

1981 WL 158106 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1981

*1 Mr. Thomas O. Lawton, Jr.

Attorney At Law

Memorial Avenue

Post Office Box 646

Allendale, S.C. 29810

Dear Mr. Lawton:

In a letter to this office, you question whether pursuant to [Section 23-19-10, Code of Laws of South Carolina](#), 1976, a county sheriff can be required by the County Council to turn over to the county the fees and commissions which he collects. You particularly referenced a previous opinion of this office, 1975 Op. Att'y Gen. No. 4216, p. 259, which determined that the Dorchester County Council could not require the County Sheriff to deposit his fees and commissions into the County General Fund.

The above referenced opinion specifically interpreted Act No. 236 of 1969. This Office held that such Act, which predated Act No. 283 of 1975, the 'home rule act' and which established the Dorchester County Council, neither expressly or impliedly authorized or required the sheriff to turn his fees over to this County General Fund.

[Section 23-19-10, supra](#), provides a general schedule of fees and commissions to be collected by sheriffs for performing various functions. The above referenced opinion, in addition to making the referenced finding for Dorchester County, further provided that inasmuch as the General Assembly has acted on numerous occasions to require a county sheriff to turn over their fees, either to a county treasurer or the county general fund, it may be determined that a sheriff generally is entitled to retain the fees and commissions collected pursuant to [Section 23-19-10, supra](#).

See, e.g., Act No. 563 of 1967, Act No. 1115 of 1970; Act No. 785 of 1973.

As to your specific question concerning the authority of a county council to require a county sheriff to turn over to the county the fees and commissions he collects, in the opinion of this office, a county council is not so authorized. [Section 4-9-30, Code of Laws of South Carolina](#), 1976, in designating the powers of county governments, specifically states that the powers granted to such bodies are '. . . subject to the general law of this state.' Therefore, inasmuch as the general law provides that county sheriffs may retain such fees and commissions as they collect, in the opinion of this office, a county council is not authorized to amend such general law to provide that such fees and commissions go to the county.

If there are any questions concerning the above, do not hesitate to contact me.

Sincerely,

Charles H. Richardson

Assistant Attorney General

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