

PI #11895

The State of South Carolina



Office of the Attorney General

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November 1, 1985

F. D. Gibson, Denmark Police Chief  
The City of Denmark  
131 S. Palmetto Avenue  
Denmark, South Carolina 29042

Dear Chief Gibson:

In a letter to this Office you raised two questions concerning the \$7.75 assessment authorized by Section 52 (A) (1) of the 1985 General Appropriations Act. Such provision states that "... every conviction for an offense in the magistrates' courts or municipal courts of this State must be assessed a cost of court fee of seven dollars and seventy-five cents ... and must be collected by the municipal and magistrate's court regardless of the amount of fine or bond imposed." You have questioned whether the assessment is in addition to any fine imposed or whether it is taken from any fine imposed.

Subsection A of Section 52 states in part that all convictions in this State "... must, in addition to any other assessments provided by law, be assessed a cost of court fee...." As stated, such assessment is in addition to other assessments authorized by statute, e.g., the assessments for the law enforcement academy and Law Enforcement Hall of Fame which are authorized by Section 23-23-70 of the Code and the assessment for the community corrections program authorized by Section 24-23-210 of the Code. Such provisions specify that such assessments are in addition to the fine imposed. 1/

1/ Section 23-23-70 states that such assessments "... shall be added to and be levied above the fine or forfeiture imposed." Section 24-23-210 states that its assessment is "... in addition to any other costs or fines imposed...."

REQUEST LETTER

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That the assessment provided by Section 52 (A) (1) should also be construed as being in addition to any fine imposed is particularly evidenced by another provision of Section 52 pertaining to general sessions court cases, Section A (2) (b), which states that every conviction in such court where a fine is imposed must be assessed "... an additional twenty percent of the total of a criminal fine imposed." (emphasis added) Referencing such, along with a complete reading of all provisions of Section 52, results in our conclusion that the assessments authorized by Section 52 (A) (1) are in addition to any fine and would not be taken from the fine imposed. As noted, such construction is consistent with provisions for other assessments. Also, this construction is consistent with the interpretation of such provision by the State Court Administration office.

You also questioned whether a municipality which does not have its own correctional facility can receive any of the monies transmitted to the State Treasurer which are collected in compliance with Section 52. As stated in subsection A, the purpose of the assessment provided by Section 52 is "... to fund local correctional facilities." Subsection C of such provision states that monies received from the assessments are placed into a separate account and that:

(t)his account must be set aside for use by the State Budget and Control Board in financing local correctional facility construction or renovation projects for additional bedspace for convicted offenders ... and for use by the Board in funding the additional operation costs of local correctional facilities....

You indicated that your municipality pays a daily fee to have its prisoners incarcerated in a correctional facility maintained by the county.

As stated above, funds will be provided pursuant to Section 52 to finance costs of local correctional facility construction, renovation, or operation. As presently written, unless your municipality actually houses prisoners in a facility under its

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control, it could not be the beneficiary of funds collected pursuant to Section 52.

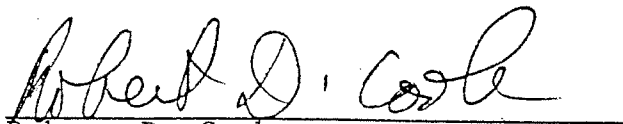
If there is anything further, please advise.

Sincerely,

  
Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Executive Assistant for Opinions