate Court fees, is a successor to [§ 14-23-810, Code of Laws of South Carolina](#), 1976, as amended, and now codified as § 8-21-770, 1979 Cum.Supp. As you said in your letter, the Act supersedes any fees set by previous legislation. It was clearly the intent of the General Assembly as evidenced by its title to set a uniform fee schedule for services in the Probate Courts. Thus, the Act would repeal by implication any previous acts, special or general, on fees due the Probate Courts. See Note to [§ 14-23-810, 1979 Cum Supp.](#)

As to whether the County Council could pass a law to permit fees not permitted by Act No. 164, generally, local governmental units may not pass laws that conflict with the statutory law of the state. See [Laws v. City of Spartanburg, 148 S.C. 229, 146 S.E. 12 \(1928\)](#).

I have included 1976-77 Op. Att'y Gen., Op. No. 77-130, p. 110, that deals with nearly the same issues that you have raised. That opinion deals with fee schedules used by the Allendale County Probate Court, which schedules conflicted with [§ 14-23-810](#). That opinion would also apply to your questions.

Therefore, to answer your questions it is the opinion of this Office that:

- 1) You are bound by the provisions of Act No. 164 of 1979, and
- 2) The County Council may not pass an ordinance conflicting with or supplementing Act No. 164 of 1979.

Sincerely,

Eugene W. Yates, III  
Assistant Attorney General

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