

Municipal Court

SECTION 14-1-208. Additional assessment, municipal court; remittance; disposition; annual audits.

(A) A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

(B) The city treasurer must remit 11.16 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D) and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer. Assessments paid in installments must be remitted as received.

(C) After deducting amounts provided pursuant to Section 14-1-210, the State Treasurer shall deposit the balance of the assessments received as follows:

(1) 14.04 percent for programs established pursuant to Chapter 21 of Title 24 and the Shock Incarceration Program as provided in Article 13, Chapter 13 of Title 24;

(2) 13.89 percent to the Law Enforcement Training Council for training in the fields of law enforcement and criminal justice;

(3) .36 percent to the Department of Public Safety to defray the cost of erecting and maintaining the South Carolina Law Enforcement Officers Hall of Fame. When funds collected pursuant to this item exceed the necessary costs and expenses of the South Carolina Law Enforcement Officers Hall of Fame operation and maintenance as determined by the Department of Public Safety, the department may retain, carry forward, and expend the surplus for the purpose of defraying the costs of maintaining and operating the Hall of Fame;

(4) 10.38 percent for the State Office of Victim Assistance;

(5) 11.53 percent to the general fund;

(6) 10.56 percent to the Office of Indigent Defense for the defense of indigents;

(7) .89 percent to the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department's addiction center facilities;

(8) .54 percent to the Office of the Attorney General for a fund to provide support for counties involved in complex criminal litigation. For the purposes of this item, "complex criminal litigation" means criminal cases in which the State is seeking the death penalty and has served notice as required by law upon the defendant's counsel and the county

involved has expended more than one hundred thousand dollars for a particular case in direct support of operating the court of general sessions and for prosecution-related expenses. The Attorney General shall develop guidelines for determining what expenses are reimbursable from the fund and shall approve all disbursements from the fund. Funds must be paid to a county for all expenditures authorized for reimbursement under this item except for the first one hundred thousand dollars the county expended in satisfying the requirements for reimbursement from the fund; however, money disbursed from this fund must be disbursed on a "first received, first paid" basis. When revenue in the fund reaches five hundred thousand dollars, all revenue in excess of five hundred thousand dollars must be credited to the general fund of the State. Unexpended revenue in the fund at the end of the fiscal year carries over and may be expended in the next fiscal year;

(9)(a) 9.16 percent to the Department of Public Safety for the programs established pursuant to Section 56-5-2953(E); and

(b) 1.31 percent to SLED for the programs established pursuant to Section 56-5-2953(E);

(10) 13.61 percent to the Governor's Task Force on Litter and in the expenditure of these funds, the provisions of Chapter 35 of Title 11 do not apply;

(11) 13.61 percent to the Department of Juvenile Justice. The Department of Juvenile Justice must apply the funds generated by this item to offset the nonstate share of allowable costs of operating juvenile detention centers so that per diem costs charged to local governments utilizing the juvenile detention centers do not exceed twenty-five dollars a day. Notwithstanding this provision of law, the director of the department may waive, reduce, defer, or reimburse the charges paid by local governments for juvenile detention placements. The department may apply the remainder of the funds generated by this item, if any, to operational or capital expenses associated with regional evaluation centers; and

(12) .12 percent to the Office of the State Treasurer to defray the administrative expenses associated with the collecting and distributing the revenue of these assessments.

(D) The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

(E) To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each municipality pursuant to Section 5-7-240 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer.

(1) To the extent that records are made available in the format determined pursuant to subsection (E)(4), the supplementary schedule must include the following elements:

(a) all fines collected by the clerk of court for the municipal court;

(b) all assessments collected by the clerk of court for the municipal court;

(c) the amount of fines retained by the municipal treasurer;

(d) the amount of assessments retained by the municipal treasurer;

(e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and

(f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

(2) The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

(3) Within thirty days of issuance of the audited financial statement, the municipality must submit to the State Treasurer a copy of the audited financial statement and a statement of the actual cost associated with the preparation of the supplemental schedule required in this section. Upon submission to the State Treasurer, the municipality may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplemental schedule required in this subsection, not to exceed one thousand dollars each year.

(4) The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review.

