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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

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501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Elizabeth C. Smithart
Attorney, City of Union Springs
Post Office Box 663
Union Springs, Alabama 36089

Municipalities – Municipal Courts – Court
Costs – Costs and Fees – Bullock County

If the Union Springs Municipal Court (“Court”) assesses any court costs in a case, then it must assess the additional costs and fees in section 45-6-81(a) of the Code of Alabama. The Court may retain, use, and expend the additional costs and fees in section 45-6-81(a) under the terms designated by the city council.

Dear Mrs. Smithart:

This opinion of the Attorney General is issued in response to your request on behalf of Union Springs City Council.

QUESTION

May the Union Springs Municipal Court retain court costs collected under section 45-6-81 of the Code of Alabama for its operations, or, in the alternative, cease collection as the Court is no longer part of the circuit or district courts and the sheriff has no expenses related to the operation of the Court?

FACTS AND ANALYSIS

Your request states that the City of Union Springs in Bullock County recently began operation of a municipal court. You further state that municipal violations were previously brought in district court. The city is now responsible

for operation of the municipal court, including salaries, supplies, equipment, service of pleadings, and housing of inmates. This Office understands that there is only one other municipality in Bullock County, the Town of Midway, and that municipality does not have a municipal court.

Section 45-6-81 of the Code of Alabama is a local act applicable to Bullock County that provides, as follows, for the collection of additional court costs:

(a) In any case in which court costs are assessed in the *district and circuit courts of Bullock County, or the municipal courts in the county*, there shall be assessed and collected as other costs and charges are collected, an *additional court cost in civil cases in the amount of twenty-five dollars (\$25), in each criminal and traffic case an additional fifty dollars (\$50), and a fee not to exceed five dollars (\$5)* for the service of all pleadings and other documents. The additional court costs and fees shall not be waived unless all other fees, assessments, costs, fines, and charges associated with the case are waived.

(b) The additional fees, when *collected in the district and circuit courts shall be paid into the general fund of Bullock County* and shall be used by the county for salaries, supplies, equipment, or any other operational expenses of the sheriff's office.

ALA. CODE § 45-6-81 (2005) (emphasis added).

Section 45-6-81(a) requires municipal courts that assess court costs to assess and collect the additional court costs and service-of-process fee specified above. Therefore, if the Union Springs Municipal Court assesses any court costs in a case, then it must also, in that case, assess these additional costs and fees.

A municipal court may waive costs and fees. ALA. CODE § 12-14-10 (2012); opinion to Honorable Frank W. Gregory, Administrative Director of Courts, Administrative Office of Courts, dated February 5, 1996, A.G. No. 96-00123. Section 45-6-81(a) contemplates the possibility that a municipal court will not assess any court costs or fees in a case. If the Union Springs Municipal Court waives the additional costs and fees described in section 45-6-81(a), then, pursuant to that provision, it may not assess *any* court costs or fees in the case.

Section 45-6-81(b) specifies where the additional fees collected by the district and circuit courts shall be paid. It is silent as to where such fees collected by municipal courts shall be paid. “When determining legislative intent from the language used in a statute, a court may explain the language but it may not . . . add to the statute.” *Ex parte Birmingham Bd. of Educ.*, 45 So. 3d 764, 770 (Ala. 2009). Accordingly, a court may not add the term “municipal court” to section 45-6-81(b), and the Union Springs Municipal Court is not required to pay the fees into the county general fund. The question remains, however, what the Court may do with the fees.

The Legislature, in enacting a statute, is presumed to have full knowledge and information regarding prior, existing law and legislation on the subject of the statute. *Blue Cross & Blue Shield of Ala., Inc. v. Nielson*, 714 So. 2d 293, 297 (Ala. 1998). Moreover, courts presume that the Legislature has not enacted meaningless, vain, or futile statutes. *Ex parte Uniroyal Tire Co.*, 779 So. 2d 227, 236 (Ala. 2000); *Ex parte Watley*, 708 So. 2d 890, 892 (Ala. 1997). Section 45-6-81(b) would be meaningless, vain, and futile if it allowed the Union Springs Municipal Court to collect and retain the additional costs and fees while prohibiting their use or expenditure.

The preamble to Act 95-659, which is now codified as section 45-6-81, specifies that “the fees collected in the district and circuit courts [as set out in section 45-6-81(a)] be used for the benefit of the sheriff’s department.” 1995 Ala. Acts No. 95-659, 1370. Section 45-6-81 is designed to fund law enforcement (more particularly, the sheriff’s office) with the additional costs and fees. This Office understands that, at the time this legislation was enacted to the present day, the municipality had its own police force. Therefore, allowing the municipality, like the county, to retain the additional costs and fees described in section 45-6-81(a) honors the spirit of the statute. *See Alabama State Bd. of Health ex rel. Baxley v. Chambers Cty.*, 335 So. 2d 653 (Ala. 1976) (holding that the manner in which a statute is drafted sometimes requires courts to look less at the letter and more at the spirit or context of the law).

Under section 11-43-43 of the Code of Alabama, the city council exercises legislative and other powers granted to cities or towns. ALA. CODE § 11-43-43 (2008). Section 11-43-56 of the Code of Alabama provides that, “[e]xcept as otherwise provided in this title, the council shall have the management and control of the finances and all of the property, real and personal, belonging to the city or town.” ALA. CODE § 11-43-56 (2008). Absent particular direction regarding the application of specific revenues, a municipality can apply revenues in any manner consistent with its charter

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provisions. *Johnson v. City of Sheffield*, 236 Ala. 411, 183 So. 265 (1938) (holding that a city may construct or repair public buildings using bonds).

“Although municipalities exercise such power . . . as is conferred upon [them] by law, a municipality need not predicate its every action upon some specific express grant of power. Alabama’s cities possess certain implied powers that derive from the powers expressly granted to them by the legislature.” *Wilkins v. Dan Haggerty & Associates, Inc.*, 672 So. 2d 507, 509 (Ala. 1995). The city council possesses the implied power to determine the management and control of the additional costs and fees in section 45-6-81(a). The council should manage and control those costs and fees consistently with the spirit of the statute, which is to fund law enforcement. Therefore, the Union Springs Municipal Court may retain, use, and expend the fees under the terms designated by the council.

CONCLUSION

If the Union Springs Municipal Court assesses any court costs in a case, then it must assess the additional costs and fees in section 45-6-81(a) of the Code of Alabama. The Court may retain, use, and expend the additional costs and fees in section 45-6-81(a) under the terms designated by the city council.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Allen P. Mendenhall of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:


G. WARD BEESON, III
Chief, Opinions Section

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