

1983 S.C. Op. Atty. Gen. 69 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-47, 1983 WL 142718

Office of the Attorney General

State of South Carolina

Opinion No. 83-47

July 25, 1983

\*1 Mr. William H. Seals  
Marion County Attorney  
Post Officer Box 1041  
Marion, South Carolina 29571-1041

Dear Bill:

You have requested an opinion from this office as to whether the Marion County Council may by ordinance provide for adding an additional sum to each fine levied in the Magistrate's Court or General Sessions Court to be earmarked for use by the Marion County Commission on Alcohol and Drug Abuse. It is our opinion that the County Council may not do so.

The Home Rule Act does not expressly empower county councils to increase the fees or fines collected by the courts sitting within the respective counties. The County Councils are empowered to 'provide penalties for violations [of county ordinances] not to exceed the penalty jurisdiction of the magistrates' courts.' § 4-9-30(14), [Code of Laws of South Carolina](#), 1976 (as amended). However, this grant of power does not enable county councils to increase the fine collected for violations of laws other than county ordinances.

Moreover the council could not accomplish this purpose by setting a fee to be added on to fines collected in such courts. The Supreme Court held in [State ex rel. McLeod v. Crowe](#) that a non-uniform fee system for courts within the unified judicial system violates Art. V of the [State Constitution](#). 272 S.C. 41, 249 S.E.2d 772 (1978). Thus, any attempt to impose a special fee in Magistrate's Court or General Sessions Court within Marion County would most certainly violate Art. V of the Constitution.

You indicated that the Commission has requested the General Assembly to pass a statute authorizing such action for Marion County. Any such statute would probably be unconstitutional unless it were a general law which applied uniformly in every county. [McLeod v. Crowe](#), *supra*; [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1976). Examples of such general laws providing for additional fees or fines are § 23-23-20 and § 24-23-210, *supra*.

Sincerely yours,

David C. Eckstrom  
Assistant Attorney General

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