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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 15, 2002

Tom Fox, Director of Detention
Horry County Sheriff's Office
J. Reuben Long Detention Center
4150 J. Reuben Long Avenue
Conway, SC 29526

Re: Your Letter of September 3, 2002

Dear Mr. Fox:

In your above-referenced letter, you ask for this Office's opinion concerning the following questions:

1. Is there any existing South Carolina state statute or Attorney General's opinion that outlines how to dispose of unclaimed inmate funds left at county jails when inmates are discharged and never come back to claim their money?
2. Can a county create an ordinance to set up a procedure to dispose of the unclaimed inmate funds?

LAW/ANALYSIS

There are two relevant statutes to consider in answering your first question. First, South Carolina has adopted the Uniform Unclaimed Property Act, which is codified at S.C. Code Ann. §27-18-10 et seq. The Act provides a comprehensive scheme regulating the disposition of various categories of deemed abandoned, intangible personal property. Secondly, South Carolina has also adopted S.C. Code Ann. §27-21-20 which relates to the recovery and disposition of abandoned or stolen property by law enforcement agencies. The question of which statute to use is a difficult issue as both appear to cover your situation, but we have enclosed a prior opinion from this Office, dated January 6, 1998, which I believe will provide some guidance.

As to your second question of whether a county can create an ordinance to set up a procedure to dispose of the unclaimed inmate funds, S.C. Code Ann. §4-9-25 provides that "[a]ll counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general

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law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them ... (emphasis added).” Accordingly, political subdivisions are not free to adopt ordinances that are inconsistent with or repugnant to the Constitution or general laws of the State. As the General Assembly has chosen to pass general laws regarding the handling of abandoned property, Horry County could not enact any ordinance inconsistent with those general laws.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'David K. Avant', written over a horizontal line.

David K. Avant
Assistant Attorney General

DKA/an
Enclosure