



2008-096

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

June 13, 2008

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Craig Ford
Member, House of Representatives
Post Office Box 8208
Gadsden, Alabama 35902

Circuit Clerks – Compensation – Courts – Court
Costs – Etowah County

Absent the ratification of an amendment to the Alabama Constitution authorizing an increase in the court costs and fees in Etowah County for the purposes referenced in your question, Section 96 of the Constitution of Alabama prohibits a bill authorizing the increases in court costs for these purposes.

Dear Representative Ford:

This opinion of the Attorney General is issued in response to your question.

QUESTION

Can Etowah County be authorized by a local act to increase the filing fees in its circuit and district courts for certain civil actions and to increase fines for certain criminal violations charged by citation and to pay the amount of these increases into a fund that may be used to pay health insurance premiums, salary enhancements, and expense reimbursements for circuit and district court judges, circuit clerks, court attendants, and court specialists?

FACTS AND ANALYSIS

Section 96 of article IV of the Constitution of Alabama prohibits the Legislature from enacting legislation that would increase court costs, fees, and charges in less than all of the counties in the state. Specifically, section 96 states that “[t]he legislature shall not enact any law not applicable to all the counties in the state, regulating costs and charges of courts, or fees, commissions or allowances of public officers.” ALA. CONST. art. IV, § 96. Thus, on its face, the prohibition in section 96 of any increases in court costs applicable to less than all of the counties in the state would prohibit the enactment of a local bill increasing court costs and fees only in Etowah County. A

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number of counties in the state, however, after seeking and obtaining ratification of local amendments to the state Constitution that supersede section 96, have enacted local acts that authorize similar increases in court costs.

The only such local amendment to the state Constitution addressing courts costs in Etowah County is Amendment 235. That amendment, however, only authorizes an increase in "trial tax or charge on litigation" for the purpose of "establishing, equipping, maintaining and operating the public law library in Etowah county . . ." ALA. CONST. LOCAL AMENDS., Etowah County § 3 (amend. 235). Because the purposes of the increased costs and fees in the proposed local act are not related to establishing, equipping, maintaining, or operating a public law library in Etowah County, the proposed local act referenced in your question would contravene section 96 of the Alabama Constitution.

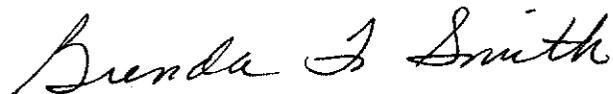
CONCLUSION

Absent the ratification of an amendment to the Alabama Constitution authorizing an increase in the court costs and fees in Etowah County for the purposes referenced in your question, section 96 of the Constitution of Alabama prohibits a bill authorizing the increases in court costs for these purposes.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

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