



ALAN WILSON
ATTORNEY GENERAL

January 3, 2025

Chief Tyrone Smith
Varnville Police Department
P.O. Box 308
Varnville, SC 29944

Dear Chief Smith:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter requests an opinion addressing the following:

Hampton County Government charges the Municipality of Varnville a monthly fee of \$1687.50 to dispatch the Police & Fire Department (Section 23-47-10). Hampton County Government receives all 911 fees from landlines and cellphone services. This arrangement prohibits the Municipalities from collecting those fees.

Is it legal/illegal for the County of Hampton to charge the Municipalities to dispatch Police and Fire when it is already collecting the forementioned 911 fees from landlines and cellphone services? Would that not be considered an additional tax to the citizens of the municipalities?

In addition, I am also requesting a legal opinion of the Attorney General's office in reference to housing of inmates at the Hampton County Detention Center:

Hampton County Government charges the municipalities \$25.00 a day for housing inmates that are being detained at the Hampton County-Detention Center for misdemeanors. Hampton County also taxes its citizens to operate the Detention Center.

Would this be considered double taxation? This current arrangement may inevitably cause our municipalities and others to increase taxes on its own citizens.

Law/Analysis

This Office's opinions cannot determine whether a bill from a county to a municipality is authorized or not as it will necessarily depend on the facts. See Op. S.C. Att'y Gen., 1989 WL

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406130 (April 3, 1989) (“Because this Office does not have the authority of a court or other fact-finding body, we are not able, in a legal opinion, to adjudicate or investigate factual questions.”). The South Carolina Constitution expressly allows political subdivisions to agree with the State or “other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof.” S.C. Const. art. VIII, § 13. This section additionally clarifies, “Nothing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State.” *Id.* (emphasis added); see also S.C. Code § 4-9-40 (Power of county to contract for services within municipalities).

As described in your letter, the municipality receives a monthly bill from the county for costs associated with Police and Fire dispatch. However, there is no indication whether this bill was issued pursuant to an agreement between the two political subdivisions or not. Certainly, the municipality and the county have the authority to enter into an agreement to share the costs associated with 911 dispatch services. The South Carolina Code of Laws establishes 911 systems in Title 23, Chapter 47. This Office previously opined regarding a municipality’s authority to establish a second surcharge for 911 services after a county already had an approved countywide plan. *Op. S.C. Att’y Gen.*, 2006 WL 3199995 (October 26, 2006). Therein, we explained that it did not appear a municipality had authority to adopt an ordinance calling for funds to be remitted to it from a service supplier as a countywide plan was already in place.

In formulating a response to your questions, I contacted individuals with the State Budget and Control Board who oversee 911 systems in this state. I was informed that Lexington County submitted a plan to the Board that has been reviewed and approved consistent with Section 23-47-30 referenced above. It has always been the policy of the Board that once a county has filed a 911 plan that has been approved, not to allow a municipality which is part of an approved county plan to break off and file a separate plan. Moreover, it is the policy of the Board that once a county has adopted a Board approved ordinance under Section 23-47-40, a city cannot adopt a separate ordinance to implement a 911 charge. Additionally, as set forth above, Section 23-47-20(B)(2) provides that “...public safety agencies that provide emergency service within the territory of a 911 system shall participate in the countywide system.” Such provision does not appear to support the separate surcharge funding of a 911 system for West Columbia.

Id. at 1-2. While there are limitations on authorization of additional surcharges, these limitations do not prohibit counties and municipalities from agreeing to provide supplemental funding to their

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911 systems. However, if there is no agreement to share costs between them, we cannot speculate as to what authority the county would cite to directly bill a municipality for 911 services.

Your second question concerns the county billing the municipality for the housing of inmates. South Carolina Code § 24-7-120 allows a municipality to either operate its own jail, enter into an agreement with other municipalities to operate a joint facility, or agree the county in which it is located to pay a fee to offset the costs of detaining municipal inmates at a county detention facility.

A municipality may operate its own jail for the purpose of detaining those persons charged with a criminal offense pending release on bond or trial and for the purpose of detaining those individuals who have been tried and convicted of a criminal offense in the municipal court. The governing body of the municipality must provide suitable and sufficient employee supervision and equipment to safely keep all persons charged or detained and must pay all costs and expenses. Where the municipality elects not to operate its own jail, then the municipality may enter into an agreement with other municipalities, preferably in the county of jurisdiction, to operate a joint facility to hold these individuals.

The municipality also may elect, in the alternative, to enter into an agreement with the county governing body in which the municipality is located. The agreement may require the municipality to pay a fee to offset the costs of detaining the offenders to include, but not be limited to, medical care and treatment of the offenders, all lodging and meal expenses, all transportation and security for court appearances, medical appointments, other transportation as may be necessary, and other miscellaneous expenses as may be mutually agreed upon. Those persons so detained must be in the custody of the county official who has custody of the jail or of the prison camp, as appropriate.

Id. (emphasis added). Because your letter indicates municipal inmates are being housed at the county detention center, it appears that the municipality elected to enter into an agreement with the county governing body and is being billed as authorized by the General Assembly.

Sincerely,



Matthew Houck

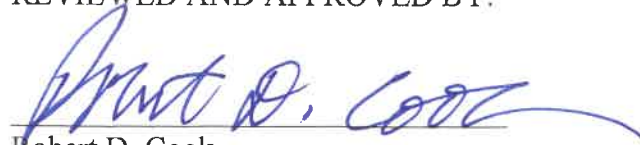
Assistant Attorney General

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REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook", is written over a horizontal line.

Robert D. Cook
Solicitor General