ALAN WILSON
ATTORNEY GENERAL

November 18, 2013

The Honorable Jimmy C. Bales, Ed.D.
Representative, District No. 80
1515 Crossing Creek Road
Eastover, S.C. 29044

Dear Representative Bales,

You seek an opinion of this Office concerning the legality of municipalities setting their own fines for speeding violations as opposed to the penalties set forth in the Uniform Act Regulating Traffic on Highways (the "UTA"), S.C. Code §§ 56-5-10 et seq. If such a practice is not allowed under State law, you ask whether such municipalities can be held accountable for fines levied in violation of State law.

In addition, we have received an opinion request from State Treasurer Curtis Loftis concerning the legality of counties and municipalities issuing tickets for traffic and other offenses under local ordinances as opposed to the UTA. The specific questions and background information relevant to that request are set forth the opinion we issued to Treasurer Loftis which is also dated November 18, 2013. As both opinion requests address the same subject matter, we will address them together.

Law/Analysis

When considering the validity of any local ordinance, we begin with the principle that "[a]n ordinance is a legislative enactment and is presumed to be constitutional." Southern Bell Tel. & Tel. Co. v. City of Spartanburg, 285 S.C. 495, 497, 331 S.E.2d 333, 334 (1985). The burden of proving the invalidity of a local ordinance rests with the party attacking it. Id. Furthermore:

> A two-step process is used to determine whether a local ordinance is valid. First, the Court must consider whether the municipality had the power to enact the ordinance. If the State has preempted a particular area of legislation, a municipality lacks power to regulate the field, and the ordinance is invalid. If, however, the municipality had the power to enact the ordinance, the Court must then determine whether the ordinance is consistent with the Constitution and the general laws of the State.

Foothills Brewing Concern, Inc. v. City of Greenville, 377 S.C. 355, 361, 660 S.E.2d 264, 267 (2008) (citations omitted).

Our State Constitution gives the Legislature the power to establish by general law the powers and duties of local governments. S.C. Const. art. VIII, §§ 7, 9. The powers of local governments are to be liberally construed in their favor. See S.C. Const. art. VIII, § 17 ("The provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and

responsibilities granted local government subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution."). However, the Constitution also provides that ordinances enacted by local governments shall not set aside general law provisions applicable to, *inter alia*: "(5) criminal laws and the penalties and sanctions for the transgression thereof; and (6) the ... administration of any governmental service or function ... which requires statewide uniformity." S.C. Const. art. VIII, § 14.

Looking to the provisions of the Uniform Act Regulating Traffic on Highways (the "UTA"), S.C. Code §§ 56-5-10 et seq., the Legislature has provided as follows:

> The provisions of this chapter shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of this chapter unless expressly authorized herein. Local authorities may, however, subject to the limitations prescribed in § 56-5-930, adopt **additional** traffic regulations which are not in conflict with the provisions of this chapter.

§ 56-5-30 (emphasis added). Accordingly, the Legislature has expressly declared that local governments are only authorized to enact traffic regulations *in addition to* those set forth in the UTA to the extent such ordinances do not conflict with the provisions of the UTA unless expressly authorized.

Particularly instructive here is the case of Aakjer v. City of Myrtle Beach, 388 S.C. 129, 694 S.E.2d 213 (2010) in which our State Supreme Court held a local ordinance requiring motorcycle riders to wear a protective helmet and eyewear was invalid in light of §§ 56-6-3660 and -3670 of the Uniform Traffic Act which already addressed such matters. In reaching this conclusion, the Court stated:

> In S.C.Code Ann. § 56–5–30 (2009) the General Assembly authorized local authorities to act in the field of traffic regulation if the ordinance does not conflict with the provisions of the Uniform Traffic Act. Even assuming, as the City contends, that the Helmet Ordinance does not conflict with the Uniform Traffic Act, we find that the ordinance may not stand as the need for uniformity is plainly evident in the regulation of motorcycle helmets and eyewear. Were local authorities allowed to enforce individual helmet ordinances, riders would need to familiarize themselves with the various ordinances in advance of a trip, so as to ensure compliance. Riders opting not to wear helmets or eyewear in other areas of the state would be obliged to carry the equipment with them if they intended to pass through a city with a helmet ordinance. Moreover, local authorities might enact ordinances imposing additional and even conflicting equipment requirements. Such burdens would unduly limit a citizen's freedom of movement throughout the State. Consequently, the Helmet Ordinance must fail under the doctrine of implied preemption.[1]

Id. at 134, 694 S.E.2d at 215.

[1] The Court explained that "[a]n ordinance is preempted under implied field preemption when the state statutory scheme so thoroughly and pervasively covers the subject as to occupy the field or when the subject mandates statewide uniformity." Aaker, 388 S.C. at 133, 694 S.E.2d at 215.

In a recent opinion we addressed the authority of a local government to enact an ordinance imposing a fine of anywhere between $100 and $300 for certain traffic violations, including speeding, which are already unlawful under the UTA. Op. S.C. Att'y Gen., 2013 WL 2450878 (May 29, 2013). In concluding such an ordinance would be invalid, we explained that local governments lack the authority to enact ordinances which impose lesser or greater penalties for traffic violations than those imposed by the UTA:

> The UTA sets forth numerous traffic offenses and prescribes the penalties for violations thereof. For example, a person convicted of a first offense speeding violation pursuant to [§ 56-5-1520(G)] may be punished by a fine of fifteen to twenty-five dollars for the least offense under that subsection, and a fine of seventy-five to two hundred dollars or imprisonment for not more than thirty days for the greatest offense. A person convicted of a first offense for failing to stop when signaled by a law enforcement officer "must be fined not less than five hundred dollars or imprisoned for not less than ninety days nor more than three years." § 56-5-750(B)(1). A violation of any provision of the UTA for which a penalty is not specifically set forth is punishable "by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days." § 56-5-6190.
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> Numerous opinions of this Office have concluded that a local ordinance which imposes greater or lesser penalties than that provided for identical unlawful acts under State law are invalid. See, e.g., Ops. S.C. Att'y Gen., 2008 WL 317749 (Jan. 15, 208) ("municipalities lack the authority to adopt ordinances and provide penalties ... that either increase or decrease the penalty provided for the same offense by the general law"); 2003 WL 164476 (Jan. 3, 2003) ("local ordinances which impose lesser penalties than State law for the possession and sale of drugs and narcotics are void"); 2001 WL 957755 (Aug. 15, 2001) (noting Article VIII, § 14 has been construed by the S.C. Supreme Court as providing that "local governments may not enact ordinances that impose greater or lesser penalties than those established by state law") (citations omitted).
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> Our Supreme Court addressed a situation analogous to the one at hand in City of N. Charleston v. Harper, 306 S.C. 153, 410 S.E.2d 569 (1991). In that case, the City enacted an ordinance making simple possession of marijuana an offense for which the person convicted *"shall be sentenced to thirty (30) days in jail ...."* Id. at 155, 410 S.E.2d at 570 (emphasis in original). On other hand, the same offense was punishable under State law by up to thirty days in prison or a fine of a one hundred to two hundred dollars. Id. (citing § 44-53-370(c), (d)). The Court found the City lacked the authority to enact the ordinance, stating:
>
> > The legislature has provided parameters within which local governments may enact ordinances dealing with the criminal offense of simple possession of marijuana. This legislation occupies the field as far as penalties for this offense are concerned. Local governments may not enact ordinances that impose greater or lesser penalties than those established by these parameters. City Code § 13-3 exceeds the parameters established under state law by denying offenders the opportunity to pay a fine and thus avoid a jail sentence. The City has attempted to set aside a penalty the legislature has found to be appropriate to punish persons guilty of simple possession.

> Accordingly, we hold City Code § 13-3 violates the strictures of Article VIII, § 14 of the South Carolina Constitution.

Id. at 156, 410 S.E.2d at 570-71.

> Here, the Legislature has expressly provided the parameters within which local governments may enact ordinances dealing with the regulation of traffic. See § 56-5-30, supra; see also Aakjer v. City of Myrtle Beach, 388 S.C. 129, 134, 694 S.E.2d 213, 215 (2010) ("In S.C. Code Ann. § 56-5-30 ... the General Assembly authorized local authorities to act in the field of traffic regulation if the ordinance does not conflict with the provisions of the Uniform Traffic Act"). The UTA has occupied the field of traffic regulation as far as penalties for violations of the UTA are concerned. The proposed ordinance imposes a fine which, in many or most cases, is either greater or less than the penalties permitted for the numerous traffic offenses set forth in the UTA. Consistent with authorities previously mentioned, the proposed ordinance, if enacted, would violate Article VIII, § 14 of the S.C. Constitution. Therefore, we believe the City lacks the authority to enact the proposed ordinance.

Id.

In that same opinion, we went even further and concluded that, as a general matter, local ordinances attempting to regulate traffic in the same manner as any provision under the UTA, unless expressly authorized, are likely invalid:

> [T]he proposed ordinance, if enacted, would conflict with the various provisions of the UTA referenced therein. The UTA authorizes local governments to adopt "*additional* traffic regulations which are not in conflict with the provisions of this chapter." § 56-5-30 (emphasis added). Local governments are not authorized to adopt traffic regulations which are *duplicative* of, or *identical* to, the regulations imposed by the UTA. See 56 Am. Jur. 2d Municipal Corporations, Etc. § 316 ("A conflict between state law and a local ordinance exists if the ordinance *duplicates*, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication") (emphasis added); 6 McQuillin Mun. Corp. § 26:11 (3d. ed.) ("In various jurisdictions, where a subject is covered by statute, a municipal corporation cannot deal with it by ordinance, unless expressly authorized"). Therefore, we believe local governments are prohibited from enacting ordinances making it unlawful to commit traffic violations which are already expressly unlawful under the UTA [unless expressly authorized]. Thus, it is our opinion that the proposed ordinance in question, if enacted, would be void as in conflict with the UTA.

Id. (emphasis in original).

In a 2006 opinion, we specifically addressed whether a local jurisdiction may enact an ordinance regulating speeding where a violation thereof would be punishable only by a civil penalty. Op. S.C. Att'y Gen., 2006 WL 422574 (Feb. 1, 2006). Quoting a prior opinion addressing the validity of local ordinances, we stated:

> [P]olice ordinances in conflict with statutes, unless authorized expressly or by necessary implication, are void. A charter or ordinance cannot lower or be inconsistent with a standard set by law .... Even where the scope of municipal power is concurrent with that of the state and where an ordinance may prohibit under penalty an act already prohibited and punishable by statute, an ordinance may not conflict with or operate to nullify state law .... **Ordinances lowering or relaxing statutory standards relative to offenses are void as in conflict with state law and policy**....

Id. (quoting Op. S.C. Att'y Gen., 1988 WL 383550 (Sept. 1, 1988)) (emphasis added). We concluded such a speeding ordinance would be invalid for several reasons, stating:

> As set forth, the General Assembly has addressed by State law the subject of speeding, the same matter which would be addressed by the proposed ordinance. Furthermore, it appears that **there would be a conflict between the proposed ordinance and the State law prohibiting speeding in that there would be no criminal violation tracked or points assessed[2] against the driver but, instead, there would be a civil penalty imposed**. As a result, in my opinion, such a speeding ordinance would not be authorized.

Id. (emphasis added).

Even assuming a local traffic ordinance is valid, it cannot be enforced using a local ordinance summons. Pursuant to § 56-7-10:

> (A) There will be a uniform traffic ticket ["UTT"] used by all law enforcement officers in arrests for traffic offenses ....
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> ....
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> (C) **No other ticket may be used for these offenses**....

§ 56-7-10(A) (Supp. 2013) (emphasis added).[3]

As for local ordinances, § 56-7-80 provides:

> (A) Counties and municipalities are authorized to adopt by ordinance and use an ordinance summons as provided herein for the enforcement of county and municipal ordinances. Upon adoption of the ordinance summons, any county or municipal law enforcement officer or code enforcement officer is authorized to use an ordinance summons. Any county or municipality adopting the ordinance summons is responsible for the printing, distributing, monitoring, and auditing of the ordinance summons to be used by that entity.

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[2] See § 56-1-720 (establishing "point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles....").

[3] Although amended in 2013, § 56-7-10 contained the same language quoted prior to amendment.

> (B) The uniform ordinance summons may not be used to perform a custodial arrest. **No county or municipal ordinance which regulates the use of motor vehicles on the public roads of this State may be enforced using an ordinance summons.**
>
> ....

§ 56-7-80(A), (B) (emphasis added).

In light of § 56-7-10's mandate that only a UTT be used by all law enforcement officers for the enforcement of traffic offenses, and § 56-7-80's express prohibition against counties and municipalities using an ordinance summons to enforce local traffic ordinances, it is abundantly clear that a local ordinance summons may never be used to enforce a local ordinance regulating traffic. See Op. S.C. Att'y Gen., 2006 WL 3522438 (Nov. 14, 2006) ("[A] municipality is required to use the uniform traffic ticket when citing for municipal ordinance violations dealing with traffic offenses .... It may not use a municipal ordinance summons ....").

In addition, it is expressly unlawful under § 56-7-40 to use anything other than a UTT for traffic offenses, with the punishment for such a violation being dependent on whether the use of a nonuniform ticket is intentional or inadvertent:

> Any person intentionally violating the provisions of § 56-7-10 or 56-7-30 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars nor more than fifteen hundred dollars or imprisoned for not more than six months, or both, for each ticket unaccounted for, or each use of a nonuniform ticket, or each failure to timely forward the Department of Motor Vehicles records copy or audit copy of a ticket. If the failure to account for a ticket, or the use of a nonuniform ticket, or the failure to timely forward the Department records or audit copy of the ticket is inadvertent or unintentional, such misuse shall be triable in magistrate's court and upon conviction shall be punishable by a fine of not more than one hundred dollars. Any person charged with failing to timely forward the results of the annual inventory shall be tried in magistrate's court and upon conviction shall be fined not more than one hundred dollars.

§ 56-7-40.

The above language of § 56-7-40 reaffirms the already indisputable conclusion that local authorities are absolutely prohibited from enforcing any traffic offense pursuant to State or local law using a local ordinance summons. Since the statute also makes the "unintentional" misuse of a nonuniform ticket unlawful, we advise local law enforcement to ensure that only UTTs are issued for traffic violations, whether under the UTA or a local ordinance.

Questions are also presented concerning court fines and fees which you assert local jurisdictions may not be reporting and remitting to the State Treasurer's Office. Since fines paid as penalties for traffic or criminal offenses are generally retained by the county or municipality with jurisdiction over the offense, we assume such questions specifically concern the additional assessments, surcharges, and other fees imposed by statute. See, e.g., §§ 14-1-207, -208 (imposing assessment on fines paid in magistrates and municipal court for certain offenses); § 14-1-212 (imposing surcharge on all fines or penalties imposed in any court for misdemeanor traffic offenses or nontraffic violations). Such assessments and

surcharges are generally paid over to the treasurer of the county or municipality who remits a specific portion thereof to the county or municipality and the remainder to the State Treasurer to allocate amongst certain agencies and entities as set forth in these statutes. As we concluded in a recent opinion, such assessments and surcharges must be imposed, and the relevant portions thereof remitted to the State Treasurer, even where the offense committed was a violation of a county ordinance. Op. S.C. Att'y Gen., 2013 WL 3243062 (June 13, 2013). Court Administration has likewise issued a memorandum to summary court judges advising that such statutory assessments and surcharges must be imposed on convictions for violations of county or municipal ordinances.[4]

To ensure that court assessments are properly collected and remitted to the State Treasurer, § 14-1-207(E) and § 14-1-208(E) provide that the annual, external audit required to be performed for each county and municipality pursuant to § 4-9-150 and § 5-7-240 must include a detailed review of the collection, reporting, and distribution of the assessments imposed pursuant to those sections. The auditor's report must be submitted to the State Treasurer within thirty days of its issuance. § 14-1-207(E)(3); § 14-208(E)(3). As for surcharges under § 14-1-212, subsection (C) states that "[t]he State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer ...." § 14-1-212(C). That subsection also provides that "[t]he State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination." Id.

Other statutory provisions generally provide that the State Auditor is responsible for ensuring that court assessments have been properly collected and the appropriate portion remitted to the State Treasurer and notifying the local jurisdiction of any errors or deficiencies. As stated in § 14-1-210(A):

> (A) Based upon a random selection process, the State Auditor shall periodically examine the books, accounts, receipts, disbursements, vouchers, and any records considered necessary of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report whether or not the assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated, or both, by law in family court, circuit court, magistrates court, and municipal court are properly collected and remitted to the State. In addition, these audits shall determine if the proper amount of funds have been reported, retained, and allocated for victim services in accordance with the law.... If the State Auditor finds that a jurisdiction has under remitted, incorrectly reported, incorrectly retained, or incorrectly allocated the State or victim services portion of the funds collected by the jurisdiction, the State Auditor shall determine where the error was made. If the error is determined to have been made by the county or municipal treasurer's office, the State Auditor shall notify the State Office of Victim Assistance for the crime victim portion and the chief administrator of the county or municipality of the findings and, if full payment has not been made by the county or municipality within ninety days of the audit notification, the State Treasurer shall adjust the jurisdiction's State Aid to Subdivisions Act funding in an amount equal to the amount determined by the State Auditor to be the state's portion; or equal to the amount incorrectly reported, retained, or allocated pursuant to Sections 14-1-206, 14-1-207, 14-1-208, and 14-1-211.

[4] This memorandum can be downloaded at: www.sccourts.org/trial/feeAssess2012/summaryCourt/Summary%20Court%20Memo.docm.

> If an error is determined to have been made at the magistrate, municipal, family, or circuit courts, the State Auditor shall notify the responsible office, their supervising authority, and the chief justice of the State. If full payment has not been made by the court within ninety days of the audit notification, the chief magistrate or municipal court or clerk of court shall remit an amount equal to the amount determined by the State Auditor to be the state's portion or the crime victim fund portion within ninety days of the audit notification.

§ 14-1-210(A).

Likewise, § 11-7-25 provides:

> To the extent practicable and consistent with his overall responsibility, the State Auditor periodically shall audit or cause to be audited the financial records of the county treasurers, municipal treasurers, county clerks of court, magistrates, and municipal courts to report if fines and assessments imposed pursuant to Sections 14-1-205 through 14-1-208 are collected properly and remitted to the State Treasurer. Upon the issuance of an audit report, the State Auditor immediately shall notify the State Treasurer, Division of Court Administration, and the chief administrator of the affected agency, department, county, or municipality.

§ 11-7-25.

In the event a local jurisdiction is found to have not properly collected and remitted the assessments, surcharges, and fees required by statute, several legislative provisions authorize the State Treasurer to deduct the amount owed to the State from certain State funds that jurisdiction would normally receive or withhold a certain amount of State funds from that jurisdiction until the amount owed is paid. As previously mentioned, § 14-1-210(A) provides that if the State Auditor finds a local jurisdiction has failed to collect and remit the appropriate portion of such assessments, surcharges, and fees to the State, and that jurisdiction fails to make full payment within ninety days of notice, "the State Treasurer shall adjust the jurisdiction's State Aid to Subdivisions Act funding in amount equal to the amount determined by the State Auditor to be the state's portion; or equal to the amount incorrectly reported, retained, or allocated pursuant to Sections 14-1-206, 14-1-207, 14-1-208, and 14-1-211." In the event a local jurisdiction's audit report "contains a significant finding related to court fine reports or remittances to the Office of the State Treasurer," the State Treasurer may withhold twenty-five percent of all State payments to that local jurisdiction until the deficiency is satisfied. 2013-2014 Appropriations Act, Act No. 101, Part IB § 97.9; 2012-2013 Appropriations Act, Act No. 288, Part IB § 76.9.

Conclusion

The determination of whether a local jurisdiction is improperly writing tickets for violations of local ordinances as opposed to violations of the UTA is a factual question which must be answered on a case-by-case basis; thus, such a question is beyond the scope of an opinion of this Office. That being said, we note the Legislature, through the provisions of the UTA, has enacted comprehensive legislation regulating traffic which is to be uniformly applied across this State. As our Supreme Court recognized in Aakjer, supra, the field of traffic regulation is a unique one requiring statewide uniformity. While the General Assembly has "authorized local authorities to act in the field of traffic regulation," the ordinance may not "conflict with the provisions of the Uniform Traffic Act." Aakjer, 388 S.C. at 134, 694 S.E.2d at

215. As the Court further recognized in Aakjer, local traffic regulations which conflict with the UTA impose burdens upon and "unduly limit a citizen's freedom of movement throughout the State."

Furthermore, prior opinions of this Office have concluded various local traffic regulations are invalid for a number of reasons. Relying on § 56-5-30 of the UTA which authorizes local governments to adopt *additional* traffic regulations which do not conflict with the provisions of the UTA, we have advised that local authorities lack the power to adopt ordinances regulating traffic in a manner which is *duplicative* of, or *identical* to, the provisions of the UTA unless expressly authorized. In consideration of Article VIII, § 14 of the S.C. Constitution which prohibits local governments from enacting ordinances that set aside general law provisions applicable to criminal laws and penalties for violations thereof, we have previously concluded that local ordinances imposing greater or lesser penalties for traffic violations than those set forth by the UTA are invalid. Finally, prior opinions of this Office have advised that local traffic regulations which relax the statutory standards applicable to a violation of the UTA, or which impose a mere civil penalty for a traffic offense thereby circumventing the criminal tracking and point system the Legislature intended to be imposed against persons who commit traffic violations, would be void as in conflict with State law.

Accordingly, consistent with case law, Article VIII, § 14, and prior opinions of this Office, we believe local ordinances regulating traffic are void as in conflict with State law if such ordinances: regulate traffic in the same manner as any provision of the UTA without express statutory authorization to do so; impose greater or lesser penalties for traffic violations than those set forth by the UTA; or impose a civil fine as opposed to the criminal penalties prescribed by the UTA, thereby circumventing the criminal tracking and point system the Legislature intended to be used for traffic violations.

Applying the above principles to the particular offense of speeding, it is our opinion local jurisdictions are prohibited from regulating the matter by express ordinance or the manner in which any ordinance under any designation is enforced. Speeding is specifically regulated by § 56-5-1520 of the UTA which sets forth the penalties for violations thereof, and § 56-1-720 sets forth the number of points which are to be assessed against the license of any person convicted of speeding. Furthermore, no statutory provision expressly authorizes local jurisdictions to enact ordinances or rules regulating speeding. Thus, we believe local ordinances regulating speeding are void as in conflict with State law.

Even assuming a local ordinance regulating traffic is valid, §§ 56-7-10 and -80 expressly prohibit the use of a local ordinance summons for the enforcement of a traffic violation in any circumstance; only a UTT may be used to enforce traffic offenses regardless of whether the ticket is written for a violation of a local ordinance or the UTA. Since § 56-7-40 expressly makes the intentional or inadvertent use of a nonuniform ticket for traffic offenses unlawful, we advise law enforcement to ensure that only UTTs are issued for any and all traffic violations. As to the questions concerning whether legislative clarification or some other corrective action is necessary to address the above matters, we believe it is not. It is our opinion the provisions of the UTA are sufficiently clear to support the above conclusions. However, such a determination is ultimately in the hands of the Legislature which may, if it deems it necessary, provide further clarification on these issues.

Finally, assessments, surcharges, and fees which courts are statutorily required to impose in addition to fines paid as penalties for criminal and traffic offenses, a portion of which local treasurers are required to remit to the State Treasurer to allocate amongst certain agencies and entities, must be imposed regardless of whether the offense is a violation of State law or a local ordinance. Thus, even if a local jurisdiction improperly imposes and accepts a fine for a violation of a local traffic ordinance as opposed to the proper provision of the UTA, the same assessments and surcharges should still be imposed and the appropriate portions thereof remitted to the State Treasurer. The State Auditor is generally designated by

statute as the officer responsible for ensuring that local jurisdictions properly collect such assessments and surcharges and remit the appropriate portions to the State Treasurer. Furthermore, local jurisdictions are annually required to conduct an independent external audit to review such matters. If a finding is made that a local jurisdiction has failed to properly collect such assessments, surcharges, and fees and remit them to the State, the State Treasurer is authorized to adjust the amount of State funds the local jurisdiction would normally receive under the State Aid to Subdivisions Act or withhold twenty-five percent of all State funds to that jurisdiction until the deficiency is satisfied.

Sincerely,

Robert D. Cook
Solicitor General

Harrison D. Brant
Assistant Attorney General